

LICENSING SUB-COMMITTEE 3

Tuesday 25th September, 2012 at 10.45 am
in The Council Chamber, The Council House, Dudley

PRESENT:-

Councillor K Finch (Chair)
Councillors M Aston and James

Officers

Mr T Holder (Legal Advisor), Mrs J Elliott (Licensing Officer) and Miss H Shepherd (Directorate of Corporate Resources).

Also in attendance

One member of the public

10. DECLARATIONS OF INTEREST

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

11. MINUTES

RESOLVED

That, the minutes of the meeting held on 21st August 2012, be approved as a correct record and signed.

12. APPLICATION FOR REVIEW OF PREMISES LICENCE – KAL AND BROTHERS NEWS, 35 CHURCH STREET, PENNETT, BRIERLEY HILL

A report of the Director of Corporate Resources was submitted to consider an application for the review of a premises licence in respect of Kal and Brothers News, 35 Church Street, Pensnett, Brierley Hill.

It was noted that the applicant was not in attendance at the meeting.

The Licensing Officer confirmed that the applicant had requested a deferment.

RESOLVED

That the application for review of a premises licence in respect of Kal and Brothers News, 35 Church Street, Brierley Hill be deferred to a future Sub-Committee meeting.

13. APPLICATION TO VARY A PREMISES LICENCE – KATIE FITZGERALD'S, 187 ENVILLE STREET, STOURBRIDGE

A report of the Director of the Corporate Resources was submitted to consider the application for variation of the premises licence in respect of the premises known as Katie Fitzgerald's, 187 Enville Street, Stourbridge, West Midlands.

Mrs P Keane, the current premises licence holder, was in attendance at the meeting, together with her colleague Mr D Morton.

Also in attendance and objecting to the application was Mr L Hanna, a petition organiser and a representative from Dudley Public Health.

Also in attendance and making representations was Ms D Nellany on behalf of Food and Occupational Safety, Directorate of the Urban Environment together with three members of the public.

Following introductions by the Chair, the Licensing Officer presented the report on behalf of the Council.

Ms Nellany then made her representations on behalf of Food and Occupational Safety, and in doing so informed the Sub-Committee that a noise complaint from a resident had been received in May and again in August 2012. She stated that the noise nuisance reported by the complainant had mainly been in relation to customers using the marquee bar, however the volume of music in the cellar bar had also been raised. She confirmed that letters had been sent to Katie Fitzgerald's on both occasions informing them of the complaints received and that log sheets had been provided to the complainant to complete, however none had been returned to date as it was recommended that they were recorded over a two month period.

She made reference to the difficulty of soundproofing a marquee especially if used as a smoking area as it needed to be open 50%, which enabled noise to escape.

She suggested that if the Sub-Committee were to agree to the granting of the variation, it was recommended that the conditions, included in the report circulated to Members and interested parties prior to the meeting, be taken into consideration and attached to the licence.

In response to a question raised by a Member, Ms Nellany confirmed that the complainant had been a resident in close proximity to the property and that both complaints had been received from the same person.

Mr Hanna then presented his reasons for organising the petition that had been circulated to Members and interested parties prior to the meeting and his objections to the application.

He stated that he was concerned about the noise levels currently in the area not just from Katie Fitzgerald's, but from other public houses in the vicinity and the effect it was having on the local residents, some of which had families with children under the age of 16. He stated that he had witnessed customers leaving Katie Fitzgerald's premises with glasses and bottles and that on occasions had felt intimidated by people's behaviour. He also informed the Sub-Committee that he experienced shouting and swearing on a regular basis and that he had witnessed people urinating against the side of the property as well as people destroying the advertising board and littering it across the street and setting it on fire. He believed that the 'leave quietly' signage displayed was blatantly ignored.

The Dudley Public Health representative then presented the case on behalf of the Dudley Primary Care Trust and in doing so informed the Sub-Committee that there had been twenty attendances at Accident and Emergency for assaults, but it had been difficult to relate them to a specific venue, however, one incident had been identified as a result of violence outside of Katie Fitzgerald's.

A Member raised concerns as to why the one incident relating to Katie Fitzgerald's had not been indicated in the report submitted prior to the meeting and it was therefore considered to only take the written evidence into consideration.

Mrs P Keane then presented her case and informed the Sub-Committee that the sides of the Marquee bar had been removed, however following the receipt of the complaints they had all been replaced and a smaller smoking area had now been designated at the furthest possible location away from the residents in Mamble Road. She stated that trees had been planted along the marquee walls to try to dull out noise, windows downstairs had been filled and bricked up and signage asking customers to be quiet displayed. She stated that the application was not asking for music till late, as she herself considered that not to be fair to residents and that there was no intention for music to be played in the marquee bar.

