

## **BATH AND NORTH EAST SOMERSET**

### **LICENSING (GAMBLING AND LICENSING) SUB-COMMITTEE**

Friday, 22nd July, 2011

**Present:-** Councillors:- Gerry Curran (Chair), Malcolm Lees and Dine Romero (In place of Douglas Nicol)

**Also in attendance:** Emma Stoneman (Senior Licensing Officer), Terrill Wolyn (Senior Licensing Officer) and Francesca Smith (Senior Legal Adviser)

#### **1 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

#### **2 ELECTION OF VICE-CHAIR (IF DESIRED)**

**RESOLVED** that a Vice-Chair was not required on this occasion.

#### **3 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Councillor Douglas Nicol, for whom Councillor Dine Romero substituted.

#### **4 DECLARATIONS OF INTEREST**

Councillor Curran and Councillor Lees declared that they had been Members of the Development Control Committee which had considered a planning application from Chandag Service Station, though this did not constitute a prejudicial or personal interest.

#### **5 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

#### **6 LICENSING PROCEDURE**

The Chair drew attention to the licensing procedure, copies of which had been made available to those attending the meeting.

#### **7 APPLICATION FOR A PREMISES LICENCE FOR CHANDAG SERVICE STATION, 20 BATH ROAD, KEYNSHAM, BRISTOL BS31 1NN**

Applicant:: Roc UK Ltd, represented by Leo Charalambides (Barrister), Brian Kent (Locket and Co. Licensing Consultant), Robert Dampier (Territory Manager, Roc UK Ltd), Robert Mortimer (Site Manager & proposed Designated Premises Supervisor)

Interested Parties; Lionel Cartledge (representing Tina Cartledge), Patrick Harris, Councillor Bryan Organ

The parties confirmed that they had received and understood the licensing procedure.

The Licensing Officer summarised the application. This was an application for a new premises licence authorising the sale of alcohol for 24 hours a day and the provision of late night refreshment between 23.00 and 05.00 every day. Representations had been received from 21 Interested Parties residing within the vicinity of the premises alleging that the application, if granted, would have a detrimental effect on the licensing objectives.

Mr Charalambides stated the case for the applicant. He began by stating that having considered the representations made by the Interested Parties, the applicant wished to amend the application by reducing the hours sought for the sale of alcohol from 24 hours a day to between 06.00 and 00.00 (midnight) daily. He said that late night refreshment would include only hot drinks and food that could be heated in a microwave and that there was no intention that the premises should operate as a takeaway.

He stated that, whilst some of the representations related to planning matters, these concerned amenity, which was different from the licensing objectives as contained in the Licensing Act 2003.

Noting that some of the representations had questioned the need for the premises to sell alcohol or provide late night refreshment, he pointed out that "need" was not relevant to a licensing application and referred to paragraph 13.23 of the Secretary of State's Guidance, which states that, amongst other things, "Need is a matter for planning committees and for the market."

He submitted that the Sub-Committee should consider whether there had been any problems specifically linked to the premises in the past and the manner in which the premises were currently operated. He stated that the premises had recently introduced a "Challenge 25" policy to replace the "Challenge 21" that had previously been followed for the sale of age-restricted products. He confirmed that all staff were given a two-day intensive training course on the sale of age-restricted products as part of their induction. Managers then monitored new staff until they were satisfied that they were implementing the policy correctly. All staff were given quarterly refresher courses. If the application were granted, all eight staff would be given a training course relating to the sale of alcohol. All staff already had experience of serving in convenience stores where alcohol was sold. An external agency would be engaged to conduct test purchases every quarter, and there would be a disciplinary process for staff who failed a test, followed by retraining. The tills issued prompts for staff when age-restricted products were registered and a refusals register was maintained. Management received regular reports on refusals and staff training needs. Litter was cleared from around the premises every morning. When questioned, staff had reported that there was no problem with loitering around the premises. After midnight sales were made through a hatch to reduce operating costs and to provide security for staff. He asked the Sub-Committee to grant the application because of the good record of the premises and the quality of its due diligence processes.

In response to questions from Members Mr Charalambides and Mr Mortimer stated:

- alcoholic drinks would be served through the hatch after midnight
- late-night refreshment would be prepared with the use of a hot drinks machine and a microwave
- a refusals register was currently maintained for age-restricted products, such as tobacco and petrol, and alcohol would be included, if the application were granted; if it appeared that a particular member of staff was being targeted in attempted under-age purchases, this could be identified and addressed
- Most purchases from the convenience store were made by people arriving on foot. There were no plans to build a car park at the premises.
- If problems arose in relation to customers consuming their purchases while parked on the forecourt, they would be dealt with. There was CCTV and a tannoy to broadcast messages to customers on the forecourt.
- Only generally available products would be sold, so it would not be possible to link litter specifically to the premises
- There were six litter bins on the forecourt; the impact of the premises on the vicinity was not such as to justify the imposition of a condition requiring the installation of litter bins at other locations

In reply to questions from Interested Parties, Mr Charalambides stated:

- the time at which service would only be through the hatch would be reviewed
- once the main door of the premises was shut, there would only be one member of staff serving; however, the premises was not in area with a high level of crime and disorder

Councillor Organ stated his case. He said that the premises was generally well run without major problems, He would, however, recommend that the terminal hour for the sale of alcohol should be 23.00 every day, so that people coming out of public houses would not go to the Chandag service station to buy more alcohol. He stated that McColl's and the Co-op closed at 20.00.

