

LICENSING SUB-COMMITTEE 2

Tuesday, 21st November, 2006 at 10.30am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Ryder (Chairman)
Councillors Mrs Dunn and Rogers

Officers

Assistant Director Legal and Democratic Services (for the application in respect of the Birch Coppice), Principal Lawyer (for the application in respect of The Karma) and Director of Law and Property (for the remaining agenda items) (Legal Advisors) and Mr J Jablonski (Directorate of Law and Property)

15 APOLOGIES FOR ABSENCE

Apologies for absence from the meeting were submitted on behalf of Councillors Mottram and J Woodall.

16 APPOINTMENT OF SUBSTITUTE MEMBERS

It was reported that Councillors Ryder and Rogers had been appointed as substitute members for Councillors J Woodall and Mottram respectively for this meeting of the Sub-Committee only.

17 DECLARATIONS OF INTEREST

No member declared an interest in accordance with the Members' Code of Conduct in respect of any matter to be considered at this meeting.

18 MINUTES

RESOLVED

That the Minutes of the Meeting of the Sub-Committee held on 12th September, 2006 be approved as a correct record and signed.

19 APPLICATION TO VARY A PREMISES LICENCE, THE BIRCH COPPICE, WOODLAND AVENUE, QUARRY BANK

A report of the Director of Law and Property was submitted on an application received from TLT Solicitors, on behalf of Punch Taverns, to vary a premises licence in respect of the Birch Coppice, Woodland Avenue, Quarry Bank.

Mr Stevenson, representing TLT Solicitors, Ms Tipton, of Punch Taverns, Ms P Cartwright, Licensee, and her partner were in attendance at the meeting.

Also in attendance at the meeting were Councillor Cotterill and twelve members of the public eleven of whom had submitted objections to the application. The twelfth person was in attendance as an observer.

Following introductions by the Chairman and an outlining of the procedure to be followed the Legal Advisor, in response to a question asked as to whether any consensus had been reached regarding the application to vary between the parties concerned, was informed that the applicants were willing to limit the hours of permitted live music and karaoke on Friday and Saturday to midnight. It was also reported that this did not meet the objections of residents.

Mrs J Elliott, Licensing Officer, then presented the report on behalf of the Council.

Mr P Evans, Principal Environmental Health Officer, then commented on the observations made by a colleague of his as set out in Appendix 2 to the report submitted regarding the application. Included in that Appendix were six conditions, which if the Sub-Committee were so minded they might wish to add to the licence granted. Mr Evans also reported that in addition to the six complaints received, as stated in Appendix 2, additional complaints had also now been received.

Arising from the comments made by Mr Evans he was asked a number of questions relating in particular to the internal layout of the premises which it was considered enabled noise to escape; aspects regarding the use of a noise limiter and the position that, should the condition suggested be accepted, the condition regarding recalibration of the existing noise limiter would have to be undertaken prior to entertainment taking place at the premises; the fact that four unannounced visits had been carried out by Environmental Health staff and that no noise nuisance had been observed; and that Mr Stevenson, on behalf of his clients, was willing to accept the second, third, fourth and fifth conditions set out in Appendix 2 to the report, subject to his clients being given 28 days to carry out the necessary works. The issues in respect of secondary glazing, the first condition, and in respect of the external part of the premises that may be used as a beer garden, the sixth condition, would be commented upon later in the meeting.

Arising from the questions asked, clarification was sought on a number of points and it was reported that the premises were entitled to have recorded music which in this instance meant a disc jockey with music, the premises were therefore operating within the terms of their licence.

It was also clarified that Environmental Health were still conducting investigations into the complaints received and that of the four additional complaints received, the latest one had been received on 20th November, 2006. All the complaints related to noise nuisance, scooters on the car park, music and behavioural problems and the latest complaint related to activities over the previous weekend.

Councillor Cotterill, main spokesperson for the objectors, then set out the main points of the complaints made by residents referring to the fact that the premises were in the middle of a residential area near to elderly persons bungalows and because of this proximity affected the quality of life of residents. He indicated that some of the nuisance involved a number of cars moving off in the early hours of the morning.

