

LICENSING SUB-COMMITTEE 5

Tuesday, 9th May, 2006 at 10.15 am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Taylor (Chairman)
Councillors Ms Craigie and Mrs Dunn

Officers

Assistant Director of Legal and Democratic Services (for the item on Barnett Lane Post Office only) and Principal Solicitor (Legal Advisors), Mr J Jablonski (for the item on Barnett Lane Post Office only) and Mrs J Holland – Directorate of Law and Property.

72 APOLOGY FOR ABSENCE

An apology for absence from the meeting was submitted on behalf of Councillor Bradney.

73 APPOINTMENT OF SUBSTITUTE MEMBER

It was noted that Councillor Mrs Dunn had been appointed as a substitute member for Councillor Bradney for this meeting of the Sub-Committee only.

74 DECLARATIONS OF INTEREST

There were no declarations of interest from Members in accordance with the Members' Code of Conduct.

75 MINUTES

RESOLVED

That the minutes of the meeting of the Sub-Committee held on the 11th April, 2006 be approved as a correct record and signed.

APPLICATION FOR THE GRANT OF A PREMIISES LICENCE,
BARNETT LANE POST OFFICE, 3 BARNETT LANE, KINGSWINFORD

A report of the Director of Law and Property was submitted on an application received from Povinder Singh Rai for the grant of a premises licence in respect of the premises known as Barnett Lane Post Office, 3 Barnett Lane, Kingswinford.

Mr R Light, Barrister, Mr P S Rai, Applicant and Mr C Mitchiner, adviser on the application, were in attendance at the meeting.

Also in attendance at the meeting were Mrs Cutler, Mr and Mrs Collins and Councillor Miller objectors to the application.

Following introductions by the Chairman of the Sub-Committee the Legal Advisor then outlined the procedure to be followed and in so doing referred to the presence of a local Ward Councillor, Councillor Miller. Following consideration of the presence of Councillor Miller and the parties on whose behalf he could and could not speak the Legal Advisor informed the meeting that Councillor Miller could speak on behalf of those persons present who had made written representations and were therefore interested parties but that comments of persons who had not submitted an objection and were not present could not be taken into account as they were not interested parties. The advice given by the Legal Advisor was accepted.

Mrs Elliott, Licensing Officer, Directorate of Law and Property, then presented the report on behalf of the Council.

Objectors to the application then set out the basis of those objections referring to the original licence determined in the Magistrates Court for the opening hours of the premises which were until 6.00 pm Monday to Saturday and 12.00 noon on Sundays. This had now changed to 8.00 pm in the current application. Reference was also made to the fact that there was an off licence next door and two further licensed outlets within easy reach of the area. Comments were then made regarding Section 7 Parts I and II of the Council's policy document relating to licensing, in particular, the cumulative effect of granting licences on an area. A further problem was the issue of parking, which was difficult in Barnett Lane but did not solely arise from the premises under consideration. The area was also considered to be a residential area and objectors did not wish any further deterioration in the situation.

Councillor Miller then referred to fears that there would be extra anti-social behaviour should a further licence be granted and reiterated the comments made about difficulties with parking and deliveries to the shop premises. He also commented on the licence previously granted by the Magistrates and arising from comments made about the notice required it was confirmed that in respect of the current application the regulations in respect of the notice had been adhered to. Arising from further comments regarding the Applicant, it was reported that Mr Rai was the holder of a personal licence that had been granted.

Arising from the comments made by the objectors, members of the Sub-Committee then asked questions regarding the issues of parking at the shop premises and the hours previously and currently applied for. It was again reiterated that parking was a general problem not confined to the Post Office.

Mr Light, Barrister, then outlined details of the application and in so doing referred to a brochure that had been circulated and prepared for the meeting. Details were given of the current uses of the other premises in the block of shops containing the Post Office and reference was made to Bargain Booze, held on a franchise, which was open until 9.30 pm Monday to Thursdays and 10.00 pm on Friday and Saturday and 9.30 on Sunday. He commented that no one had suggested that these opening hours presented a problem. In contrast the hours requested were considered to be modest especially as the Magistrate's Licence previously granted allowed opening until 11.00 pm.