Mr Cartledge stated his case. He said that on the whole the service station was well run. He stated that he had experienced a few problems as he lived adjacent to the premises and that he was more aware of them than other residents. He welcomed the fact that the applicant had reduced the hours for the sale of alcohol. He was concerned about litter. He stated that a pathway owned by the electricity company, which ran between the service station and his home, became filled with litter blown there by the wind. There was broken glass in the vicinity of his home and empty cans of beer which had been bought from McColl's. He had suffered nuisance from youths congregating outside his home and sitting on his garden wall. It was common, on summer evenings, for youths carrying cans of drink to cross and re-cross the road on their way to a night out in Bristol. He felt that it would not be helpful for alcohol to be available so close to the bus stop at which youths congregated between 20.00-

21.00. He agreed with Councillor Organ that a terminal hour of 23.00 would prevent people coming out of pubs from buying yet more alcohol, but this would not deal with the availability of alcohol to youths who gathered earlier in the evening.

Mr Harrison stated his case. He urged the Sub-Committee to reduce the hours for the sale of alcohol. He was concerned that the premises would attract many people, because there were no other outlets in Keynsham to buy alcohol in the early hours. There were many school and pre-school children living in, or coming to, the Chandag area and he feared that a long-hours licence would send the wrong message to them.

In reply to a question from the Chair, Councillor Organ said that he did not think that the service station could be blamed for litter in the area.

The Licensing Officer clarified that the terminal hour for the sale of alcohol in McColl's premises licence was 22.00.

Mr Charalambides said that the applicant would be willing to have 23.00 as the terminal hour for the sale of alcohol. The company had a central policy about hours for late night refreshment and he was not able to offer to reduce these.

Following an adjournment, it was **RESOLVED** to grant a premises licence giving authority for the sale of alcohol between 06:00 until 23.00 every day and for the provision of late-night for the hours applied for, subject to the following two additional conditions:

1. Only food capable of being heated in a microwave shall be sold during the hours when late night refreshment is permitted
2. Only hot liquids capable of being dispensed from a purpose built machine or heated in a microwave shall be sold during the hours when late night refreshment is permitted.

Authority was delegated to the Licensing Officer to issue the licence accordingly.

## **REASONS**

Members have determined an application for a new Premises Licence for Chandag Service Station, 20 Bath Road, Keynsham. In doing so they have reminded themselves of the Licensing Act 2003, Statutory Guidance, the Council's Statement of Licensing Policy and the Human Rights Act 1998.

Members are aware that the proper approach under the Licensing Act 2003 is to be reluctant to regulate in the absence of evidence and must only do what is necessary and proportionate to promote the licensing objectives based on the evidence before them.

Accordingly, Members listened carefully to the applicant, took account of the representations from the Interested Parties and were careful to balance the competing interests of all the parties.

The Interested Parties had raised issues related to traffic, parking, the need for another premises in the area to sell alcohol and provide late night refreshment and matters pertaining to health and planning. The Members noted that these were not matters that fell to be considered under the Licensing Act 2003 and therefore disregarded them.

However, the Interested Parties did raise issues related to existing crime and disorder and anti social behaviour in the area. These included the deposit of litter, urination in the street and in gardens.

They also considered that the premises would be likely to act as a magnet for patrons who had left other licensed premises once they had closed and would encourage drink driving and underage drinking.

The Members considered that the measures proposed by the applicant at the hearing and in the Operating Schedule would promote the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance.

The Members considered that the applicant had also addressed the four licensing objectives to the best of its ability by reducing the sale of alcohol to 6.00 am to 11.00 pm every day which would reduce the possibility of late night nuisance. They also considered that the premises appeared to be well managed and have efficient policies and procedures in place in order to manage the sale of alcohol responsibly. The application was also amended in light of the residents concerns for which the applicant is to be commended.

Members therefore granted the licence as amended by the applicant today, together with the mandatory conditions related to the sale of alcohol and age verification policy, together with the conditions consistent with the Operating Schedule and those additional conditions offered by the applicant and those imposed by the Members today.

## **8 REVIEW PROCEDURE**

The Chair drew attention to the review procedure, copies of which had been made available to those attending the meeting.