Whilst it was acknowledged that the current licensee had improved the appearance of the premises, within the six months of her tenancy problems had arisen following the re-opening of the premises. It was considered that conditions of licence were being broken and that there was a lack of common decency. Instances of loutish behaviour had also been reported from residents of Woodland Avenue and the car park of the premises was subject to much use and abuse. It was considered that if the variation requested was approved the situation would further deteriorate. With reference to the sixth condition referred to in Appendix 2 of the report regarding a beer garden it was reported that there was in fact no beer garden as planning permission had been refused. Therefore, any variation would adversely affect residents as it also affected them if they wished to sit out as well as stay in their properties.

Noise also emanated from the premises past closing time and it was felt that the current hours of operation were late enough. There were also many occurrences of loud music with people sitting outside and shouting and scooters using the car park. There were also instances of boy racers and taxis sounding their horns on arrival.

In addition to the instances of use and abuse on the car park it was also stated that children were using the car park, using bad language and shouting and it was considered that these children aged 6-14 years old were the children of people who used the public house. It was further considered that the car park was kept in an unkempt condition. Because of the above it was urged that no variation of licence be granted.

Further comments were also made by objectors present who felt that they could not go to bed before 1 o'clock and that if the doors of the premises were open noise would still escape.

Arising from further questions asked it was reiterated that the licensee had been in post for six months although there had been problems at the premises over a number of years, however, due to the rapid turnover of licensees the same problems were being repeated.

In response to a question regarding contacts with the police, it was reported that the police had no objections to the application submitted and so had not made any representations in respect of the application.

Regarding the use of the car park Mr Stevenson considered that even if the pub was not in operation, people would still use the car park and activities would still be carried on. It was considered that it was only a supposition that young people on the car park were connected with people using the public house.

Arising from clarification as to the hours of the application, it was considered that a later closing time would enable flexibility to be achieved regarding the dispersal of persons using the premises. In this instance it was doubted whether this would be achieved as problems were caused not just at closing time.

Mr Stevenson then set out the position of his clients and stated that from February to June of this year there had been a temporary manager in the premises, however, from June the current licensee had entered into a five year lease and therefore had made a long term commitment to the premises. As indicated, refurbishment works had been carried out and the licensee and her partner were planning to make further improvements so that they could live in the premises and also make other modifications. It was considered that they had made efforts to improve the situation.

He further commented on the function of the pub for community use.

Regarding noise, whilst instances of noise were acknowledged comments were made on specific instances, for example on opening night and the reasons why doors had been left open allowing noise to escape. Following that instance, steps had been taken to ensure that there was no repetition.

He also considered that there need not be any substantial noise issue and that as regards the use of the noise limiter as there was to be a resident disc jockey and not visiting disc jockey's, that person would be familiar with the equipment to be used and how it was to be applied. Whilst the open plan nature of the premises was an issue the real issue was noise escaping and so the application of the conditions set out in Appendix 2 of the report submitted should improve the situation.

Currently people did leave on mass and called for taxis on their mobile phones and invariably there was some waiting involved because of this. If longer hours were available it was considered that people would stay in the premises so mitigating noise nuisance.

Regarding taxis the main firms used had been contacted and told not to sound their horns but to come into the premises, similarly with the car park efforts had been made to move people on especially those using scooters and a chain had been put across part of the car park, however, this had been taken away.

It was again reiterated that the police had visited over a thirteen week period and had not raised any concerns or objections to the application. Similarly, there had only been one instance catalogued of an individual incident and this was in respect of a person known to have personal problems not associated with the premises.

Regarding the proposed condition in respect of secondary glazing, it was considered that this issue would lead to a great deal of expense for the applicants and it was considered that the issue of noise escaping could be dealt with by the regulation of the noise limiter.

Regarding the external part of the premises that may be used as a beer garden, it was agreed that the condition to close this at 22.30 hours with all glasses being cleared at that time was acceptable. It was stated that this area was being retained for use by persons wishing to smoke in future. In respect of this area, one objector stated that if she had any issues with the public house she always spoke to the licensee and had been concerned about external use. However, if this area was the existing terraced area then she would have no objection to the use of this area.

Consideration was then given to responsibility for the car park of the public house, which it was acknowledged was a very large area of open ground used by many for various reasons. It was considered that the licensee needed to manage the area of the car park in addition to the actual premises, however, this was considered to be a side issue to the actual purpose of the application.

In response to a question asked it was reported that this was the licensee's first licence and in response to a further question it was reported that the licensee's daughter and son actually lived in the premises although the licensee and her partner were only two minutes away. It was reiterated that they had plans to sell their home and move to the premises.

