

LICENSING SUB-COMMITTEE 4

Tuesday 5th June 2007 at 10.00 am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Mrs Ameson (Chairman)
Councillors Mrs Aston, and Mrs Coulter

Officers

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

1 DECLARATIONS OF INTEREST

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

2 MINUTES

RESOLVED

That the minutes of the meeting of the Sub-Committee held on 5th
December, 2006, be approved as a correct record and signed.

3 APPLICATION TO VARY A PREMISES LICENCE, THE CASTLE, CASTLE STREET, DUDLEY

A report of the Director of Law and Property was submitted on an
application received from Flint Bishop, Solicitors, on behalf of Mr A Fresco
(holder of the premises licence), in respect of The Castle, 253 Castle
Street, Dudley, to vary a premises licence.

The applicant, Mr Fresco was in attendance.

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 Ms D Nellany, Manager, Food and
Occupational Safety, 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.

Ms Nellany, then expanded on the representations made in Appendix 2 to the report submitted stating that she had had telephone discussions with Mr Fresco with regard to the proposed increase in hours for live entertainment to 3.00 am seven days a week and that there was the potential for complaints. She explained that people lived above certain premises and circulated a map to the Sub-Committee that indicated the residential accommodation referred to. She also informed the Sub-Committee that people lived above shops in New Street and Priory Street and that other premises had affected these residents situated close by in the past. She considered that if the application were allowed it would create potential for future public disturbance.

Ms Nellany then informed the Sub-Committee that during their telephone conversations Mr Fresco had indicated that he would be happy with a time of 2.00 a.m. and that he had also indicated that he would be prepared to close all doors and windows to the premises and install a noise limiter.

Mr Fresco had no questions to ask of Ms Nellany at this juncture.

In putting his case to the Sub-Committee, Mr Fresco commented that he was aware that The Castle had had problems in the past but that he was working closely with Simon Holloway, Licensing Officer, West Midlands Police, who were in support of the application. It was intended to modernise The Castle and there were plans to change the frontage of the premises so that it appeared more in keeping with the market area. He stated that he hoped the refurbished premises would contribute to the regeneration process proposed for the area and explained that his aim was to attract a different clientele to those who had previously frequented the premises by playing more middle of the road music and introducing a dress code. It was not intended that live music take place at the premises.

Mr Fresco also stated that Dudley needed a nice bar in the area and would comply with a 2.00 a.m. closing time to help the police with controlling a build up of people leaving other premises. He also stated that three CCTV cameras were deployed in the immediate vicinity of The Castle and it was intended that cameras also be installed inside The Castle; security staff had also been employed to work at the weekends.

Mr Fresco informed the Sub-Committee that he was awaiting the results of a privately instigated noise survey. He had been informed that the planned sound system for The Castle was not big enough to warrant a noise limiter but if problems were encountered double-glazing could be installed. It was already planned to install air conditioning that necessitated that all doors and windows be kept locked.

In response to a question by Ms Nellany regarding the holding of entertainment in the room situated at the back of the premises, Mr Fresco responded that there were no plans to use the room at the back of the premises and that it would be utilised as a quieter room for customers.

In response to a question from Councillor Mrs Aston as to whether security guards would be employed seven nights a week, Mr Fresco responded that security staff would be employed on a Thursday, Friday and Saturday only and during the week if a private party was planned.

In response to a question from Mrs Elliott, Mr Fresco confirmed membership of ASIA.

In response to a question from Councillor Mrs Coulter regarding the plans for an outside smoking area, Mr Fresco confirmed that there would be an outside smoking area but that drinks would not be allowed to be taken outside.

In response to a question from Councillor Mrs Ameson as to whether older clientele would want to stay drinking until 3.00 a.m., Mr Fresco responded that it was planned to cater for a clientele of twenty five years of age and upwards

In response to a question from the Legal Advisor as to how the premises would be run in the future and whether there were any proposals to change the layout of the premises, Mr Fresco responded that it was intended to run the premises much the same as at present, as a traditional public house; the clientele who had used the premises in the past had moved on and the intention was to establish a quiet area; ensure that staff were customer friendly and to ensure that the rules laid down were strictly adhered to. The musical entertainment would mainly consist of disco, karaoke, films (some classical films would be shown during the day) and videos. He confirmed that there were no plans to change the layout of the premises.

In response to questions by the Legal Advisor, Mr Fresco pointed out that Ms Nellany was aware of where local residents were in relation to the proposed smoking area and stated that he was confident no complaints would be forthcoming from local residents with regard to this area.

