

LICENSING SUB-COMMITTEE 4

Tuesday 15th November, 2005 at 10.00 am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Wright (Chairman)
Councillors Mrs Coulter and Donegan

Officers

Principal Solicitor (Legal Advisor) and Ms K Smith – Directorate of Law and Property (am only)

Assistant Director Legal and Democratic Services (Legal Advisor) and Mrs J Holland – Directorate of Law and Property (pm only)

56

MINUTES

RESOLVED

That the minutes of the meetings of the Sub-Committee held on 10th October and 2nd November 2005, be approved as correct records and signed.

57

DECLARATIONS OF INTEREST

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

58

APPLICATION FOR A PREMISES LICENCE, THE TASTY PLAICE, 9-13 HIGH STREET, SEDGLEY

A report of the Director of Law and Property was submitted on an application received from Mr B Toor and Mrs S Toor, for the grant of a premises licence, in respect of the Tasty Plaice, 9-13 High Street, Sedgley.

The premises licensee, Mrs S Toor was in attendance at the meeting.

Also in attendance was Mr Jones, objector to the application.

Following introductions, the Legal Advisor outlined the procedure to be followed and confirmed that the granting of any variation to the premises licence would be subject to a further planning application, as outlined in appendices two and three attached to the report submitted

Mr C Phillips, Senior Licensing Clerk, presented the report on behalf of the Council.

Mr Jones then set out his reasons for objecting to the application, which included issues with the smell of cooking emanating from the chip shop, litter on his premises, people urinating up the wall of the chip shop and the use of the car park by the general public after the close of business of the Tasty Plaice. Mr Jones also stated that the premises at number 9 High Street, Sedgley were subject to planning restrictions imposed by Dudley Council as detailed in appendix three, attached to the report submitted. Mr Jones further stated that the only respite from these acts of anti- social behaviour arose from the fact that there was no trading at present on Sundays and Bank Holidays.

Mrs Toor then stated her case and acknowledged the concerns expressed and indicated that she was willing to work with local residents to ensure good relationships. Mrs Toor was currently in discussion with her landlord with regard to installing a barrier across the car park to curtail inappropriate use of the car park when the premises were closed. She also confirmed that there were signs on the car park warning people of illegal parking and that they would be clamped, and also that the litterbins and car park were cleaned at the close of business every evening. Mrs Toor also agreed that she would be prepared to accept that late night refreshment could finish at midnight Monday – Thursday and 01.00 on the following mornings of Friday and Saturday nights.

Mr Jones then summed up his case reiterating his concerns as previously expressed.

The appellant then summed up her case.

The parties then left the meeting whilst the decision was considered.

The Sub-Committee having made their decision, the 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 Mr B Toor and Mrs S Toor, for a premises licence, in respect of the Tasty Plaice, 9-13 High Street, Sedgley, be approved, subject to the following terms and conditions and based on the reasons indicated:-

Variation of Premises Licence

| | |
|-------------------|---------------|
| Monday – Thursday | 11.00 – 00.00 |
| Friday – Saturday | 11.00 – 01.00 |
| Sunday | 17.00 – 23.00 |
| Bank Holidays | 17.00 - 23.00 |

Conditions

All conditions set out as in the operating schedule, together with:-

1. The premises to have signs asking customers to leave the premises quietly and respect local residents and their premises
2. Signs in the car park to state:- No ball games, no sounding of horns and to leave the premises quietly.
- 3 The car park shall be closed by means of a barrier or similar device when the premises are closed for trading.

Reasons For Decision

The Sub Committee is of the opinion that the hours set for late night refreshment is consistent with the principles contained within the licensing legislation and our licensing policy. However, we recognise the legitimate concerns of local residents, but we believe that their concerns can be met through the licensing conditions and appropriate enforcement.

Both parties were reminded of the right of appeal to the Magistrates Court.

The applicant was reminded that planning permission would be required to open until the extended hours granted.

59

RENEWAL AND VARIATION OF PUBLIC ENTERTAINMENTS LICENCE, THE CORN_EXCHANGE, AMBLECOTE ROAD, BRIERLEY HILL

Reports of the Director of Law and Property were submitted on an application received from Bevan Brittan, Solicitors, on behalf of Bryan Wilson for the renewal of the public entertainments licence and from Spirit Group Ltd. for the variation of a premises licence in respect of the premises known as The Corn Exchange, Amblecote Road, Brierley Hill.

The applicant, Mr B Wilson was in attendance at the meeting, together with a Mr Dixon of Spirit Group Ltd.

Also in attendance were Mr Cartwright, Mr Wrigglesworth, Mrs Greenshill, Mr and Mrs Walker, Ms Briggs, Mr Chater, Mr Bosworth and Councillor J Musk (Ward Councillor), objectors to the application.