In response to further questions asked it was reported that the licensee did arrange for the car park area to be tidied up and that instances relating to glass and litter were isolated instances for a specific event. It was also confirmed that empty glasses were cleared from the external part of the premises and that attempts were made to control nuisance on the car park. In this connection it was confirmed that there was a notice in relation to the car park asking people to respect local residents. It was conceded that perhaps other notices relating to the use of the car park should also be put up.

As regards the actual application it was considered that a later closing time would enable business such as weddings to be attracted to the premises and that the intention was not to run the premises as a nightclub. The aim as previously stated was to achieve gradual dispersal.

Councillor Cotterill and Mr Stevenson then summed up their respective cases. Councillor Cotterill reiterated that the premises were in a wholly residential area and Mr Stevenson commented that although complaints had been received, no representations had been received from either Environmental Health or the Police; that the licensee was committed to the future of the premises and that whilst it was her first tenancy training and vetting had been undertaken.

The respective parties then withdrew so that the Sub-Committee could come to a decision on the application.

The Sub-Committee having made their decision, the respective parties were invited to return and the Chairman then outlined the decision and the reasons for the decision.

RESOLVED

That the application for variation of the premises licence in respect of the Birch Coppice, Woodland Avenue, Quarry Bank, be refused in respect of the extension of hours for the sale of alcohol and recorded music and permission for live music and karaoke.

Conditions

That the following additional conditions of licence be applied:-

- Whenever any entertainment beyond incidental music is provided, all amplification equipment shall be operated through the power sockets connected to the noise limiting device and that this device be re-set to the satisfaction of the Environmental Health Officer in consultation with local residents.
- Whenever any entertainment beyond incidental music is provided, doors and windows opening into the entertainment area are to be kept closed, except for the purpose of access and egress from the premises.
- Internal doors of the entrance lobby be fitted with self closing devices to prevent the transfer of sound to the local vicinity.
- Extractor fans be acoustically treated to prevent breakout of sound.

- Should any external part of the premises be used as a beer garden it will close at 22.30 hours with all glasses being cleared at that time.
- Signs on the car park to specify patrons only.

Reasons for Decision

This application has in our view been made prematurely and the licensee and the brewery need to resolve the problems identified by local residents before we could consider any application for extension of hours.

Six complaints from local residents have been received by Environmental Health relating to loud music; noise from customers and scooters on the car park. A further four complaints have been received since July, 2006, the latest this week. We are satisfied that the noise related problems stemming from these premises are not confined solely to the current closing time.

The conditions of licence should go some way to resolving the problems but a considerable amount of work needs to be done by the licensee and brewery with local residents to enable this public house to run effectively within the local community.

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APPLICATION TO VARY A PREMISES LICENCE – THE KARMA, 2F HIGH STREET, WOLLASTON

A report of the Director of Law and Property was submitted on an application received to vary the premises licence in respect of The Karma, 2F High Street, Wollaston.

Mr D Rowley, representing the applicant, together with the applicant Mr M N Islam and his wife were in attendance at the meeting.

Two local residents who had submitted a letter of objection were also in attendance.

Following introductions by the Chairman, the procedure to be followed was outlined.

Mrs J Elliott, Licensing Officer, then presented the report on behalf of the Council.

The objectors then presented their case to the Sub-Committee which related to alleged noise nuisance from the premises and the car park which was shared between various premises in the area. The noise experienced led to the residents having difficulty in sleeping. Given the problems experienced they queried why there was a need for the variation for opening until 3.00 am. Reference was also made to light pollution and smells wafting into their bedroom. Following the case presented, other persons present asked questions of the objectors relating in particular to the content of the letter of objection referring to the area as a residential area; noise experienced; smells and the provision of waste bins. Each of the points were commented upon and refuted.

Mr Rowley then set out the case on behalf of the applicant and informed the Sub-Committee that the applicant had only taken over the lease of these premises in June of this year following which it was closed for refurbishment with a re-opening in September. The current occupier could not therefore be held responsible for problems prior to that time. Steps taken to alleviate the noise problems were also mentioned and responses given regarding the over looking garden which was not a licensing consideration and the position of steel wheelie bins confirmed. It was also mentioned that the applicant did not use bin bags and always took out his rubbish before the start of business on the following day. It was reiterated that the car park was a multi use car park and that associated noise could not be solely attributed to the applicant or his premises. Problems with a nearby telephone box were also mentioned, together with steps being taken to overcome the problems.

