

## LICENSING SUB-COMMITTEE 4

Tuesday 22<sup>nd</sup> August, 2006 at 10.15 am  
in the Council Chamber, The Council House, Dudley

### PRESENT:-

Councillor Donegan (Chairman)  
Councillors Mrs Aston, Mrs Dunn (morning session only) and Mrs Coulter  
(afternoon session only)

### Officers

Assistant Director Legal and Democratic Services (Legal Advisor) and Mr  
R Jewkes – Directorate of Law and Property

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11            APPOINTMENT OF SUBSTITUTE MEMBER

It was noted that Councillor Mrs Dunn had been appointed as a substitute Member for Councillor Mrs Coulter for the morning session of the meeting only.

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12            DECLARATIONS OF INTEREST

No Member made a declaration of interest in accordance with the Members' Code of Conduct.

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13            MINUTES

### RESOLVED

That the minutes of the meeting of the Sub-Committee held on 25<sup>th</sup> July, 2006, be approved as a correct record and signed.

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14            APPLICATION TO VARY A PREMISES LICENCE, THE STATION INN, HUNGARY HILL, STOURBRIDGE

A report of the Director of Law and Property was submitted on an application received from TLT Solicitors to vary the premises licence in respect of the Station Inn, Hungary Hill, Stourbridge.

The applicant, Ms D Simmons, was in attendance, together with the other joint licensee of the premises, Ms B Boswell, and Mr A Evans, Solicitor, representing the applicant.

Also in attendance at the meeting were seven members of the public, objectors to the application, whose written representations had been sent to the Sub-Committee members prior to the meeting. Councillors Lowe and A Turner were also present, representing the objectors as Ward Members for the area.

Following introductions, the Legal Advisor outlined the procedure to be followed at the meeting. It was noted that Environmental Health had made representations regarding the application and that these would be reported to the meeting by Mr P Evans, Principal Environmental Health Officer, Directorate of the Urban Environment, who was in attendance.

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

Mr P Evans then made representations on behalf of Environmental Health, stating that the premises consisted of one large room with single glazed windows and a number of single and double doors for access. Complaints had been received in the past from residents living nearby concerning noise from Karaoke and from customers leaving the premises late at night. In view of this, Environmental Health recommended that should the application be approved, a series of conditions should be attached in order to minimise the level of noise emanating from the premises. These included the requirement for all windows and doors to be kept closed during regulated entertainment, the beer garden to be accessed only through the front entrance and to be cleared by 10.30pm, and the installation of signs asking customers to leave the area quietly and respect local residents.

In response to a question from Mr A Evans regarding when the complaints regarding the premises had been made to Environmental Health, Mr P Evans confirmed that one had been received in 2006 and one in 2005, with a number of others being made in 2003 and 1999.

Councillors Lowe and A Turner then spoke on behalf of the objectors, stating that the application sought later opening hours and live music which would increase the existing disturbance to residents who lived nearby, most of whom were elderly people. The type of entertainment to be offered would not be suitable for the local community and as such would be aimed at young people from outside areas who would have to travel to the premises in cars or taxis, exacerbating the problem of on street parking and late night noise disturbance from cars and anti-social behaviour. It was also stated that the applicant had twice held karaoke events without a licence and doubts were raised as to whether she would adhere to any conditions imposed by the Sub-Committee should the application be approved. It was generally felt that the opening hours and entertainment requested in the application were not appropriate for the area and that the young people attracted by entertainment of this type were already adequately catered for in Stourbridge town centre.

In the questioning of the objectors, Mr A Evans asked whether any of them had visited the premises since the applicant took over in February 2006 and commented that the business was being marketed towards families and 40 to 50 year olds, not young people. In responding, the objectors stated that although they had not visited the premises since the new licensees arrived, since then they had continued to experience noise disturbance and anti-social behaviour both on Sunday afternoons when karaoke events were held and late at night when the premises closed.

The Chairman raised the question of whether or not the objectors had contacted the licensees to voice their concerns regarding the noise emanating from the premises. In the discussion on this point, both the applicant and the objectors confirmed that although they had not directly discussed the problems, they were willing to open a dialogue and compromise to resolve the situation. It was agreed that in this regard the applicant would circulate her phone number to the objectors so that they could contact her to arrange a future meeting.

