

LICENSING SUB-COMMITTEE 2

Tuesday, 16th December, 2008 at 10.30am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Woodall (Chairman)
Councillors Mrs Dunn and Mottram

Officers

Principal Solicitor (Legal Advisor), Mrs J Elliott (Licensing Officer) and Mrs K Farrington (Directorate of Law and Property)

15 DECLARATIONS OF INTEREST

No member declared an interest in accordance with the Members' Code of Conduct.

16 MINUTES

RESOLVED

That the Minutes of the Meeting of the Sub-Committee held on 7th October, 2008 be approved as a correct record and signed.

17 APPLICATION FOR AMUSEMENTS WITH PRIZES MACHINE PERMIT – THE CORN EXCHANGE, AMBLECOTE, BRIERLEY HILL

A report of the Interim Director of Law and Property was submitted on an application received from Games Media in respect of The Corn Exchange, Amblecote, Brierley Hill, for the grant of an Amusements with Prizes Machine permit for three machines.

A Mr Ashley was in attendance at the meeting.

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

At this juncture, Mr Ashley requested that the Sub-Committee consider deferring the application to a future date, in view of his colleagues non-attendance and to enable himself to fully prepare and familiarise himself with the details of application.

RESOLVED

That the application received from Games Media in respect of The Corn Exchange, Amblecote, Brierley Hill, for the grant of an Amusements with Prizes Machine permit be deferred to a future meeting.

18 APPLICATION FOR AMUSEMENTS WITH PRIZES MACHINE PERMIT –
THE FOLEY ARMS, 309 HAGLEY ROAD, PEDMORE, STOURBRIDGE

A report of the Interim Director of Law and Property was submitted on an application received from Poppleston Allen, Solicitors, in respect of The Foley Arms, 309 Hagley Road, Pedmore, Stourbridge, for the grant of an Amusements with Prizes Machine permit for three machines.

Miss Vale, Electronic Leisure Machines Manager of Mitchells and Butler Leisure Retail Limited was in attendance at the meeting, together with Mr Parsons, Designated Premises Supervisor of The Foley Arms.

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

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

Miss Vale then explained the reason why a third Category C machine had been applied for and stated that the two machines currently in operation at the premises were very popular with patrons. The Company therefore, wanted to give them more variety, as usually there was a queue of people waiting to use the machines. She also stated that the current legislation on the machines were that no under 18s were permitted to use them and a notice displaying this information was clearly displayed on each machine and assured the Sub-Committee that it was enforced. She continued by informing the Sub-Committee that the proposed site for the new machine would be visible from the bar area and no fire exits would be blocked by the positioning of the machine.

In response to a question from the Sub-Committee, Miss Vale clarified the correct positioning of the existing machines and the proposed new machine on a map circulated prior to the meeting.

The Members expressed concern as to the positioning of the new proposed machine and queried whether the machine would be visible by staff at all times from the whole area of the bar, as this was unclear from the map provided. Miss Vale stated that only part of the bar area was in operation and confirmed that staff using that part of the bar area could monitor the use of the machine at all times. She informed the Sub-Committee that management staff also patrolled the floor area monitoring the behaviour of the customers. Miss Vale also informed the Sub-Committee that no under 14s were permitted in the bar area unless accompanied by an adult at all times and had to vacate the premises by 9.00pm each evening.

The Members acknowledged comments made by Miss Vale, however, they continued to express concern as the rules and regulations of granting a Amusements With Prizes Machine permit clearly stated that the machine should be in full view of the whole area of the bar, not a third of the bar area as indicated on the map provided with the report submitted and as represented at the meeting.

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 all the remaining parties were invited to return and the Chairman then outlined the decision.

RESOLVED

That the application received from Poppleston Allen, Solicitors, in respect of The Foley Arms, 309 Hagley Road, Pedmore, Stourbridge, for the grant of an Amusements with Prizes Machine permit for three machines, be refused on the grounds that the Sub-Committee is not satisfied that the proposed site of the new Amusements with Prize Machine would be in full and unobscured view of the whole of the bar.

19 APPLICATION FOR CONSENT TO ENGAGE IN STREET TRADING – MR P R DUNKLEY AND MRS S J DUNKLEY

A report of the Interim Director of Law and Property was submitted on an application received on behalf of Mr P R Dunkley and Mrs S J Dunkley for the grant of a consent to engage in street trading at a site on Halgley Road or Peckingham Street, Halesowen.

Mr and Mrs Dunkley were in attendance at the meeting.

Also in attendance, objecting to the application were Mr S Perry, Halesowen Town Centre Manager, whose written representations were submitted at Appendix 4 to the report submitted and Mr and Mrs Chawner. It was also noted that Mr A Radford, Technician Engineer, Directorate of the Urban Environment, was not in attendance at the meeting but had submitted written representations as set out in Appendix 3 to the report submitted.

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

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

Mr Perry then circulated a map of the licensed food outlets in Halesowen Town Centre to the Sub-Committee. In addition to the comments made at Appendix 4 to the report submitted to the meeting, he stated that only a certain amount of money had been allocated to the town centre budget and that by allowing further food outlets to trade in Halesowen Town Centre this would have an adverse effect on the town. In responding to questions asked, the Sub-Committee were assured that each application was determined on its individual merits and that adverse spending on trading would not be considered as a factor when determining the application.

In response to a question from the Members in respect of an alternative site for Mr and Mrs Dunkley to trade in, Mr Perry stated that Halesowen was a small town and referring to the map previously circulated, confirmed that at present, taking into consideration the safety of the public and emergency exits, there were no alternative locations for the applicants to trade in.