Regarding the application this was stated to be a response to opportunities to improve the business relating to catering for weddings and off sales of food. It was not envisaged that patrons would be admitted after say 12.30 am.

Following the case stated questions were asked of Mr Rowley and the applicant and in response it was noted that the applicant had not approached residents in the area concerning his application although businesses and his customers had been consulted. Similarly, the provision of CCTV cameras and additional lighting was not a matter for the applicant but was a matter for his Landlord. Further details regarding the proposed development of the business were also raised and it was stated that the objection was not in respect of the early opening time but the later opening time. This later opening time would enable alcohol to be served but did not necessarily mean that this would happen in practice. However, flexibility was what was required. Similarly, it was envisaged that children with their parents would not be in the premises beyond 10.00 pm.

Regarding the business itself it was stated that it could seat 54 persons so that the catering envisaged was for outside use. Any music provided would be background music.

Regarding noise from extractor fans and ventilation, it was confirmed that the systems were serviced on a regular basis and this would continue to be the case.

Regarding the provision of notices, the licensee was happy for notices to be erected inside his premises asking people to leave the premises and car park quietly out of respect for local residents.

The respective parties then summed up their cases and in so doing mention was made of the noise emanating from the cooler plant at the public house. It was reported that Environmental Health would be asked to investigate this matter.

Following the summing up of cases, the respective parties then withdrew so that the Sub-Committee could come to a decision on the application.

The Sub-Committee having made their decision, the respective parties were invited to return and the Chairman then outlined the decision and the reasons for the decision.

RESOLVED

That the application received to vary the premises licence in respect of The Karma, 2F High Street, Wollaston, be granted so as to allow regulated entertainment (recorded music), sale of alcohol and late night refreshments as follows:-

Monday – Sunday 1200 – 0200 inclusive
(1100 am – 0200 23rd December until 2nd January)

Condition

A sign to be erected in the premises to the effect of “Please leave the premises and the car park quietly out of respect for local residents”.

Reasons for Decision

The Sub-Committee is of the opinion that the hours now granted to the applicant for the sale of alcohol, regulated entertainment and late night refreshment should provide an opportunity for greater flexibility than previously exists.

This approach is consistent with the principles contained within the Licensing Legislation and our licensing policy and we recognise the concerns of local residents as a result of which the hours have been limited to 2.00 am.

APPLICATION FOR CONSENT TO ENGAGE IN STREET TRADING –
MR MATTHEW JONES

A report of the Director of Law and Property was submitted on an application submitted by Mr Matthew Jones for the grant of a consent to engage in street trading in Dudley Town Centre.

Mr Jones was in attendance at the meeting together with Andrea Jones, Town Centre Manager, an objector to the application.

Janet Elliott, Licensing Officer, then presented the report on behalf of the Council and in so doing submitted the apologies of representatives from Environmental Health who had submitted objections to the application.

Andrea Jones, Town Centre Manager, then elaborated on the comments made in Appendix 3 to the report submitted objecting to the application.

A plan showing the location of current holders of consents to engage in street trading in Dudley Town Centre was also circulated at the meeting.

Following questions asked of Andrea Jones regarding the comments made, Mr Jones then commented in support of his application which as in previous years, related to a site in front of the fountain in the Market Place. Following this clarification of the location in respect of the application submitted Andrea Jones reiterated that her objections remained as previously stated relating in the main to the saturation of the Market Place with similar traders.

Following the summing up of their respective cases, the parties withdrew so that the Sub-Committee could come to a decision on the application.

The Sub-Committee having made their decision, the respective parties were invited to return and the Chairman then outlined the decision and the reason for the decision.

RESOLVED

That the application made by Mr Matthew Jones for the grant of a consent to engage in street trading in Dudley Town Centre be refused as the Sub-Committee consider that saturation point in respect of food outlets has been reached in the Market Place, Dudley.

VARIATION OF THE CONSENT TO ENGAGE IN STREET TRADING –
MS ADELE GROVE

It was noted that this application had now been withdrawn.

APPLICATION TO VARY A PREMISES LICENCE – THE PICTURE HOUSE, 27-29 HAGLEY ROAD, STOURBRIDGE

A report of the Director of Law and Property was submitted on an application received from Young and Pearce, Solicitors, on behalf of Enteramma Limited, to vary the premises licence in respect of the Picture House, 27-29 Hagley Road, Stourbridge.