In response to a further question from the Legal Advisor, Mr Fresco explained that a Mr S Eaton (Sound Engineer) had conducted a noise survey and checked out distances as an indication of noise levels emanating from the premises.

Mr Fresco also stated that the chances of the late licence being utilised during the early part of the week was remote but that there would be occasional parties that would want to go on until later and that such parties would be held in the back of the premises. The music for such parties would be piped to the back from the front of the premises and would only emanate noise at about 100 decibels.

In response to a question from Ms Nellany, Mr Fresco stated that the findings quoted had been advised to him on a verbal basis and that he was still awaiting the written report. He stated he was keen not to cause nuisance to local residents and would not tolerate unruly behaviour in the premises themselves.

In response to a question from Councillor Mrs Aston Mr Fresco stated that the premises did not have a dance floor but that the clientele might get up and dance in the bar, for instance.

Mrs Elliott then informed the Sub-Committee of the names and locations of other establishments in the area, and their closing times.

In summary Mr Fresco pointed out the fact that he was prepared to work with the Police and Council in co-ordinating the closing time in order to regulate the flow of people being out on the street at the same time.

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 Flint Bishop, Solicitors, to vary a premises licence, in respect of The Castle, 253 Castle Street, Dudley, be approved, subject to the following terms and conditions and based on the reasons indicated:-

Variation of Premises Licence – Alcohol/Late Night Refreshment

Monday – Wednesday	10.00 – 01.00
Friday – Saturday	10.00 – 01.30
Sunday	12.00 noon – 01.00

Conditions

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

1. All regulated entertainments shall end Sunday to Wednesday – 12 midnight.
2. All regulated entertainments shall end on Thursday, Friday and Saturday at 12.30 a.m.
3. No alcohol to be taken outside of these premises by customers.
4. All doors and windows shall be kept closed during regulated entertainments.
5. All exit doors within the premises to have signs asking customers to leave the premises quietly and respect local residents and their premises.
6. No live music shall be permitted on these premises given the licence holder's confirmation that it is not his intention to have such entertainment.

Reasons For Decision

The Sub Committee is of the opinion that the hours set for the sale of alcohol and regulated entertainment 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.

4

APPLICATION TO VARY A PREMISES LICENCE ROSE AND CROWN, HAGLEY ROAD, HALESOWEN

A report of the Director of Law and Property was submitted on an application received from the Spirit Group, in respect of the Rose and Crown, Hagley Road, Halesowen, to vary the existing premises licence.

The applicant's solicitor, Mr A Evans, was in attendance, together with the licensee, Mrs S Nock.

Following introductions, the Legal Advisor outlined the procedure to be followed at the meeting.

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

Ms D Nellany, Directorate of the Urban Environment, then expanded on the representations made in Appendix 2 to the report submitted and pointed out that the applicant was seeking to alter restrictions placed on the premises by the Licensing Sub Committee in 2005 in order to provide customer smoking facilities prior to the instigation of the smoke free laws and that to allow the application in respect of the Rose and Crown would mean that customers would be able to smoke in the garden area up until 2.00 a.m. with the potential of congregating and making noise that would disturb neighbours. She went on to explain that the beer garden was part of the car park until 2005 when a complaint was received from a neighbour regarding the siting of tables and chairs and noise emanating from the car park. A small deputation of neighbours attended the Sub-Committee at that time to complain of noise nuisance. Ms Nellany circulated a map to the Sub-Committee indicating where the beer garden was located in relation to neighbours.

The applicant's solicitor pointed out the dangers of customer's who smoked congregating at the front of the premises thereby causing nuisance to traffic and to neighbours and the public trying to use the pavement. He stated that the nuisance of people congregating at the front of the premises to smoke would likely create the potential for other neighbours opposite to call for a review of the licence. He asked the Sub-Committee to consider a proposal whereby an area right at the back of garden might be used as a smoking area and circulated a map to the Sub-Committee indicating the proposed area.

In response to a question from Ms Nellany, the applicant's solicitor stated that a wooden pergola would be erected, with suitable subdued lighting and a seat on the inner edges and a small heated lamp that would be compliant with current regulations for a smoking area. He stated that premises that have beer gardens already had a degree of noise.

Ms Nellany again reiterated the concerns with regard to the close proximity of the smoking area to neighbours back gardens and the impact this would have on the neighbours concerned.

