

Minutes of Licensing Sub-Committee 2

Tuesday 23rd September, 2014 at 10.10 am
in Committee Room 2, The Council House, Dudley

Present:-

Councillor K Finch (Chair)
Councillors S Etheridge and R James

Officers: -

R Clark (Legal Advisor), B Hughes (Licensing Enforcement Officer)
and K Taylor – All Directorate of Corporate Resources.

8 **Declarations of Interest**

No Member made a declaration of interest in accordance with the
Members' Code of Conduct.

9 **Minutes**

Resolved

That the minutes of the meeting of the Sub-Committee held
on 19th August, 2014, be approved as a correct record and
signed.

10 **Application for a Premises Licence – Russells Hall**
Supermarket, 5 Middlepark Road, Russells Hall, Dudley

A report of the Director of Corporate Resources was submitted on
an application for a premises licence in respect of Russells Hall
Supermarket, 5 Middlepark Road, Russells Hall, Dudley.

Mr Ajit Singh Malhi and Mrs Balbiro Kaur, Applicants, were in
attendance at the meeting together with their son, Mr R Malhi, and
Barrister, Mr D Craig.

Also in attendance and objecting to the application were Mr R Hill
and Mrs R Plaister, local residents. Councillor M Roberts was also
in attendance as an observer.

Following introductions by the Chair, the Licensing Enforcement
Officer presented the report on behalf of the Council.

Mr Hill then presented his representations and in doing so made particular reference to the nuisance currently experienced in the area such as, youths drinking in the streets and litter being thrown at his property, and he did not wish for this to continue.

He further reported on the parking problems caused by the overflow at Russells Hall Hospital, resulting in cars parking in the streets and he believed that this would increase should the application be approved.

Mrs Plaister then presented her representations and in doing so referred to the deeds of her property that stated that there should be no more than three outlets for alcohol permitted, however there were five on the estate. She reported that she lived opposite a gully where youths would congregate causing nuisance and drinking alcohol.

Following comments made, a Member stated that whether the application was approved or refused, there would be problems with parking as customers would visit the supermarket, and that the Sub-Committee was considering the application for the sale of alcohol only. He stated that the main concern was anti-social behaviour in the area, however this already existed. In responding, Mrs Plaister stated that the anti-social behaviour would increase and referred to a previous incident when the Police had to shut down a premises licence nearby, as they were selling alcohol to children who had visited the shop during their lunch-hour from a nearby School.

Mrs Plaister referred to a previous incident when she was chased by a group of youths at 9.30 pm, and stated that help should be given to children to stop drinking alcohol.

In responding to a question by the Chair in relation to parking, Mrs Plaister stated that following a decision approved by the Council, there were restrictions placed in other streets, therefore it was anticipated that parking problems in Middle Park Road would increase.

Mr Craig then presented his case, on behalf of the applicants, and in doing so made particular reference that there had been no objections received from responsible authorities, and that the applicants had submitted conditions, as outlined in the operating schedule.

Mr Craig reported that the applicants had moved to Middlepark Road, and purchased the premises, in 1987. It was noted that the premises opened as a convenience store, and a premises licence was approved in 1988 with no issues or complaints, until the premises closed in 1997 due to family circumstances, however the family continued to live at the property.

It was noted that Mr R Malhi held a Personal Licence, and would become the Designated Premises Supervisor.

Following comments made in relation to another premises licence, two doors away from the premises, Mr Craig confirmed that the premises licence was revoked due to sales of alcohol to children.

Mr Craig further reported that there was no evidence to suggest that the application would undermine the Licensing Objectives, and that should the premises be operated incorrectly, there were sanctions that could be applied, such as revocation.

Following concerns raised in relation to parking, it was noted that there were a minimum of four parking spaces available at the front of the premises, which would be available for customers.

Mr Craig made reference to the conditions outlined in the operating schedule, which had been circulated to all parties prior to the meeting, in particular that CCTV cameras would be installed and data retained for twenty-eight days, and a Challenge 25 policy, together with a Refusals Register, would be implemented.

Reference was made to the objections submitted by local residents, and Mr Craig submitted that the main basis behind the objections were speculation and fear from previous and existing problems, and there was insufficient evidence to suggest that the problems would increase should the application be approved.

Mr Craig then made reference to the deeds of the local properties, and stated that this was not for consideration by the Sub-Committee, and that the deeds, between the local authority and the company land, were applied in 1962, which pre-dated the current legislation, namely, Licensing Act 2003. A copy of the deeds was then circulated to the Sub-Committee.

In responding to a question by a Member, Mr R Malhi confirmed that the family lived at the premises, and although there was some litter in the streets, it was not to the extent as described. He stated that he had originally applied for a premises licence in 1988 due to demand from local residents, and the licence was granted with no issues or objections.

Following further discussion in relation to the deeds, the Legal Advisor advised the residents to seek advice in regard of land law, in order to identify whether the matter was enforceable.

In summing up, Mr Craig on behalf of the applicants stated that the family had lived in the area for a long period of time, and when they had previously operated the premises there were no issues or concerns, and requested that the Sub-Committee approve the application.

In summing up, Mrs Plaister requested that the Sub-Committee consider the health of young children consuming alcohol.

In responding to a question by the Chair, all parties confirmed that they had a fair hearing.

The parties then withdrew from the meeting in order to enable the Sub-Committee to determine the application.

The Sub-Committee having made their decision invited the parties to return and the Chair outlined the decision.