Mr Tony Wilkinson, representing Young and Pearce, Solicitors, Chris Stanley and Rayleigh Lindo – licensees/managers of the premises and John Owen a witness appearing for the applicants were in attendance at the meeting.

Also in attendance were Ms Solley an objector and PC Turley and Mrs Campbell of West Midlands Police objectors to the application.

Following introductions by the Chairman the procedure to be followed at the meeting was outlined.

Prior to consideration of the application, Mr Wilkinson submitted that the letter from Linda Waltho MP should not be considered as it did not fall within the terms of the legislation regarding persons from whom representations could be considered. Following consideration of this point, the submission was upheld and therefore the points made in that letter were not taken into consideration.

Mrs J Elliott, Licensing Officer, then presented the report on behalf of the Council. In her presentation she reported that the application under consideration was an amended application to take into account the recent approval by the Council of the Special Policy Regarding Cumulative Impact in relation to Stourbridge Town Centre within the ring road together with that corner of the ring road from the Picture House to the ring road and Foster Street East. Further police evidence had therefore been given to the applicant and the Sub-Committee in the light of this.

It was also reported that the application for variation of premises licence had been amended as follows:-

To allow the sale of alcohol and regulated entertainment (films, live music, recorded music, performance of dance, provision of facilities for making music/dance)

Alcohol

Monday – Wednesday 1100 – 0130.
Thursday – Sunday 1100 – 0200

Regulated Entertainment

Monday – Wednesday 1100 – 0230

Mrs Campbell, West Midlands Police, Legal Services, representing the Chief Constable as an objector to the application, then elaborated on the points of objection as set out in Appendix 2 to the report submitted and in so doing referred to the main point of objection which was that the variation would undermine the crime and disorder objective. The high level of crime and disorder at the premises and in Stourbridge Town Centre was also referred to and the view taken that the variation would further add to existing problems creating a crime hot spot.

Reference was then made to a statement made by PC Turley and a chronology of incidents at the Picture House nightclub prepared by him. It could be seen from the chronology that incidents mainly happened between the hours of 12.30 and 2.30 am. It was further considered that the application did nothing to address crime and disorder issues but rather postponed the time at which these would occur and that there would not be a gradual dispersal of persons.

Reference was also made to the introduction of the Council's Special Policy Regarding Cumulative Impact which related to Stourbridge Town Centre including the Picture House and that the solicitors for the applicants had had an opportunity to consider that Special Policy in respect of their application. The implications of the policy were referred to and the contention made that the operating schedule of the licence had not changed to address the proposed new hours of opening. In this regard it was considered that there was no evidence to suggest that another, current, risk assessment had been undertaken and that there were deficiencies in relation to the Portland Code of Guidance; in respect of a drugs policy; what was acceptable identification and no reference to a last entry time. These deficiencies it was considered significantly undermined the crime and disorder objective.

Comments were then made by PC Turley in relation to his statement and chronology and arising from this he considered that the main problem at the Picture House was under age drinking together with high levels of crime and disorder. He considered that the chronology produced was a fair reflection of this. He did not consider that extending the hours for regulated entertainment would help with the dispersal of persons from the premises so that the main exodus would be at 3.00 am instead of 2.00 am. PC Turley also reiterated concerns about the operating schedule and the undermining of the crime and disorder objective in that the applicants had not shown how they were not going to add to the problems already being experienced.

Mr Wilkinson then referred to points in PC Turley's statement and schedule relating to the younger age group; production of identification and associated crime; the searching of persons; drugs and an incident involving a knife.

In all there were eighteen references to reports made to the police on these matters. It was considered therefore by Mr Wilkinson that there were procedures in place to deal with these issues.

Regarding identification it was clarified that the only identification asked for was either a passport or driving licence. It was also the case that, arising from test purchases around the town, alcohol had not been served to under age persons in the Picture House although it had at other venues.

PC Turley outlined the way in which such operations were carried out and why it was possible that under age drinking had not been discovered at the Picture House. Similarly, it was disputed that everyone entering the premises was searched.

Reference was also made by Mr Wilkinson to paragraph 17 of PC Turley's statement regarding no last entry time and it was suggested that a time of 1.30 am would assist with this. In response PC Turley stated that he would have to say no.