Mr A Evans then spoke on the application on behalf of the applicant, stating that Ms Simmons and Ms Boswell had moved into the premises in February 2006 and upon doing had made great efforts to improve conditions there. They had made arrangements for CCTV to be installed and had removed and when necessary barred people who had behaved improperly on the premises. They had signed a tenancy agreement which would keep them at the premises for at least three years and were committed to making the business a long-term success. A large-scale refurbishment of the premises was planned for early 2007 which would include various works to the outside of the building and the surrounding grounds. The applicant accepted that she had made an error of judgement in continuing to hold karaoke events despite being warned by the Council's Enforcement team that she was breaking the law by doing so. However, at the time she did not fully appreciate the seriousness of the situation in terms of her legal obligations as licensee. She had also been under major financial pressures at the time associated with setting up a new business and the karaoke events were recognised as a main source of income for the pub.

At this juncture, Mr A Evans produced a petition, signed by customers who frequented the premises, offering positive comments and support for the application. He stated that many of the signatories to the petition lived in the same area as the objectors which showed that the pub did serve local families and not just young people from other areas. He requested that the petition be submitted to the Sub-Committee as evidence in support of the application. The Legal Advisor and the representatives of the objectors confirmed that the submission of the document was acceptable to them and a copy was circulated at the meeting.

In the questioning of the applicant, Councillor A Turner raised the question of how, given the fact that the applicant had managed to become the licensee of the public house and signed a three-year tenancy agreement to that effect, she could be unaware of her legal obligations with regard to adherence to the terms of her licence. He also asked how residents could be assured that the applicant would adhere to the conditions of a varied licence, should the application be approved.

The possibility of installing a noise-limiting device to keep karaoke and live music at an acceptable volume was discussed. Mr P Evans commented that devices such as these had been successful in the past in similar circumstances and that the installation of a noise limiter would ensure that residents who lived nearby would not be disturbed by noise emanating from the premises. Mr A Evans responded by saying that the sound system on the premises already had a 'master volume' feature which could be set at a level agreed by all parties to ensure that residents were not disturbed by entertainment. In view of the cost of installing a noise limiting device, this alternative was preferable to the applicant.

At the conclusion of questions, Councillor Lowe and Councillor A Turner summed up, stating that the extended opening hours requested in the application were unnecessary and inappropriate for the area in which the premises were situated. The applicant had knowingly breached her licence previously and residents had no confidence that this would not occur in future, resulting in continued disturbance. Notwithstanding this, both Ward Members welcomed the idea of residents meeting with the applicant in future to discuss any issues arising in the area relating to the premises.

In summing up on behalf of the applicant, Mr A Evans reiterated the point that the complaints previously made against the premises related to incidents which had occurred prior to the current licensees moving into the premises, and added that the applicant was now fully aware of her obligations in terms of observing the conditions of her licence. The premises was being run as a family orientated public house, with the aim of attracting 40 to 50 year old members of the local community, rather than younger people from other areas.

The parties then retired for the deliberation of the Sub-Committee.

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. All parties were advised of their right of appeal against the decision. Accordingly, it was-

## RESOLVED

That the application received from TLT Solicitors, for the grant of a premises licence in respect of the Station Inn, Hungary Hill, Stourbridge be approved, as follows:

### Variation of Premises Licence – Alcohol

Monday – Thursday	10.00 – 23.30
Friday – Saturday	10.00 – Midnight
Sunday	10.00 – 23.00

No Late Night Refreshment Requested

### Conditions

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

1. Regulated entertainments, limited to karaoke, to take place between 16.00 and 20.00 on Sundays only.
2. The beer garden shall be cleared of customers and glassware by 23.20.
3. All doors and windows shall be kept closed during karaoke except for access and egress.
4. All exit doors within the premises and gateposts 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 and to leave the car park quietly.
6. In respect of the beer garden, access is to be through the entrance door located in the front of the premises with the doors providing direct access to the beer garden being kept closed whenever karaoke is taking place.
7. A meeting to take place with local residents, Ward Councillors, the licensees and Environmental Health to set the sound level of the internal equipment to be used for karaoke so as not to be heard by the nearest residing resident to the public house.

### Reasons For Decision

The Sub Committee is of the opinion that the hours set for the sale of alcohol and karaoke 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 wish to see these licensees complying with the conditions of licence particularly in respect of karaoke events before any further regulated entertainment is permitted. We note that despite an enforcement officer warning karaoke took place earlier this year, in breach of the existing licence.

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15            CHANGE IN ORDER OF BUSINESS

Pursuant to Council Procedure Rule 13(c), it was

RESOLVED

That the remaining items of business be considered in the following order: 7, 8, 6, 9.

