

BATH AND NORTH EAST SOMERSET

LICENSING (GAMBLING AND LICENSING) SUB-COMMITTEE

Thursday, 16th September, 2010

Present:- Councillors:- Bryan Chalker (Chair), Malcolm Lees and Carol Paradise

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

1 EMERGENCY EVACUATION PROCEDURE

The Clerk 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

There were none.

4 DECLARATIONS OF INTEREST

There were none.

5 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

6 MINUTES: 29TH JULY 2010

The minutes of the 29th July 2010 were approved as a correct record and signed by the Chair.

7 LICENSING PROCEDURE

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

8 APPLICATION FOR A PREMISES LICENCE FOR TESCO STORES LIMITED, 3 BRISTOL ROAD, KEYNSHAM BS31 2BA

Applicant: Tesco Stores Limited, represented by Jeremy Bark, Solicitor, Greg Bartley, Licensing Manager and Robert Henderson, Store Manager.

Responsible Authority: Avon and Somerset Police represented by Martin Purchase (Police Licensing Officer) and Child Protection represented by John Barnes, Strategic Planning Manager.

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

The Licensing Officer presented the application. She explained that the applicant was seeking authorisation for the sale of alcohol for consumption off the premises between the hours of 06:00 and 22:30 Mondays to Sundays and opening hours of 08:00 – 20:00 Monday to Saturday and Sunday 10:00 – 17:00.

A representation had been made by the Police in relation to the licensing objective of the prevention of crime and disorder. Since the application seven additional conditions have been agreed between the applicant and the Police.

A representation had been made by the Child Protection Service in relation to the licensing objective of protecting children from harm.

Further relevant representations had been received from Interested Parties living within the vicinity of the premises in relation to both the prevention of public nuisance and the prevention of crime and disorder objectives.

Mr Bark informed the Sub-Committee that although the regular opening hours of the store would be 08:00 – 20:00 Monday to Sunday they wished to amend the application so that the opening hours and the hours for the sale of alcohol were the same, namely Monday to Sunday 08:00 – 22:00.

He added that extensive discussions had taken place between the Police and the Child Protection Service which had resulted in further conditions being agreed. Councillor Carol Paradise expressed her concern in relation to having any alcohol displays near the front of the store.

Mr Bark replied that satellite displays would occur within the store during certain promotions and that these would be monitored additionally.

The Strategic Planning Manager commented that the additional information that had been supplied was satisfactory with regard to the welfare of children.

Following an adjournment, the Sub-Committee **RESOLVED** to grant the application as amended, subject to the mandatory conditions, conditions consistent with the operating schedule and the seven conditions agreed between the applicant and the Police and imposed by the Sub-Committee.

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

REASONS

Members have today determined an application for a new premises licence for Tesco Stores Limited, 3 Bristol Road, Keynsham.

In doing so, they have reminded themselves of the provisions of the Licensing Act, Human Rights Act, case law, Statutory Guidance and the Council's Statement of Licensing Policy.

Members noted that the proper approach under the Licensing Act is to determine an application on its own merits, and to be reluctant to regulate, unless there is evidence that premises may have a negative impact on the licensing objectives.

Members considered the relevant representations and took account of the evidence put before them both oral and written.

Members noted that the application had attracted representations from the Police and the Child Protection Officer. The Police had proposed a number of conditions to be imposed on the premises licence to which the applicant had agreed and amended the operating schedule accordingly. The Child Protection Officer confirmed that these conditions were satisfactory in respect of child protection.

Interested Parties had also made written representations based on the existing anti social behaviour currently in the town, that the premises would add to it and that noise nuisance would be caused by deliveries.

The Members considered that the measures contained in the agreed conditions would assist in resolving those issues and that further conditions should not be imposed in the absence of real evidence.

Members were careful to balance the competing interests of the applicant and those of the Responsible Authorities and Interested Parties in reaching a decision. Accordingly, Members have done only that which is reasonable and proportionate in the circumstances and have granted the licence as applied for with amendments.