Regarding the paragraph in the statement that there were a large number of incidents connected with the Picture House, more than with other premises, reference was made by PC Turley to the Cheltenham System for recording incidents and awarding points and it was the case that the Picture House had accumulated more points than other venues. Asked to produce the relevant figures the response was that the chronology had been produced from the logs.

Further evidence given in the logs was also disputed in that anonymous 999 calls were recorded. In all of seven incidents reported, five were anonymous and information had not been produced to back up the details given. In response it was reported that if required all relevant information could be given to the Sub-Committee. However, it was the experience of PC Turley that the Picture House was a venue for under age drinking.

Reference was then made to an incident involving a 14 year old person and it was disputed that an under age person had deliberately been let into the premises in that it was considered that she looked much older than her actual age.

Regarding the sale of alcohol, in response to a question asked regarding paragraph 25 of the statement PC Turley considered that it was preferable that alcohol sales were no later than 2.00 am. It was put to him that this was contrary to Government Policy. Also it was the case that the Cumulative Impact policy should not be used to restrict permitted hours. The contention that the increase in hours of regulated entertainment would not add to crime and disorder was reiterated.

Regarding the consumption of alcohol during the additional hour for regulated entertainment, it was considered that as there was now no drinking up time there appeared to be nothing that would stop people stacking up drinks and drinking through to 3.00 am. However, it was reported that when the Picture House had previously opened to a later hour on New Years Eve there had been no reported problems on that night and this was confirmed by the chronology in that no incidents were reported.

Ms Solley was then given the opportunity to speak. However, as she confirmed that she had no specific comments to make in relation to the Picture House she then left the meeting.

Mr Wilkinson then stated the case for the applicants in that the application had been changed in the light of the introduction of the Special Policy Regarding Cumulative Impact. The application proposed that the sale of alcohol ended one hour before the end of regulated entertainment. Late finishing had previously been tried on New Years Eve and no problems had arisen. His clients were aware of the situation regarding Stourbridge Town Centre and its late night economy with all premises closing at 2.00 am. The effect of this application would be to provide soft drinks and water and for people to have music and dance after 2.00 am so that whilst some may leave others would leave gradually after 2.00 am, thus spreading the numbers leaving the premises. In putting the application together regard was had to guidance from the Secretary of State in respect of terminal hours as set out in paragraphs 6.5 and 6.6 of that guidance which was read to the Sub-Committee by Mr Wilkinson. The aim of the guidance was flexibility with the aim of longer opening hours. The application it was considered would not lead to binge drinking, rather to a more staggered slower approach to drinking. Instructions would also be given to bar staff that no excessive orders would be allowed at last orders. The spread of leaving times would not work if both sale of alcohol and regulated entertainment ended at 3.00 am, therefore it was considered that music would keep people in the premises and should a last entry time be considered appropriate, in accordance with PC Turley's statement, then a last entry time of 1.30 am was proposed subject to one exception in respect of bar staff from other premises who wished to enter the Picture House.

It was reiterated that all patrons entering the Picture House would be searched.

Mr Stanley then gave his evidence and confirmed that he was one of two licensee managers at the premises given the capacity of the premises. He considered that the age profile of the premises was broadly the same as Lloyds and every other venue except Chicago Rock Café which catered for the over twenty five's. He also commented that people tended to have their first drink in the High Street and then made their way to the Picture House.

In response to questions asked by Mr Wilkinson, Mr Stanley confirmed that whilst other venues had failed the test purchases previously referred to, the Picture House had passed and that driving licences and passports were required to be produced as proof of age. He also confirmed that the Portland Code of Guidance was not used as it was not an acceptable method of identification given the number of forgeries in circulation. Door staff and the licensees/managers were the ones who checked the ages of patrons. If under age persons tried to enter the premises and were turned away information about those persons was communicated by radio to other venues.

Regarding the policy on drugs, if someone was caught in possession of drugs they were held and the drugs taken away. He also confirmed that everyone was searched.

Reference was again made to the success of last New Years Eve when the venue had a late closing time and there were no instances of trouble. During the period of additional regulated entertainment should it be granted, soft drinks would be available and coffee may also be introduced. Although the police did not believe that there would be a more gradual dispersal, generally there was a good relationship with the police leading to a mitigation of any potential problems and support given to them. Mention was made that the licensees were members of pub watch and at the suggestion of the Police, door staff wore yellow fluorescent jackets, which were found to be of use in assisting the police. Other venues had not introduced such jackets.

