

LICENSING SUB-COMMITTEE 5

Tuesday, 23rd January, 2007 at 10.00am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Taylor (Chairman)
Councillors Bradney and Ms Craigie

Officers

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

7 DECLARATIONS OF INTEREST

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

8 MINUTES

RESOLVED

That the minutes of the meeting of the Sub-Committee held on 20th June, 2006 be approved as a correct record and signed.

9 APPLICATION TO VARY A PREMISES LICENCE, THE GIGMILL, SOUTH ROAD, STOURBRIDGE

A report of the Director of Law and Property was submitted on an application received from John Gaunt and Partners, Solicitors, on behalf of Wolverhampton and Dudley Breweries, to vary the premises licence, in respect of the Gigmill, South Road, Stourbridge.

The Designated Premises Supervisor, Mr P Jakeman, was in attendance at the meeting together with Mr S Castle, Area Manager and Mr T Shield, on behalf of John Gaunt and Partners, Solicitors. At this juncture, it was noted that Wolverhampton and Dudley Breweries were now called Marstons Plc.

There were no objectors present at the meeting, but a letter of objection had been received from a local resident concerning noise nuisance, which had been circulated to the Sub-Committee prior to the hearing.

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. She informed the Sub-Committee of previous complaints that had been received, mainly in relation to children playing ball games in prohibited areas and noise nuisance from music emanating from the premises due to doors and windows being kept open. She also informed them that Environmental Health had been aware of these problems and had spoken to Mr Jakeman regarding these complaints and confirmed that they had been dealt with accordingly.

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 the application had arisen due to the impending smoke free laws, which would come into force on 1st July, 2007. She stated that her main concern was the impact the new "all weather garden" would have on the nearby residents in relation to the likely increase in noise nuisance as it was proposed that the garden would directly face residential properties in Gigmill Way. She also stated that no additional steps had been put forward in order to minimise any increase in potential noise issues. She then informed the Sub-Committee in detail of the previous complaints that had been received from a local resident in respect of external noise emanating from the premises, all of which had been dealt with accordingly.

She concluded by stating that due to the premises being situated in a densely residential area, with the closest property being approximately only 6 metres away, and with the history of complaints as reported, she suggested that a condition restricting the use of the "all weather garden" to the same hours as the existing external area should be considered.

In response to the above, Mr Shield confirmed that there was no intention to position speakers inside the "all weather garden" and clarified that the condition regarding customers and glassware to be removed from the patio area at 11.30pm and recorded music switched off at 11.00pm would still be applicable. He reported that the application only referred to the "all weather garden" being authorised for the sale of alcohol and late night refreshments to the hours currently permitted by the Premises Licence. He then asked Mrs Nellany, having received this information, whether it affected the comments that she had previously made above.

In response, Mrs Nellany stated that, in her opinion, permitting the use of the “all weather garden” until 12.00 midnight Mondays to Thursdays inclusive, and Sundays and 1.00am Fridays and Saturdays would considerably increase the amount of patrons using the facility, causing increased noise disturbance to neighbouring residents. She further stated that to comply with the impending regulations, the “all weather garden” would have to have 50% of its wall area missing; otherwise it may be regarded as substantially enclosed and could not be used as a smoking area. She then informed the Sub-Committee that her previous comments were still applicable.

In responding to questions raised by Mr Shields, Mrs Nellany confirmed that the complaints, which she had received, were from one resident only. She also confirmed that on the occasions that she had contacted Mr Jakeman and the Brewery in relation to the previous complaints, they had always responded well and taken necessary action to remedy the problems.

Mr Shield questioned where customers would be able to smoke after 11.30pm if no provision was provided for them. He raised concerns that patrons would smoke outside the public house, on the pavement, where Mr Jakeman could not manage their behaviour.

Mr Shield then spoke on the application on behalf of the applicant and stated that the application had only been made due to the impending new legislation, which had forced Mr Jakeman to consider an area for patrons to smoke. He further stated that noise nuisance would be easier to control if patrons could stay on the premises to smoke rather than wander onto the streets and confirmed that the “all weather garden” would be well supervised at all times by Mr Jakeman and his staff. He reported that at present a waiter/waitress service was provided in the patio area of the premises and confirmed that this service would be extended to the “all weather garden” providing more security and control to the external areas. He further reported that CCTV was also in operation at all times inside and outside the premises and confirmed that this would be extended to include the “all weather garden”, which would also add to the security of the public house, reducing any potential noise nuisance.

In conclusion, Mr Shield reported that Mr Jakeman had been the Designated Premises Supervisor for the past six years and had made the premises a success. He stated that the Gigmill is and would remain as a local community run public house, used mainly by families. He further stated that no objections had been received from the Police in relation to the application.

Mr Shield responded to a number of questions in relation to the proposed structure of the "all weather garden". Mrs Nellany then reiterated her comments above, and in doing so, she advised that in order to comply with the impending regulations, the "all weather garden" would have to have 50% of its wall area missing.

In response to a question raised by Mrs Nellany, Mr Jakeman stated that all external areas of the premises would be well managed and supervised properly by himself and his staff. He also stated that CCTV was in operation covering the patio area and confirmed that this would be extended to the "all weather garden" for extra security.

In response to further questions raised by Mrs Nellany in relation to the use of the external speakers, Mr Jakeman stated, that depending on the weather, speakers could be used from 11.00am and switched off at 11.00pm in accordance with the previous condition of licence.

Members raised concerns regarding the issue of increased noise levels emanating from the "all weather garden" and doubted that the added security mentioned above would be adequate to control the disturbance to the neighbouring residents. The Legal Advisor then invited Mr Shield to comment on the option that a condition be imposed to clear the "all weather garden" of customers and glassware by 11.30pm. In responding, Mr Jakeman stated that if the premises did not provide adequate provision for smokers, he feared that patrons would smoke outside the public house, on the pavement, where he could not manage their behaviour.

In summing up, Mr Shield reiterated that the application had only been submitted due to the new 'no smoking' legislation which would be enforceable from 1st July, 2007. He stated that noise nuisance would be easier to control if patrons could stay on the premises to smoke rather than wander onto the streets. He further stated that Mr Jakeman was committed to working with the local residents to make the premises a success.

In conclusion, Mr Shield reported that there had been no evidence of noise nuisance from the police or any other relevant authorities, other than Environmental Health.

At the request of the Chairman, the respective parties withdrew from the meeting to enable a decision to be made.

The Sub-Committee, having made their decision, the respective 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 to vary the premises licence in respect of the Gigmill, South Road, Stourbridge, be approved, in the following terms:-

- (1) The patio area and all weather garden area to be included in the licensed area of these premises to allow for waiter service of alcohol and food.
- (2) The patio area and all weather garden shall be closed and customers and glasses removed by 11.30pm each day and external music speakers turned off at 11.00pm each day. No speakers will be situated in the all weather garden.

Reasons for Decision

The position of the all weather garden, in close proximity to local residents, is likely to lead to noise nuisance should customers be allowed to use this facility beyond 11.30pm each evening. The existing condition in respect of the external drinking areas appears to have worked well and we feel that 11.30pm is late enough for customers to remain outside in what is a highly residential area.

The meeting ended at 12.20pm

CHAIRMAN