In response to a question raised it was confirmed that the maximum capacity for the upstairs bar was 80 and for the downstairs bar it was 50.

Mrs Keane stated that noise and vandalism in the area was considered to be a problem, but they too were victims of it. Mr Morton stated that on several occasions neighbours had contacted the public house complaining of noise when the premises had not even been open.

In response to a question asked by the Legal Advisor in relation to what Mrs Keane would do to prevent the noise nuisance, she stated that she would ask all customer to vacate the marquee bar no later than 23:30 and that anyone wishing to use the smoking area after that time would have to leave the premises.

Mr Morton stated that the intention was not to extend the time of the music and it would continue to finish at 23:00 but to enable people to wind down following and help stagger people leaving.

The Licensing Officer referred to the conditions stipulated by the applicant in their application and stated that if the application were to be granted that the marquee bar and terraced area would have to be cleared by 23:30 as stipulated, else they would be in breach of their licence.

Mr Hanna raised concerns on the impact the noise was having on the residents making particular reference to taxis arriving and leaving at an array of times and the several phone calls made complaining to the public house with regard to the noise.

Mrs Keane reiterated that on occasions when receiving phone calls complaining of the noise levels, the premises had been closed or completely empty.

Ms Nellany asked questions in relation to the structure of the marquee bar and reiterated that it would be almost impossible and extremely expensive to sound control a tent like structure.

In response to a question raised in relation to how she would clear the marquee bar if the upstairs bar was full to capacity and how she would deal with rowdy customers who did not want to move inside, Mrs Keane stated that the premises was no longer full too capacity and that customers would be told to move, which they normally did once the music had ended as it was already part of their current practise.

It was reiterated to Mrs Keane that it would be a condition on her licence that the marquee and terrace area would have to be clear by 23:30 and she would be in breach of that said licence if it were not.

Following a question raised by a Member it was confirmed that there was ventilation extractors and air conditioning on the premises.

In response to a question raised Mrs Keane stated that all staff are trained and would monitor the exits to ensure that no customers would use the marquee bar, terrace area or smoking area after 23:30 as well as herself or Mr Morton being on the premises.

In response to a further question Mrs Keane stated that she did use a particular taxi firm and had previously stopped using a company due to noise disturbance.

Mrs Keane confirmed that the rear entrance was generally closed, but opened for bands to manoeuvre their equipment in and out of the premises.

The Legal Advisor raised a question with regard to how they would prevent and monitor people entering the premises after 22:50 and reiterated that it would be a condition on the licence and if anyone other than those stipulated in the application were to enter the premises after that time, it would be a breach of the conditions of the licence and would be brought back to the Sub-Committee for a review and possible prosecution. She stated that all staff would be trained and the doors would be monitored.

In summing up Mr Hanna reiterated his comments on the effects the noise nuisance was having on the residents.

In summing up Mrs Keane stated that she very much hoped that the application would be granted as she needed to compete with other businesses in the area and that she would make every effort to eliminate noise nuisance. Mr Morton added that they had been in business for twelve years and in that time had never experienced any serious problems. He considered Katie Fitzgerald's to be one of the best and most responsible public houses in Stourbridge.

Before the parties withdrew from the sub-committee to consider the application and the information presented to them at the meeting, the Legal Advisor reiterated to Mrs Keane and Mr Morton the importance of adhering to the conditions on a licence and explained if they were to be in breach of any of the conditions it would be a criminal offence.

Following all comments, the Legal Advisor stated that the Sub-Committee would determine the application made on behalf of Katie Fitzgerald's on the information and representations made at the meeting.

The parties then withdrew from the meeting in order to enable the Sub-Committee to determine the application.

RESOLVED

That the application for variation of the premises licence in respect of the premises known as Katie Fitzgerald's, 187 Enville Street, Stourbridge, be approved, subject to the following conditions:-

Sale of Alcohol

Monday – Saturday	10:00 - 00:30
Sunday	12:00 – 00:30

Conditions

- (1) No regulated entertainment to take place in the marquee or other outdoor areas.
- (2) Doors and windows of the premises will be closed during regulated entertainment except for access and egress.

- (3) Signs will be prominently displayed requesting customers to leave in a quiet manner.
- (4) Marquee bar to close at 23:15
- (5) Live music to finish throughout the premises at 23:00
- (6) Patio area to be cleared by 23:30
- (7) Cellar Bar to close at 00:00
- (8) No admission to new customers after 23:30
- (9) New fence to be erected at the rear of the premises
- (10) Continue to liaise with customers

The meeting ended at 1.05pm

CHAIR