

LICENSING SUB-COMMITTEE 5

Tuesday, 30th October, 2007 at 10.00am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Taylor (Chairman)
Councillors D Blood and J Martin

Officers

Assistant Director Legal and Democratic Services (Legal Advisor), Mrs J Elliott, Licensing Officer and Mrs K Farrington (Directorate of Law and Property).

9. APOLOGY FOR ABSENCE

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

10. APPOINTMENT OF SUBSTITUTE MEMBER

It was noted that Councillor D Blood had been appointed as a substitute member for Councillor Ms Craigie for this meeting of the Sub-Committee only.

11. DECLARATIONS OF INTEREST

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

12. MINUTES

RESOLVED

That the minutes of the meeting of the Sub-Committee held on 25th September, 2007 be approved as a correct record and signed.

13. APPLICATION FOR THE VARIATION AND RENEWAL OF A CONSENT TO ENGAGE IN STREET TRADING – MR HARRY JAMES JONES

A report of the Director of Law and Property was submitted on an application made by Mr Harry James Jones for the variation and renewal of consent to engage in street trading in Dudley Town Centre.

Mr Jones was in attendance at the meeting, together with a Mr Roberts, a supporter.

Also in attendance, objecting to the application, was a Mr Smith.

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. At this juncture, the Legal Advisor sought clarification from Mr Jones that the variation requested related to his new unit. Mr Jones confirmed that this was the case.

Mr Smith then stated his case, and in doing so acknowledged that Mr Jones's business was a well-known, established and respected family business. He reported that his only objection related to Mr Jones being allowed to sell hotdogs and hamburgers. He stated that his business originated back to 1958 selling hotdogs and hamburgers part-time, which eventually developed into a full-time family business, currently holding five street trading consents by various local authorities. He stated that Dudley Metropolitan Borough Council had always refused to allow the duplication of trade lines amongst street traders in the vicinity, up until Mr Jones's application, to extend his trade lines, which was approved at the Sub-Committee in December, 2006.

Mr Smith commented that the other authorised street traders in Dudley Town Centre all offered different products which provided customers with variety and choice and gave each street trader the opportunity to establish a distinct and individual identity. He further commented that Mr Jones already has consent to sell more trade lines than any other street trader in the vicinity, which has generated consistent sales for him from the public making his business a success. He reported that if the Sub-Committee approved Mr Jones's application on this occasion, it would decimate his takings, as he had noticed this year that on days Mr Jones traded, his takings reduced by 40%. He also reported that he is in the process of purchasing new sales units for each location he currently operates in, but confirmed that this could only be completed if his takings were a reliable source of income.

Mr Smith concluded by asking that the Sub-Committee consider approving Mr Jones's application, but with hotdogs and hamburgers being excluded from his trade lines. He then responded to questions asked by the Sub-Committee.

Mr Jones then stated his case, highlighting that it would not be cost effective to trade in Dudley Town Centre if his permit excluded him from selling hotdogs and hamburgers, as demand for bacon, bacon and egg and sausage sandwiches had reduced considerably. He stated that he had invested a lot of time and money in making his business a success and further stated that he wanted that success to continue when he retired in the near future. In response to a question from the Sub-Committee, he confirmed that hot sandwiches would be sold in the mornings and hotdogs and hamburgers would be sold in the afternoons.

At the request of the Chairman the parties withdrew 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 approval be given to the applications submitted by Mr Harry James Jones for the variation and renewal of his consent to engage in street trading in Dudley Town Centre, as indicated in paragraphs 26 and 28 of the report submitted, for a period of twelve months.

14. APPLICATION TO VARY A PREMISES LICENCE – THE SPILLS MEADOW, 53 KENT STREET, UPPER GORNAL

A report of the Director of Law and Property was submitted on an application received for the variation of the premises licence, in respect of The Spills Meadow, 53 Kent Street, Upper Gornal, Dudley.

Mr Proudman of Marston's PLC was in attendance at the meeting.

Prior to the hearing, it was noted that the Designated Premises Supervisor was not present at the meeting due to ill health. The Sub-Committee, having discussed this issue, agreed to hear Mr Proudman's case.

Following introductions by the Chairman, Mrs Delores Nellany, Food and Occupational Safety Manager, Directorate of the Urban Environment, then commented on the content of Appendix 2 to the report submitted. She informed the Sub-Committee that Mr Proudman had agreed to the condition of closing doors and windows, except for access to and egress from the premises during entertainment beyond incidental music and also to the condition of fitting all doors leading to external areas with self-closing devices. She reported that the condition relating to the external smoking shelter had not been agreed. She stated that her main concern was the impact the smoking shelter would have on the nearby residents in relation to the likely increase in noise nuisance and suggested that a condition restricting the use of the smoking shelter should be considered.

Mr Proudman stated that the Spills Meadow had gone through a major capital project in which the Brewery had spent £90,000 on the refurbishment of the building. He reported that the premises is and would remain as a local community run public house. He stated that the external smoking shelter would be well monitored at all times by the Designated Premises Supervisor and her staff completing regular patrols of the area. He further stated that no objections had been received from the Police in relation to the application.

Mr Proudman continued by informing the Sub-Committee that there were no heating appliances in the smoking area, as he did not want to encourage customers to congregate outside for long periods of time. The Legal Advisor then suggested that a condition restricting the consumption of alcohol after 11.00pm should be considered, as this would also help to discourage customers from using the smoking shelter for prolonged periods of time. In response to this, Mr Proudman informed the Sub-Committee that he had no problem in agreeing to the suggested condition if the application was approved.

In response to a question in relation to the premises having air-conditioning, Mr Proudman stated that the building was not air-conditioned but did contain good extractor fans. The Sub-Committee raised concerns in relation to customers using the external smoking shelter for some fresh air if the building got too hot, which would increase noise nuisance to neighbouring residents. Mr Proudman acknowledged the Sub-Committee's concerns and responded by stating that if this did become an issue, then there were laws in place to remedy the situation.

The Legal Advisor then reported that the Sub-Committee might consider deferring the case, so as to allow the Designated Premises Supervisor to attend personally. In response, Mr Proudman confirmed that the Brewery would be the licence holder so he would make sure that any conditions imposed on the licence would be adhered to.

At the request of the Chairman the parties withdrew 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 to vary the premises licence, in respect of The Spills Meadow, 53 Kent Street, Upper Gornal, Dudley, be deferred to a future meeting, so as to allow the Designated Premises Supervisor to attend the meeting personally.

The meeting ended at 11.50am

CHAIRMAN

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