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16            APPLICATION FOR AMUSEMENT WITH PRIZES MACHINES PERMIT, HUSTLERS AND CLUB ESSENCE, 75-81 KING STREET, DUDLEY

A report of the Director of Law and Property was submitted on an application received from Midlands Licensing Services in respect of Hustlers and Club Essence, 75-81 King Street, Dudley, for the grant of an amusements with prizes machines permit.

Mr Campbell of Midlands Licensing Services was in attendance at the hearing, together with Mr Holden, the Manager of the premises.

Following introductions by the Chairman, Mrs Elliott, Licensing Officer, presented the report on behalf of the Council.

Mr Campbell then spoke on the application, making reference to plans of the premises which had been circulated with the papers for the meeting which illustrated the proposed position of the seven machines requested in the application. He stated that the possibility of children accessing the machines was minimal, as entry to the premises was restricted to adult members of at least 18 years of age, with proof of age being required to obtain membership.

Following questions from Members concerning the size and layout of the premises, Mr Campbell and Mr Holder retired in order that the Sub-Committee could reach a decision.

Following a short adjournment, the parties were invited to return and the Chairman informed them of the decision.

It was accordingly

RESOLVED

That the application by Midlands Licensing Services in respect of Hustlers and Club Essence, 75-81 King Street, Dudley, for the grant of an amusements with prizes machines permit, be approved.

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APPLICATION FOR GRANT OF A GAMING PERMIT, MERRY HILL SHOPPING CENTRE, BRIERLEY HILL

A report of the Director of Law and Property was submitted on an application received from Brendan McAreary for the grant of a permit for the use of gaming machines for gaming under Section 34 of the Gaming Act 1968 at Merry Hill Shopping Centre, Brierley Hill.

Although the applicant was not present at the meeting, photographs of the 'teddy bear crane' gaming machines it was proposed to install on the premises were circulated to members of the Sub-Committee.

RESOLVED

That the application by Brendan McAreary for the grant of a permit for the use of gaming machines for gaming under Section 34 of the Gaming Act 1968, in respect of the Merry Hill Shopping Centre, Brierley Hill, be approved.

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APPLICATION FOR A PREMISES LICENCE, CANTON DELIGHT, 83  
HALESOWEN ROAD, NETHERTON

A report of the Director of Law and Property was submitted on an application received from Winnie Yan, for the grant of a premises licence in respect of the premises known as the Canton Delight, 83 Halesowen Road, Netherton.

Ms Yan was in attendance at the meeting.

Following introductions by the Chairman, the Legal Advisor reported that prior to the meeting, Councillor Mrs Coulter had received an email from a constituent complaining about various take-away food outlets in Netherton. One of the outlets named in the email was the Canton Delight. She had forwarded the email to the Directorate of the Urban Environment for consideration. However, she had not herself passed any comment on the Canton Delight specifically or on the general issue of take-aways in Netherton. The Legal Advisor asked Ms Yan whether she was content for Councillor Mrs Coulter to consider her application. Ms Yan confirmed that this was acceptable to her.

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

Ms Yan then spoke on the application. She stated that her current licence only enabled her to open until 11.00pm, which meant that she was losing potential trade from the customers of nearby public houses which did not close until that time. The object of the application was to extend her opening hours in order that she could serve customers after 11.00pm and avoid having to turn them away, as was currently the case.

The Legal Advisor made reference to the fact that the planning consent obtained by Ms Yan to trade on the premises only allowed for opening hours up to 11.30pm Monday to Saturday and 11.00pm on Sundays, and explained to Ms Yan that should the Sub-Committee grant her a premises licence to trade to 12 midnight, as was requested in the application, she would also need to take appropriate action to obtain planning permission to trade up until this time. In relation to this, he raised the question of whether or not an extension of her opening hours to 11.30pm Monday to Saturday and to 11.00pm on Sundays would be acceptable to her. Ms Yan responded by saying that these opening hours would be acceptable to her.

The Sub-Committee also indicated that that these revised hours would be acceptable to them and it was

RESOLVED

That the application by Winnie Yan for the grant of a premises licence in respect of the premises known as the Canton Delight, 83 Halesowen Road, Netherton, be approved as follows:

Provision of late night refreshment

Monday – Saturday	23.00 – 23.30
Sunday	to end at 23.00

Reasons for decision

Application amended and is more restricted than other establishments in the vicinity, and is in line with planning permission.

The meeting ended at 3.45pm

CHAIRMAN