## **9 APPLICATION FOR THE REVIEW OF PREMISES LICENCE FOR THE GUSS AND CROOK, SOUTH ROAD, TIMSBURY, BATH BA2 0LD**

Applicant for review: Peter Greenlees

Licence Holder: Admiral Taverns, represented by Mark Brown (Head of Licensing), Mike Jones (outgoing Area Manager), Fred Lloyd (incoming Area Manager)

The parties confirmed that they had received and understood the review procedure.

The Licensing Officer distributed copies of the petition in support of the premises referred to in paragraph 4.13 of the report, colour versions of the photographs contained in the agenda and a press notice issued by Admiral Taverns on 21 July 2011 announcing the appointment of new tenants at the premises.

The Licensing Officer summarised the application. She said that it related to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. Fourteen representations had been received from local residents in relation to these licensing objectives.

Mr Greenlees stated his case. He said that he had lived in Timsbury for eleven years, during which time there had always been problems associated with the premises, which was essentially a working man's pub. These had had intensified since the Licensing Act 2003 had come into force. There had been anti-social behaviour and damage to property caused by customers of the premises. He said that he knew of no one in Timsbury who wanted the premises to close, but there needed to be a compromise that took into account the interests of residents. Problems were particularly severe on Fridays and Saturdays in the summer. There had been instances of people coming from the premises, getting into their cars and crashing into parked vehicles. There had also been fights and occasional under-age drinking. He had witnessed customers smoking drugs at the door of the premises. The situation had been made worse because there had been a succession of temporary landlords who had not been involved in village life. He requested that the opening hours of the premises should be reduced. He thought that the terminal hour for the sale of alcohol should be 23.00 on Sundays to Thursdays and midnight on Fridays and Saturdays with closing half an hour later. The current late closing on Fridays and Saturdays made the premises a magnet for the wrong kind of people. He also believed that a condition should be imposed prohibiting late new entry to the premises.

In response to a question from a Member, the Licensing Officer reported that the terminal hour for the sale of alcohol of the nearby Seven Stars public house was 00.00 on Mondays to Thursday, 02.00 Saturdays and 23.30 on Sundays, with closing half an hour later in each case.

In reply to questions from Members, Mr Greenlees stated:

- customers came to the premises from all directions late at night
- from his home he could just about hear the noise of customers outside the premises smoking; other residents said that they could smell smoke and hear the extractor fan

Mark Brown, Head of Licensing, stated the case for the applicant. He introduced his colleagues Mr Jones, the outgoing area manager and Mr Lloyd, the new area manager. He said that Admiral Taverns held the freehold and let the premises to tenants. He said that management only became aware of problems when reports of incidents were received. There was nothing on file to indicate that there were significant problems at the Guss and Crook. However, the review application clearly showed that there were. A balance needed to be struck between the interests of the business and those of the residents. He drew attention to the representations in support of the premises. He noted that no one was calling for the premises to be closed. He noted that there had been no representations from the responsible authorities. Mr Brown stated that the Designated Premises Supervisor denied that there was regular drug use or underage drinking at the premises, though it was

possible that both had occurred on occasions. Admiral Taverns had had conversations with Mr Greenlees about the balance to be struck, and was now proposing to reduce the hours of the premises, so that the terminal hour for the sale of alcohol would be 23.30 Sundays to Thursdays and 00.30 on Fridays and Saturdays, with closing half an hour later. They were also proposing that from 22.00 on Sundays to Thursdays and from 23.00 on Fridays and Saturdays the four outside tables should be vacated so that no one with a drink was outside after these times. Finally, they were proposing that there should be no new entry to the premises after 23.30. He submitted that these modifications would reduce the attraction of the premises for late-night drinkers from ten miles around, and turn it into just a local pub. He drew attention to the press notice about the appointment of new tenants, who would settle in the village and be part of village life. The premises would not be let to a management company as had happened previously.

Mr Jones described the process followed for the appointment of the new tenants. Admiral Taverns had chosen a couple who wished to settle in the village and become long-term tenants.

A Member asked about the garden at the rear of the premises. Mr Jones replied that the only access to this at present was through the private quarters, so that it could not be used by customers, though the provision of alternative access might be considered in the future. Admiral Taverns owned an area of garden across the road opposite the premises, but this could not be used because customers would be crossing the road with drinks to reach it.

The Chair asked what the impact on the business would be of requiring the outside tables to be cleared at 22.00 every evening. Mr Brown replied that customers liked to sit outside, especially on a summer evening at the end of the week, and that Admiral did not wish to curtail this facility too severely. It would be for the new tenants to ensure that tenants outside did not cause nuisance. The new tenants wished to make the serving of food an important part of the business, which should assist with creating more of a family pub atmosphere.