There was also a policy that glasses and bottles were not allowed out of the premises.

Regarding security measures, there were 23 digital cameras inside and outside of the premises available to assist the police and the numbers of door staff on duty were roughly of the order of 1 to 100 patrons. However, if there was a big event then 14 to 15 door staff would be in post. Usually a minimum of 3 to 4 door staff were on duty. Regarding the assault by a 14 year old it was considered that even the police did not consider that the person was under 18. As evidenced in the chronology produced by PC Turley the Picture House was in contact with the police over instances of drugs, identification which may be stolen and related matters and assisted them in these areas. Mr Stanley confirmed that he considered that the additional hour would help to stagger the dispersal time of patrons and stated that they were trying to be the first to offer soft drinks.

Mrs Campbell then asked questions of Mr Stanley and responses given referred to the fact that, due to a down turn in business in that only approximately 50 people were in the premises on a Friday, two door supervisors were normally on duty on a Friday although on a Saturday, ten supervisors would be on duty. All the supervisors had undergone the required training.

Regarding the admission of under age persons, it was considered that there was a very fine line between people aged 16 to 18 and that it was not always possible to determine someone's age. On the issue of identification it was stated that if a person looked 18 they were not asked for identification.

Regarding the operating schedule, deficiencies in this regard were reiterated by Mrs Campbell, in particular why the search and drug policies were not part of the operating schedule, and in response the deficiencies in searches carried out were explained as it was considered that it was difficult to search everywhere so that possibly drugs were brought onto the premises because of this.

Mrs Campbell referred to the lack of a risk assessment in respect of the additional hour requested and again reference was made to the position last New Years Eve when no trouble had occurred. Again Mrs Campbell doubted whether the additional hour to 3.00 am would address issues and not actually contribute to crime and disorder and queried whether 18 to 19 year olds would really switch to drinking coffee and other non-alcoholic beverages. In response it was considered that the 18 to 25 age group were the main clientele of the premises and that they did drink beverages other than alcohol and that the licensee's were trying to encourage this.

Mr Owen a witness for the applicants then gave his evidence and stated that he was a retired police officer of 30 years standing. He had carried out observations outside the Picture House on the 23rd September, 2006 and contrasted this with observations taken previously. He considered that the position now was that Stourbridge was like a mini Broad Street, Birmingham whereas this had not previously been the case.

He also contrasted the police presence at the premises and the number of taxis at 2.00 am, both of which had reduced. He also confirmed that he had seen approximately 40 to 50 persons leaving the premises, the bulk of whom left and converged at 2.00 am. In response to a question asked as to when he first visited the premises, he stated that this was three and a half years ago and that he did his recent observations initially on 23rd September and then on Thursday, 28th and Friday, 29th September and found the situation to be exactly the same. He also commented that The Swan Public House further down the road appeared to be more active and noisier than the Picture House.

Mrs Campbell then commented that on one of the dates in question the police had also visited the premises and their estimate was that there were approximately 400 people leaving the premises.

In response to a question from the Chairman the licensee's confirmed that over the last two months approximately 40 to 50 people had been using the premises on a Thursday and Friday night, but that Saturday nights had been as busy as previously. Mrs Campbell also commented on whether the licensee had proposals to stop serving alcohol before closing time so that no excessive orders were placed at last orders. In response Mr Stanley indicated that if anyone looked to have had enough drink they would not be served and he considered that ,for example, the ordering of three pints at 2.00 am was excessive.

In response to a question from the Chairman about the stock piling of drinks positive action would be taken by the licensee to prevent people from making themselves drunk through excessive drinking at last orders. Reference was also made to the contacts with the police in respect of such incidents. Every attempt was made to inform the police as much as possible.

Regarding identification, it was confirmed that if someone looked 18 they would not normally be asked for identification. However, the licensee's attention was drawn to Part P(b)5 of the application the second sentence of which stated "Where staff believe that the customer maybe under 21 years of age they are to ask for photographic proof of age". In the light of the experience regarding the current policy in relation to 18 year olds, it was considered that this could be strengthened especially as the licensee did not want young persons on the premises.

It was also confirmed that that part of the variation application relating the provision of late night refreshment had now been withdrawn.