In response to the above point, Mr Dunkley queried the safety of the area, after witnessing at a previous visit to the town centre, a burger van trading along side a children's ride. He stated that there was no room for the public to walk around the area and that there had been no ground sheet underneath the children's ride, which would allow oil to be leaked onto the paved area, causing potential hazard to the public. In responding, Mr Perry confirmed that the paved entertainment area had been developed to allow licensed entertainers to use the area, to provide entertainment. He also confirmed that he had received no complaints in the past with regard to oil stains but assured the Sub-Committee that he would contact the appropriate license holder of the children's ride and remind him that a ground sheet should be used at all times when using the entertainment square. He then thanked Mr and Mrs Dunkley for pointing this concern out to him.

Mr Dunkley then presented his case, and in doing so, informed the Sub-Committee that his wife had contacted the Licensing Office to get advice from them as to which streets in Halesowen were consent streets. He stated that he and his wife had visited Halesowen Town Centre on numerous occasions on different days with a view to identifying a suitable site to trade from. He stated that he had not witnessed anyone trading on Peckingham Street and when he had contacted the Licensing Office to confirm this, he was told that no street traders were trading from that site. He further stated that he had been unaware that Mr and Mrs Chawner had got a licence to trade in Peckingham Street until he received correspondence back from the Licensing Office. He informed the Sub-Committee that if he had been aware that there was an existing street trader positioned in that location, he would not have submitted his application form. At this juncture, the Licensing Officer reported that each license holder was not for permanent trade and re-iterated that each application would be determined on individual merits. She also advised Mr and Mrs Dunkley that should they wish to use any other town centre in the Borough in the future, they should contact the Town Centre Manager, in the first instance, and receive advice from them as to available sites to trade from in order to avoid confusion in the future.

In response to a question from Mr Dunkley, Mr and Mrs Chawner confirmed that they had held a street trading licence for three years, with no complaints being received and confirmed that they would not be willing to share the location.

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 all the remaining parties were invited to return and the Chairman then outlined the decision.

RESOLVED

That the application received on behalf of Mr P R Dunkley and Mrs S J Dunkley for the grant of a consent to engage in street trading at a site on Halgley Road or Peckingham Street, Halesowen, be refused on the grounds that there were no available places to trade from in Hagley Street and Peckingham Street.

20 EXCLUSION OF THE PUBLIC

RESOLVED

That the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Local Government Act, 1972, as indicated below, and in all the circumstances, the public interest in disclosing the information is outweighed by the public interest in maintaining the exemption from disclosure.

Description of Item	Relevant Paragraph of Part 1 of Schedule 12A
Revocation of House to House Collections Licence in respect of Beacon Centre for the Blind and Mary Stevens Hospice – Mr DH and Mr PS	1

21 REVOCAION OF HOUSE TO HOUSE COLLECTIONS LICENCE IN RESPECT OF BEACON CENTRE FOR THE BLIND AND MARY STEVENS HOSPICE – MR DH AND MR PS

A report of the Interim Director of Law and Property was submitted on a proposed revocation of the house to house collections licence in respect of Beacon Centre for the Blind and Mary Stevens Hospice issued to Mr DH and Mr PS.

Mr DH and Mr PS were in attendance at the meeting.

Following introductions made by the Chairman, the Legal Advisor outlined the procedure to be followed.

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

Mr H sought clarification as to the reasons why they had been invited to attend the Sub-Committee, as this was not clear from the report submitted to the meeting. The Legal Advisor confirmed that the report had been submitted purely for the reasons outlined in paragraphs 19a and 19b.

Mr H informed the Sub-Committee that his Company was a new local venture, aimed at benefiting local charities in the area and he confirmed the average amount of remuneration paid to charities, which had been agreed by the Charities involved.

He then explained the breakdown of figures provided to the Licensing Office prior to the meeting and explained the reasons why the total percentage of expenses calculated had been higher than the percentage of money going to the Charities. He confirmed that the Charities were happy with the amount of money they were receiving, for just allowing the Charity name to be advertised on the bags and bins used for collecting used clothes, shoes and any other donated items.

In response to a question from the Sub-Committee in relation to the information contained on the leaflets, which were distributed to the public, Mr S confirmed that they did not advertise the percentage of proceeds, which the Charity actually received. The Members expressed concern at this as they considered that the leaflets used would be misleading to the public, as the majority of the public donating would assume that the whole proceeds would go to Charity. In response, Mr Smith confirmed that a contact number was advertised on the leaflets distributed for members of the public to contact if they required any further information.

Members sought clarification as to the reason why two companies were used for trading. In response, Mr H stated that they were expanding their business and confirmed that one would be used more nationally, whereas the other would be used locally.

The Legal Advisor then suggested that the applicants, upon any future renewals, consider submitting a far more detailed statement of accounts for the full financial year and provide evidence that the public had been made explicitly aware of the percentage of proceeds which actually went to the charity concerned.

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 all the remaining parties were invited to return and the Chairman then outlined the decision.

RESOLVED

1. That, arising from consideration of this matter, no action be taken to revoke the house to house collections licence in respect of Beacon Centre for the Blind and Mary Stevens Hospice issued to Mr DH and Mr PS.
2. That any future renewals of a house to house collections licence made by them be referred to a Sub-Committee for determination.

The meeting ended at 1.05 pm

CHAIRMAN