Following introductions, the Legal Advisor outlined the procedure to be followed and reported that the applicant had agreed that public entertainment would end at 11.00 pm (a reduction from that set out in the application form); all other restrictions as outlined in the report had been accepted by the applicant.

Mrs J Elliott, Licensing Officer, Directorate of Law and Property, presented the case on behalf of the Council, stating that the public entertainments licence in respect of The Corn Exchange, was due to expire on 23rd November 2005.

The objectors then set out their reasons for objecting to the application, which included previous problems reported by local residents regarding noise nuisance and fights and fights between customers on leaving the premises; the loud revving of car engines in the early hours of the morning and noise emanating from inside the premises during periods of public entertainment.

The Legal Adviser explained that the premises renewed their public entertainment licence in March 2005 and that the Directorate of the Urban Environment had confirmed that they would be able to deal with the noise problems emanating from inside the premises. However, fights and nuisance off the premises were a matter for the police.

Following questions of the objectors by members of the Sub-Committee, during which the Legal Adviser asked the objectors to outline the problems they had experienced over the past two to three months, the objectors responded that there had been problems with "boy racers", noise emanating from inside the premises, glass and glasses left outside the premises and on the car park, broken glass collecting on gardens and in the general area, foul language used by customers exiting the premises, noise during the daytime from customers sitting at tables situated outside the premise and staff leaving the car park noisily late at night. Also customers exiting the premises en bloc at closing time causing noise nuisance and problems with customers urinating up against walls in the vicinity. It was considered that the noise from inside the premises had been lessened as air conditioning had been installed and the doors and windows had been kept closed.

Further complaints were one of the ventilation fan inside the premises was too noisy, taxis were parking outside the premises until the early hours of the morning, ostensibly to pick up staff who had worked late, and also that taxis picked up customers and parked on the grass verges.

In response to a question put by Mr Dixon, the objectors conceded that they had not contacted Mr Wilson direct with regard to their concerns.

Following the questions of the objectors by members of the Sub-Committee and the legal advisor, Mr Dixon stated the case for the applicant and acknowledged the concerns expressed. He indicated that the applicant was committed to working with the local residents to promote good relationships. He informed the Sub Committee that “rhino horns” had been installed on the premises’ car park approximately two weeks prior to the hearing and were being used.

The applicant also confirmed that he had frequently moved people on from outside the premises and that a door supervisor was employed to be on duty up to 11.30 pm for that purpose. He did not encourage after hours drinking and he was prepared to engage the doorman to work longer hours during extended hours if necessary.

In response to questions put by the objectors, the Licensee stated that the age group of customers using the premises was between eighteen and seventy years, although there was a younger clientele on Friday and Saturdays. He considered the average overall age of customers to be mid-30’s and that as soul music and 80’s music was encouraged, that did not attract younger people. He also confirmed that he regularly checked that the windows and doors to the premises were closed during periods of public entertainment, although there was a fire door at the front of the premises that customers occasionally inadvertently used as an exit and when this door was opened an alarm sounded.

In response to a question put by a Sub-Committee Member, the Licensee confirmed that he had not contacted any of the local residents direct.

In response to further questions, the Licensee agreed to put up notices within the premises and on the car park, asking customers to leave quietly and respect local residents.

At the conclusion of questions each side summed up their respective positions and, prior to their withdrawal, the legal advisor indicated to the parties the details of the legal advice to be given to the Sub-Committee, which related to legal aspects of the application.

The Sub-Committee having made their decision, all the remaining 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 Bevan Brittan, Solicitors, on behalf of Bryan Wilson for the renewal of the public entertainments licence and from Spirit Group Limited for the variation of a premises licence in respect of the Corn Exchange, Amblecote Road, Brierley Hill, West Midlands, be approved as follows:

Variation of Premises Licence

Alcohol and Late Night Refreshment

Monday to Wednesday - 10.00 - 23.00

Thursday to Saturday - 10.00 - 00.00

Sunday - 11.00 - 23.00

Bank Holiday, Christmas Day and Boxing Day - 10.00 - 00.00

No other extension of hours permitted within this licence.

Conditions

All conditions set out as in the operating schedule.

1. All regulated entertainments shall end at 23.00 7 days per week.
2. The Beer Garden and Car Park be cleared of customers and glassware by 23.00 hours.
3. All doors and windows shall be kept closed during regulated entertainments save for access and egress.
4. All exit doors within the premises to have signs asking customers to leave the premises quietly and respect local residents and their premises.
5. Signs in the car park to state:- "No ball games, no sounding of horns, no car stereos and to leave the car park quietly.
6. Door Supervisor to be present at all times during periods of entertainment and to remain on the premises for a minimum of thirty minutes after the sale of alcohol has ceased.
7. Other conditions as per Environmental Health recommendations (Noise limiter/security post)
8. The Licensee and the Brewery organise regular meetings with local residents to resolve problems as they arise.

Recommendation that the existing Public Entertainment Licence was renewed on the same terms.