Mr Greenlees suggested that the new tenants would face a considerable challenge in trying to change what had always been a working man's pub into a family pub and asked what support Admiral Taverns would give them. Mr Brown replied that the commitment of the new tenants had been demonstrated by their giving up their life in Spain to come to live in the premises. As was normal, they had been given an initial six-month lease and it was very much hoped that this would be followed by a long-term lease. Mr Jones said that there would be ongoing discussions with the tenants during the initial lease.

The parties were invited to sum up.

Mr Greenlees said that he had nothing to add.

Mr Brown submitted that there was now a plan in place for improvements at the premises. He believed that the licence modifications proposed were proportionate and struck the right balance between the business and the residents.

Following an adjournment the Sub-Committee **RESOLVED** to modify the premises licence as follows:

1. Sale of Alcohol

Monday to Thursday – 11.00 am to 11.00 pm

Friday and Saturday – 11.00 am to 12.30 am

Sunday – 12.00 pm to 11.00 pm

2. Regulated Entertainment

Friday and Saturday – as existing

Sunday – 8.00 pm to 11.00 pm

3. Opening

Monday to Thursday – 11.00 am to 11.30 pm

Friday and Saturday – 11.00 am to 1.00 am

Sunday - 12.00 midday to 11.30 pm

4. No consumption of alcohol shall be permitted outside the premises after;

a) Sunday to Thursday 10.00 pm

b) Friday and Saturday 11.00 pm

c) The area for the consumption of alcohol outside the premises shall be clearly marked and maintained

## **REASONS**

Members have determined an application for the review of a Premises Licence for the Guss and Crook Public House, South Road, Timsbury, Bath. In doing so they have reminded themselves of the Licensing Act 2003, Statutory Guidance, the Council's Statement of Licensing Policy and the Human Rights Act 1998.

Members are aware that the proper approach under the Licensing Act 2003 is to be reluctant to regulate in the absence of evidence and must only do what is necessary and proportionate to promote the licensing objectives based on the evidence before them.

Accordingly, Members listened carefully to the applicant, took account of the representations from the Licence Holder and Interested Parties and were careful to balance the competing interests of all the parties.

The application for the review was based on allegations of anti social behaviour, malicious/criminal damage, customers driving away from the premises whilst drunk, under age drinking, the dealing and taking of illegal drugs, alcohol being served to drunk persons, noise pollution on a daily basis, urination/vomit in the vicinity of the premises, the premises acting as a magnet for patrons from other premises, once they had closed, and such persons being responsible for crime and disorder and anti social behaviour.



Members noted that a number of anonymous representations had been made by Interested Parties as they feared reprisals if their identity was known. These representations included noise nuisance caused by patrons leaving the premises, anti social behaviour, noise from vehicles leaving, urination by patrons, criminal damage, drink driving and litter.

However, they could not be questioned by either the Members of the Premises Licence Holder as they had not been represented by a party to speak on their behalf. Members therefore considered that they could not attach significant weight to these representations.

Admiral Taverns, who own the premises, refuted the allegations related to drug taking and dealing, drink driving and under age drinking. However, it offered conditions related to a no new entry policy, Challenge 21 policy, that any underage person who attempted to purchase alcohol would be barred indefinitely from the premises, a drugs policy, which the DPS already monitored the premises in this regard, and signage to encourage patrons to leave quietly.

Members noted that no representations had been received from the Police, Trading Standards or the Safeguarding Children Authority.

The application had attracted positive representations based on the premises being a community facility, that it was well run, some persons had been going to the premises for over 50 years, that it was used by mature drinkers, was well regarded and that incidents of crime and disorder and anti social behaviour were either infrequent or non existent.

A petition in support had been submitted by the Premises Licence Holder. Members noted that it had not been submitted in the correct form and therefore did not attach any weight to it.

Members considered that there was evidence of crime and disorder, anti social behaviour and public nuisance caused by the operation of the premises as expressed by the applicant, Interested Parties and acknowledged by Admiral Taverns.

Members considered that the offer by the Premises Licence Holder regarding the reduction in hours for the sale of alcohol, closing and regulated entertainment (by default) would alleviate problems that the Members considered were being experienced by residents related to crime and disorder, anti social behaviour and public nuisance. They were not satisfied that there was evidence to show that the taking of and dealing of illegal drugs, underage sales and drink driving was occurring.

They considered that the conditions, offered by the Premises Licence Holder, regarding a drugs policy, the banning of persons who had attempted to purchase alcohol underage and no new entry to the premises were not necessary or proportionate conditions to impose and recognised that the Challenge 21 policy is already imposed as a mandatory condition.

Members also considered that the offer, made by the Premises Licence Holder to reduce the permission to allow the consumption of alcohol outside the premises would reduce the impact of crime and disorder, anti-social behaviour and public nuisance for residents and therefore imposed the relevant conditions on the Premises Licence.

The meeting ended at 2.45 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**