Members were also reassured that the applicant would not display alcohol for sale at the entrance of the premises as they considered that, if it was, it would lead to alcohol related crime and disorder and anti social behaviour.

9 APPLICATION TO VARY A PREMISES LICENCE FOR THE WEIR LOUNGE, SPRING GARDENS ROAD, BATH BA2 4PW

Applicant: Darius Mosavi, represented by Graham Gover, Solicitor and David Holley, Licensing Agent.

Responsible Authority: Avon and Somerset Police represented by Martin Purchase (Police Licensing Officer) and Inspector Steve Mildren (Bath Police).

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

The Licensing Officer presented the application. She explained that the applicant was seeking authorisation for the removal of the condition on Annex 2 of the licence which restricts the maximum persons allowed on the premises at any one time. A representation had been made by the Police in relation to the licensing objectives of the prevention of crime and disorder and public safety. The representation expressed concern that any increase in capacity at a venue already subject to alcohol crime, disorder and anti-social behaviour, would further undermine these statutory objectives.

Representations have also been received from two local residents' associations in respect of the licensing objectives relating to the prevention of crime and disorder,

the prevention of public nuisance and public safety. The representations express concern that an increase in the club's capacity if granted, will "inevitably exacerbate the problem of anti-social behaviour and crime and disorder" at a premises already exhibiting evidence of "licensing breaches, disorder, drunkenness and violence".

Mr Gover informed the Sub-Committee that it was his belief that under the Regulatory Reform (Fire Safety) Order 2005 any condition that could be monitored by another regime; in this case Fire Safety, should not be imposed on the licence.

Mr Gover was informed by the Licensing Officer that the condition had been proposed, by the applicant, to promote the licensing objective of the prevention of crime and disorder and that the applicant's licensing agent had been informed of this in April 2010.

Inspector Steve Mildren addressed the Sub-Committee. He spoke of how the Police still had concerns over alcohol related crime and anti-social behaviour associated with the premises.

Ian Perkins from The Abbey Residents Association addressed the Sub-Committee. He spoke of how the premises was failing in its duty to provide standards to prevent crime and disorder.

Following an adjournment, the Sub-Committee **RESOLVED** to refuse the application.

REASONS

Members have today determined an application for the variation of a premises licence for The Weir Lounge, Spring Gardens Road, Bath. In doing so they have reminded themselves of the provisions of the Licensing Act, Human Rights Act, case law, Statutory Guidance and the Council's Statement of Licensing Policy which includes a Cumulative Impact Policy.

Members note that the proper approach under the Licensing Act is to determine an application on its own merits and be reluctant to regulate unless there is evidence that premises will have a negative impact on the licensing objectives.

Members considered the relevant representations and took account of the evidence put before them both oral and written.

The application was for the removal of the current capacity limit of 200 persons. It attracted representations from the Police based on the licensing objective of the prevention of crime and disorder and public safety. The Police had been called to a number of incidents at the premises and concluded that an increase in numbers would increase the number of incidents and would seriously undermine the licensing objective.

The Police had also noted that the applicant had not put forward any measures in the operating schedule to mitigate cumulative impact.

Representations had also been received by two Residents Associations based on the fact that an increase in numbers would result in increased crime and disorder and anti social behaviour.

Members were careful to note that evidence needed to be related to the premises themselves and not to areas outside the applicant's control. However, Members noted that the premises fell within the cumulative impact area, according to the Council's cumulative impact policy. This creates a rebuttable presumption that any applications for new premises licences, or variations, in the area of cumulative impact, will be refused where relevant representations are received, unless the applicant can show that the operation of the premises will not add to the cumulative impact already being experienced.

Members decided that the applicant had not sufficiently demonstrated that the variation, if granted, would not add to the cumulative impact already being experienced in the area. They concluded that, if it was granted, it would add to the cumulative impact and would not promote the licensing objectives.

Whilst they noted the submissions made on behalf of the applicant, they attached considerable weight to the representations made by the Police.

Members therefore refused to grant the application accordingly.

The meeting ended at 1.35 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services