Following the asking of questions, the opportunity to sum up was given to the respective parties and in this respect Mrs Campbell referred to the objections of West Midlands Police, the statement of PC Turley and the chronology of incidents that had been produced. She also stated that it was the case that the licensee of the premises had been cooperative with the police .However, some of the operating policies did not adequately deal with the issues that had been evidenced. Also although the arguments for the extension of opening hours to 3.00 am had been stated it was not the experience of West Midlands Police that this would occur in relation to these premises. Further, the idea that the drinking of alcohol would stop at 2.00 am and that people would then drink coffee was considered to be unworkable particularly given that patrons may well stock pile drinks and that bar staff would, it was further considered, have difficulty in refusing persons who asked for three or four drinks around closing time. Again, instead of people congregating at 2.00 am it was considered that there would be people who had been drinking for longer and congregating at 3.00 am.

There was also considered to be under age drinking as referred to in the chronology.

Given all the information supplied by the Police it was considered that the variation would not help the position as regards crime and disorder and that in the light of the Cumulative Impact Policy the Sub-Committee were asked to dismiss the application.

Mr Wilkinson then summed up and queried whether the Cumulative Impact Policy applied to the application in that the Policy had been agreed by the Council on 16th October, 2006 which was after the date on which the application had been submitted and therefore could not apply. However, if the Policy did apply the Sub-Committee were asked to look at the second paragraph on the second page of the Policy, as circulated at the meeting, which read as follows:

“The Council therefore is adopting a special policy, if representations are made, of refusing licence applications in the above mentioned Stourbridge Town Centre area, if, by granting them, they would contribute to the cumulative impact on Stourbridge that the Licensing Authority wishes to mitigate.”

The contention of Mr Wilkinson was that the application submitted did not add to Cumulative Impact. The sale of alcohol was ceased at the same time as hitherto with persons who wished to remain in the premises. If anything the application was designed to ease the situation vis-à-vis the premises and was in line with the Secretary of State's guidance as stated earlier in the meeting.

It was also considered that no extra numbers would be involved as some would leave. Presently, there was drinking until 2.00 am and the opportunity was now being afforded for them to remain in the premises which was sensible with the numbers leaving doing so in a more orderly spread than previously. Therefore, as there would be a more gradual dispersal between 2.00 am and 3.00 am this would not add any problems with regards to the crime and disorder objective.

Mr Wilkinson also referred to paragraph 3.26 of the guidance of the Secretary of State regarding the Special Policy on Cumulative Impact and to the terminal hour for a particular area. It was his contention that PC Turley wanted the same time everywhere leading to the position that nowhere was open later than 2.00 am. Again the purpose of the application was to spread out closing times.

Regarding other issues raised, he considered that although it had been contended that the Picture House was worse than other licensed premises no figures had been produced to support this and the Picture House was the largest sized premises in the area. Also, the application to vary was not an application to review and that consideration needed to be given to the Licensing Act and associated guidance.

The contention of Mr Wilkinson was therefore that the application assisted and did not contravene the crime and disorder objective by dealing with issues in a positive way. Whilst the point was taken regarding the accumulation of drinks around drinking up time, the response of Mr Stanley to the points raised showed that a responsible attitude would be taken to someone in that position and that they would not be allowed to drink the drinks so accumulated, which if they did could possibly lead to a crime and disorder situation. Mr Wilkinson also queried the relevance of the references made to under age patrons, as the issue that was trying to be addressed was that of patrons flooding out at the same time, the aim of the application being to ensure that patrons left at a slower rate and over more time.

In concluding he considered that the application should not be refused on the basis on the incidents logged and queried whether it offended the crime and disorder objective by having an extension for music and dancing, referring again to the Secretary of States guidance. He therefore asked that the application be granted.

The respective parties then withdrew so that Sub-Committee could come to a decision on the application.

The Sub-Committee having made their decision, the respective parties were invited to return and the Chairman then outlined the decision and the reasons for the decision.

RESOLVED

That the application received from Young and Pearce, Solicitors, on behalf of Enteramma Limited, to vary the premises licence in respect of the Picture House, 27-29 Hagley Road, Stourbridge, be refused.

Reasons for Decision

The Sub-Committee has carefully considered all of the evidence and submissions made on behalf of the applicant and West Midlands Police.

Our decision is that the Cumulative Impact Policy does apply in this case and we are not satisfied that the applicant has demonstrated that there would not be an adverse effect on the Cumulative Impact on Stourbridge Town Centre and in particular on the licensing objective regarding crime and disorder.

The meeting ended at 6.00 pm

CHAIRMAN

LSBC2/28