Reasons for the application were then given in that the Post Office had lost business and so the business lost had to be replaced so that the premises could be kept viable. Reference was also made in the brochure prepared to the steps taken regarding security, the training regime for staff and proof of age requirements.

In his final comments Mr Light considered that it was significant that there were no police objections and similarly no representations have been made by officers of the Council.

Arising from the comments made the Legal Advisor referred to a number of points made by the objectors and stated that the fact that there were other off licences in the area was not a consideration the Sub-Committee could take into account. The policy matters referred to did not relate to the circumstances of this application as they referred to a special policy the Council could introduce in areas that were saturated with licence holders, for example, Stourbridge Town Centre and that the issue of whether the applicant was a proper person was again not relevant as he did hold a personal licence. Mr Light also indicated that other issues were not accepted but that his client would be more than happy for all deliveries to be taken at the rear of the premises.

In response to a question from the Legal Advisor regarding the hours of opening, Mr Light indicated that the applicant would not be willing to compromise on those hours as it was considered that 8.00 pm was not a late closing hour.

Arising from these comments the objectors were given the opportunity to ask questions and further reference was made to the internal arrangements of the premises to prevent children getting access to alcohol. In this connection reference was made to the plan of the premises submitted and the layout of the premises, which was standard for all shops of this type selling alcohol so that access by children could be prevented. In response to questions regarding staffing Mr Rai responded by indicating the staffing that would be available and did not consider that there would be any particular problem given the reputation of the shop in the area, which was quite strict regarding sale to youths and people hanging around outside the shop. Furthermore arrangements were in place via links with the police and himself in the event that these should be required. It was also noted that alcohol was kept securely stored.

Arising from the comments made regarding staffing and security issues the opportunity to sum up was given to which the objectors indicated that they had no further comments to make. Mr Light in his summing up reiterated that there had been no concerns by the relevant authorities regarding the additional hours applied for and no evidence from the police that there had been any trouble. The security arrangements had been professionally considered and introduced and the staffing arrangements were considered to be viable. As members were aware should matters be brought to the attention of the Council there were review arrangements that could be put in place.

The Legal Advisor then commented on the legal issues that had been considered regarding need in that the application could not be refused on the basis that there was another off licence in the vicinity and that the advice to be given would relate to conditions of licence including any relating to deliveries referred to in the meeting.

At the end of the discussions the Chairman requested that the parties withdraw from the meeting to enable a decision to be made.

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

RESOLVED

That the application received from Povinder Singh Rai for the grant of a premises licence in respect of the premises known as Barnett Lane Post Office, 3 Barnett Lane, Kingswinford, be granted to allow the provision of the sale of alcohol on Monday to Sunday inclusive 0630 - 2200, subject to the following conditions

- (1) All conditions set out as in the operating schedule.
- (2) All deliveries of alcohol to the rear of the premises.

Reasons for Decision:

The application is granted because the applicant's proposed operation should meet our licensing objectives together with conditions of licence. Need is not a matter that we can take into account in determining this licence.

77

APPLICATIONS FROM MR F A SMITH

- (a) For the Grant of a Premises Licence (Ringside Refreshments) at a site at the junction of Foster Street/High Street, Stourbridge.
- (b) For the Grant of a consent to engage in street trading at a site in High Street, Stourbridge.
- (c) To Renew/Vary a street trading consent in Stourbridge Town Centre.

Arising from the initial consideration given to these matters, it was:

RESOLVED

1. That the applications from Mr F A Smith, in respect of agenda item 6, for the Grant of a Premises Licence (Ringside Refreshments) at a site at the junction of Foster Street/High Street, Stourbridge, be approved, subject to the following terms and conditions:

Provision of late night refreshment

Monday to Sunday inclusive 20.00 – 03.30 hours

2. That the applications from Mr F A Smith, in respect of agenda items 7 and 8 as outlined in (b) and (c) above, be deferred pending receipt of further information.