In putting his case to the Sub-Committee, the applicant's solicitor, explained that whilst Punch Taverns owned the premises the Spirit Group held the licence. He explained the system used to manage premises in the past and informed the Sub-Committee that the Rose and Crown was becoming a leasehold premises and that Mrs Nock, her husband and family had moved in to run the business. He reminded the Sub-Committee that no complaints had been received since the issue of the licence; Mrs Nock and her husband had invested money into the premises in order to refurbish and improve them and that a compromise to the situation was being sought.

The applicant's solicitor informed the Sub-Committee that a plan would be submitted clearly indicating the proposed smoking area and signs would be erected. It was also proposed that staff would patrol the gardens every fifteen minutes to ensure that noise was kept to a minimum. He reminded the Sub-Committee that the premises were not run as a late night bar and that there was no intention by Mrs Nock to do so; it was intended that it be run as a family business.

Ms Nellany questioned the applicant's solicitor regarding the proposed pergola and in response Mrs Nock confirmed that a structure was already in place. She also confirmed that about fifty percent of her customers smoked. Mrs Nock also confirmed that she would not allow glasses to be taken outside after a certain time in order to enforce a ban on alcohol being consumed in the garden.

Mrs Nock informed the Sub-Committee that in the week since moving into the premises she had met the neighbours closest to the premises and spoken to them about how they hoped their relationship would proceed in the future and confirmed they were aware of the customer smoking proposals. She confirmed that, together with her husband, she had signed a 10 year lease in respect of the premises.

In response to comments made by the Legal Advisor, the applicant's solicitor confirmed that if the application were to be allowed, a proper set of plans would be filed in respect of the garden area.

In response to a question from Ms Nellany, the applicant's solicitor concurred that it would take some time for the new arrangements to "bed-in" with customers, but that if the rules were clearly defined then they would have to be enforced and that it would be inevitable that at some point a customer would sit at a wrong table.

In response to a question from Councillor Mrs Coulter, Mrs Nock stated that most of the people who used the premises were local people who lived close by and that if problems did arise it would not be difficult to speak with them to resolve any issues they might have with regard to the Rose and Crown.

The Legal Advisor again questioned whether the neighbours closest to the smoking area had been informed of the possibility of people talking just beyond their garden fence late at night. Mrs Nock confirmed that she had informed them and was keeping them informed on an ongoing basis.

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 by the Spirit Group to vary an existing premises licence in respect of the premises known as the Rose and Crown, Hagley Road, Halesowen, be approved, subject to the following condition

Condition

The external drinking area shall close at 23.00 hours (11.00 pm) each night and all customers and glasses cleared at that time.

An 'L' shaped raised pavement area to the rear of the premises to be used by customers for the purpose of smoking only (no alcohol or soft drinks to be consumed) up until 12.30 am Fridays and Saturdays and up to 11.30 pm Sunday to Thursday.

The scope of the outside area to be agreed by Environmental Health and defined in a plan to be submitted to the Licensing Section by the applicant prior to the area being used.

Staff to patrol the outside area every fifteen minutes beyond 11.00 pm daily.

Any lighting in the area to be set not to cause a nuisance to neighbours.

Signage in the area to state smoking only no alcohol or drinks permitted beyond 11,00 pm

Reasons for Decision

We agree that the compromise proposal should avoid nuisance to neighbours, particularly as the applicant is working closely and in a positive manner with her neighbours

5

APPLICATION FOR CONSENT TO ENGAGE IN STREET TRADING IN HIGH STREET, DUDLEY

A report of the Director of Law and Property was submitted on an application received from Mr Olivier Simonin for the grant of a consent to engage in street trading in High Street, Dudley, so as to sell continental goods on the 14th, 15th and 16th June 2007.

Mr Simonin was not in attendance at the meeting.

Mrs Elliott, Licensing Officer, presented the report on behalf of the Council and pointed out the comments made by Ms Julie Jones, Commercial Operations Manager, Directorate of Law and Property, attached at Appendix 2 of the report, requesting that traders selling watches, jewellery and handbags be placed as far away from Dudley Open Market as possible.

RESOLVED

That the application made on behalf of Mr Olivier Simonin for the grant of a consent to engage in street trading in High Street, Dudley, on 14th, 15th and 16th June 2007, be approved, subject to the layout and scope of the market being discussed with the Town Centre Manager and the Commercial Operations Manager beforehand.

The meeting ended at 1.00 pm

CHAIRMAN