Reasons

The Sub-Committee is of the opinion that the hours set for the sale of alcohol should provide an opportunity for greater flexibility and in turn a reduction in customers leaving the premises in large numbers at a set time with consequent nuisance and associated anti-social behaviour to local residents. This approach is consistent with the principles contained within the licensing legislation and our licensing policy. However, we recognise the legitimate concerns of local residents, but we believe that their concerns can be met through the licensing conditions and appropriate enforcement.

We accept that these premises have been responsible for causing public nuisance and associated anti-social behaviour to local residents. Should the hours for licensable activities and conditions of licence fail to resolve these problems, the premises licence will undoubtedly be at risk during the review period, post 24/11/05.

Right of Appeal

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EXCLUSION OF THE PUBLIC

RESOLVED

That, under Section 100A(4) of the Local Government Act, 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information, as defined in Schedule 12A to the Act, in particular that paragraph of Part I of that Schedule indicated below:-

| <u>Agenda Item</u> | <u>Description of Item</u> | <u>Relevant Paragraph(s) of Schedule 12A</u> |
|--------------------|----------------------------------------------|----------------------------------------------|
| 10 | Application for a Personal Licence – Mr AMN | 4 |
| 11 | Application for a Personal Licence – Mrs RKK | 4 |

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APPLICATION FOR A PERSONAL LICENCE – MR AMN

A report of the Director of Law and Property was submitted on an application made by Mr AMN for the grant of a personal licence.

Mr AMN was in attendance at the meeting, together with his supporter. A representative from West Midlands Police was also in attendance as an objector to the application.

Following introductions, 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.

The representative from West Midlands Police then presented his evidence and informed the Sub Committee of the grounds of their objection.

The police considered that Mr AMN was not a fit and proper person to be granted a personal licence for the sale of alcohol given the comments made.

Questions were then asked of the police representative by Members of the Sub-Committee and the Legal Advisor, arising from which it was considered that in respect of future cases West Midlands Police be asked to supply more details in respect of convictions the basis of objections, such details to include the time, date and general circumstances of such convictions. It was also confirmed that the Police objection was based on the Crime and Disorder Licensing Objective in respect of a conviction relating to that objective and the failure to disclose the offence, which was linked to the running of a licensed premises.

The Sub Committee noted that Mr AMN had not declared the conviction on his application form for a personal licence.

In response, Mr AMN's representative informed the Committee that at the time his client sent in the application form he had not been charged with the offence.

In mitigation on Mr AMN's behalf, his representative informed the Sub Committee of the circumstances surrounding the offences referred to above.

The Legal Adviser stated that the failure to disclose a relevant offence was itself an offence under the provisions of the Licensing Act, 2003.

The Police representative and Mr AMN and his representative then summed up their respective cases and the Legal Advisor indicated to the parties details of the legal advice to be given to the Sub-Committee prior to their withdrawal whilst the Sub-Committee made their decision.

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

Accordingly, it was

RESOLVED

That following careful consideration of the information contained in the report submitted and the representations made at the meeting, the application received for a personal licence in respect of Mr AMN be refused.

Reasons

The Sub Committee carefully considered the two offences for which you have been convicted, the seriousness of the offences and your failure to inform the Licensing Department of your drink driving conviction they are of the opinion that you are not a fit and proper person to be granted a Personal Licence.

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APPLICATION FOR A PERSONAL LICENCE – MRS RKK

A report of the Director of Law and Property was submitted on an application made by Mrs RKK for the grant of a personal licence.

Mrs RKK was in attendance at the meeting. A representative from West Midlands Police was also in attendance as an objector to the application.

Following introductions, 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.

The representative from West Midlands Police then presented his evidence and informed the Sub Committee of the grounds of their objection.

It was also noted that Mrs RKK had not declared a conviction on her application form for a personal licence.

In response, Mrs RKK informed the Sub Committee of the circumstances leading to her conviction, which had now been resolved.

The Legal Advisor stated that the failure to disclose a relevant offence was itself an offence under the provisions of the Licensing Act, 2003.

The West Midlands Police representative and Mrs RKK then summed up their respective cases and the Legal Advisor indicated to the parties details of the legal advice to be given to the Sub-Committee prior to their withdrawal whilst the Sub-Committee made their decision.

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

Accordingly, it was

RESOLVED

That following careful consideration of the information contained in the report submitted and the representations made at the meeting, approval be given to the grant of a personal licence to Mrs RKK.

Reasons

We take the conviction and failure to disclose extremely seriously and the Sub Committee have come very close to refusing the application.

The Decision to grant is based on your lengthy good record as a Licence holder for fifteen years and the fact that non-disclosure was not an attempt to deliberately mislead. However, any future conviction for a relevant offence will almost certainly lead to revocation of your licence.

The meeting ended at 6.45 p.m.

CHAIRMAN