78

APPLICATION FOR GRANT OF A PREMISES LICENCE, JADE CHINESE TAKEAWAY, 290 LONG LANE, HALESOWEN, WEST MIDLANDS

A report of the Director of Law and Property was submitted on an application received from Ms Ai Tran for the grant of a premises licence in respect of the premises known as The Jade Chinese Takeaway, 290 Long Lane, Halesowen, West Midlands.

The Chairman introduced the Members of the Sub-Committee and Officers in attendance.

Ms A Tran and two supporters, were present at the meeting.

Three objectors were also present at the meeting, namely, Mr and Mrs Tai and Mr Tai, their son.

Mrs Elliott, Licensing Officer, Directorate of Law and Property, then presented the report on behalf of the Council.

The objector's solicitor informed the Committee that Mr and Mrs Tai lived next door to the Jade Takeaway and circulated photographs that showed the close proximity of both properties and a copy of a doctor's report on behalf of Mrs Tai. She informed the Sub-Committee that the noisy extraction system in the alleyway at the side of the Jade Takeaway prevented her clients from sleeping and that an extension of opening hours to 12 mid-night would infringe upon their basic human rights to allow them to live a quiet life without the disturbance of noise. She also informed the Sub-Committee that the premises exuded cooking odours; vehicles pulling up to visit the takeaway at night also caused noise nuisance. Her clients did not object to the Jade Takeaway being open up until 11.00 pm, but were only objecting to an extension to 12 midnight.

In response, the applicants informed Mr and Mrs Tai that they were willing to do whatever they could to try to cut down on the noise being experienced by them. The objector's solicitor reiterated that her clients had no objection to the premises being open until 11 pm, but were objecting to an extension to the opening time to 12 midnight.

The objector's solicitor stated that she applauded the offer made by the applicant but pointed out that her clients had approached Ms Tran in the past requesting improvements to the noise levels, particularly the extractor fan in the alleyway, but no improvements had been made.

The applicant's representative and interpreter outlined the application on behalf of the applicant. He also circulated some background information pointing out that prior to the applicant taking over the now Jade Takeaway it had been a fish and chip shop. He advised that the applicant had applied for extended opening hours in order to gauge whether or not there was enough trade within that hour to warrant the Jade Takeaway remaining open until mid-night. He explained that everything inside the Takeaway had been installed as new when Ms Tran took the business over and that, at that time, measures had been taken to minimise any noise emanating from the property. He pointed that that there was a restaurant situated opposite the premises and also that Mr Tai himself had a Takeaway 100 yards further up the road that remained open after 12 midnight.

In response, the objector's solicitor reiterated that Mrs Tai was in poor health and explained that the kitchen of the Jade Takeaway adjoined Mrs Tai's bedroom; all the noise of washing up and the noises made when clearing the kitchen after closing time, could be heard through Mrs Tai's bedroom wall.

At the end of the discussions, the Chairman requested that the parties withdraw from the meeting to enable a decision to be made.

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.

Accordingly, it was

RESOLVED

That the application received from Ms A Tran for the grant of a Premises Licence in respect of The Jade Chinese Takeaway, 290 Long Lane, Halesowen, to allow for the provision of late night refreshment, be approved subject to the following:

Hours

Monday	17.00 to 24.00 hours (midnight)
Wednesday, Thursday, Friday, Saturday and Sunday	17.00 to 24.00 hours (midnight)

Conditions

All conditions as set out in the operating schedule.

Reasons for Decision

The Sub-Committee is of the opinion that the hours set for the sale of Late Night Refreshment is consistent with the principles contained within the licensing legislation and our licensing policy.

The meeting ended at 3.45 pm

CHAIRMAN