Resolved

That the grant of a premises licence in respect of Russells Hall Supermarket, 5 Middlepark Road, Russells Hall Road, Dudley, be approved, in the following terms:

Sale of Alcohol

Monday to Saturday inc	08.00 until 22.00
Sundays	10.00 until 22.00

Reasons for Decision

This is an application by Mr Malhi and Mrs Kaur for the grant of a premises licence, to enable them to sell alcohol from their supermarket between 8 am and 10 pm Monday to Saturday and 10 am to 10 pm on Sundays.

Five residents have submitted representations but the Responsible Authorities have made no representations to this application. The applicants have lived in the premises since 1987 and have run an off licence there in the past, apparently without issues, until 1997.

The representations made by the residents significantly relate to concerns about another off licence, two doors away from these premises, and which had its licence revoked. However, the residents have not brought any evidence that these applicants have not managed previous premises appropriately or will not operate this licence appropriately.

The operating schedule has sought to address residents concerns about local parking, litter outside the shop and sales to persons under 18. They will promote a challenge 25 policy, operate CCTV, use no ID no sale and operate a refusals register.

Whilst the Sub-Committee notes the concerns of local residents, it is satisfied that the proposed operating schedule addresses these concerns.

It therefore grants the application, and in doing so, amends the condition set out at M (d) (1) of the operating schedule to read:-

(d) (1) There will be off road parking available to customers and clearly marked as customer parking only. There are at least four spaces.

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Halesowen Farmers and Craft Market

A report of the Director of Corporate Resources was submitted on an application made by Mr S Evans on behalf of Bescott Promotions, for the renewal of the consent to engage in street trading in Halesowen Town Centre, issued to the Halesowen Farmers and Craft Market.

Mr S Evans and Mr S Cox, (both Bescott Promotions), were in attendance at the meeting.

Also in attendance and objecting to the application were Mr S Fitzpatrick, Halesowen Chamber of Trade and Ms E O'Connor, Centre Manager – Cornbow Shopping Centre.

Following introductions by the Chair, the Licensing Enforcement Officer presented the report on behalf of the Council.

Ms O'Connor then presented her representations and in doing so stated that the main concern was the definition of the items sold at the Farmer and Craft Market, and the operating times of the market

Mr Fitzpatrick agreed with the comments made, and stated that the licence had been granted for the market to include twenty-five stalls for farmer produce, and ten stalls for craft items, however last weekend, there were no farmers present.

Mr Cox then presented his case and in doing so stated that the market stalls had recently been set up the night before in order to alleviate concerns raised. He made reference to the comments made in particular that there were no farmers present at the market, and in responding Mr Cox stated that there were two farmers booked for that weekend, however they were unable to attend due to unforeseen circumstances. He stated that he had received some interest in new traders such as vintage clothing and homemade confectionary; however it had been difficult for Farmers to attend the market, due to the slow trade in view of the current financial climate.

In responding to comments made by a Member in relation to the possibility of extending the market until 5pm, Mr Evans stated that people did not normally attend the market late in the afternoon, and it would be difficult for traders to remain at the market until 5pm, due to the packing up and returning early next day.

Mr Evans stated that there were various views on what defined craft items, and referred to a trader who had arrived to sell E-Cigarettes, when Mr Evans was informed, he asked the trader to leave, as E-Cigarettes were not deemed a craft item.

At this juncture, Ms O'Connor circulated photographs highlighting obstructions caused by vehicles from traders packing up their stalls around 4pm, however she would be agreeable for vehicles to enter the market place after 5 pm.

Further to comments made by Mr Cox, in particular, that market stalls were erected the night before, Mr Fitzpatrick stated that he had witnessed the stalls being erected early in the morning, and reiterated his previous comments that the market should cater more for Farmers produce and genuine craft items, as it was evident that the market was selling general items.

Mr Evans made further reference in relation to the suggestion of extending the market until 5pm, in particular, that he would accept the comments made that it would be beneficial, however this should be consistent with other traders, such as, Sky.

Following comments made in relation to the promotion of the market to engage traders, Mr Cox confirmed that he had retained low rents in order to keep the traders in Halesowen, and visited a number of farmer markets in areas such as Stoneleigh and Ludlow to attempt to attract traders to come to Halesowen.

At this juncture, Ms O'Connor stated that £12 million people had attended Halesowen in the past year, and it was evident that there was no increase in footfall on market days.

In responding to a question by the Legal Advisor, Ms O'Connor confirmed that the objectors requested Bescott Promotions to adhere to the conditions of the consent, in particular, the items and produce sold at the market, and an alteration in the times of the setting up and closing of the stalls.

Following a discussion in relation to the restrictions placed in the Town Centre in regard of vehicles, Mr Cox stated that he would identify a way in which traders could transfer their goods to their vehicle without the vehicle entering the market place.

In summing up, Mr Cox stated that he wished the market could continue as it brought extra trade and customers would miss it if it was not there.

In summing up, Ms O'Connor stated that she had made representations based on what was best for the Town Centre and in the interest of the public.

In responding to a question by the Chair, all parties confirmed that they had a fair hearing.

The parties then withdrew from the meeting in order to enable the Sub-Committee to determine the application.

The Sub-Committee having made their decision invited the parties to return and the Chair outlined the decision.

Resolved

That the application for the renewal of the consent to engage in street trading in Halesowen Town Centre, issued to the Halesowen Farmers and Craft Market, be approved together with the following modifications :-

- 1) Condition No.4 to be amended to be read "Vehicle access to stalls is denied between the area of High Street between Great Cornbow and Peckingham Street between 9.00 am and 5.15pm"
- 2) Condition No.5 to state "Market stalls shall commence trading at 9.00 am and not close until 5.00 pm".

The meeting ended at 12.40 pm

CHAIR