

BATH AND NORTH EAST SOMERSET

LICENSING (GAMBLING AND LICENSING) SUB-COMMITTEE

Friday, 17th December, 2010

Present:- Councillors:- Tim Warren (Chair), Tim Ball and Bryan Chalker

Also in attendance: Emma Stoneman (Licensing Officer), Francesca Smith (Senior Legal Adviser) and Sean O'Neill (Democratic Services Officer)

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

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: 9 NOVEMBER 2010

These 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 members of the public attending the meeting.

8 APPLICATION FOR A PREMISES LICENCE FOR THE RICHMOND ARMS, 7 RICHMOND PLACE, BEACON HILL, BATH BA1 5PZ

Applicant: Punch Taverns, represented by TLT Counsel and Punch Taverns representative

Responsible Authority: Environmental Health Officer Jeremy Lockley

The Interested Parties were not present and were not represented.

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

The Licensing Officer summarised the application, which sought to extend the existing activities, hours and conditions to the first floor of the premises. Representations had been received from local residents in relation to the licensing objectives of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm. A representation had also been received from an Environmental Health Officer (EHO) in relation to the licensing objective of the prevention of public nuisance proposing that the first floor area should be used for dining only and that regulated entertainment should not take place there.

Counsel stated the case for the applicant. He apologised that no employee of the applicant had been able to be present at the meeting. He said that there was no application to extend hours, even though some representations had been based on a misconception that this was the case. The use of the term "extension of hours" in the application was a statutory requirement. He said that regulated entertainment took place on the premises only about twelve times a year. The upstairs area was small and was intended to be used for dining. The applicant was now prepared to withdraw that part of the application relating to the provision of regulated entertainment there. He noted that the representations contained a few references to incidents of noise nuisance. The applicant had had discussion with the Licensing Officer and the EHO and had responded to the EHO's concerns by withdrawing that part of the application relating to the provision of regulated entertainment on the first floor of the premises. He noted the references in representations to noise from taxis calling at the premises and said that, while this was not under the control of the premises supervisor, the applicant would, through the licensing officers, request the taxi firms to give their drivers appropriate advice.

In reply to questions from a Member, Counsel stated that

- the premises were not listed, but subject to a conservation order. If it were suggested that noise insulation should be fitted, the applicant would consider this
- a representation had been made about customers being present in the beer garden after the terminal hour of 23.00; the applicant would give more attention to enforcing the terminal hour in future

The Environmental Health Officer Jeremy Lockley stated his case. He highlighted that the premises was in a terrace and had residential properties immediately adjacent on both sides. The first floor would be on the same level as neighbours' bedrooms. Mr Lockley stated that, in his professional opinion, any provision of regulated entertainment on the first floor would cause a noise nuisance. He confirmed that, whilst he was not withdrawing his representation, his concerns would be addressed if a condition were to be imposed on the licence that regulated entertainment should not take place on the first floor.

Following an adjournment, the Sub-Committee resolved to grant the application as applied for, subject to the following additional amended condition proposed by the Environmental Health Officer and agreed to by the applicant:

“The First Floor area is not to be used for regulated entertainment.”

and subject to the mandatory conditions relating to the sale of alcohol and those contained within the Licensing Act (Mandatory Licensing Conditions) Order 2010 and with conditions consistent with the operating schedule.

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

REASONS

Members have determined an application for a new premises licence for The Richmond Arms. In doing so they have taken account of the Licensing Act, Human Rights Act, the Council’s Policy and the Statutory Guidance.

Members are aware that the proper approach under the Licensing Act is only to do what is necessary and proportionate to promote the licensing objectives. Members considered the relevant representations and took account of the evidence put before them.

Members were careful to balance the competing interests of the applicant and those of the Responsible Authority and the Interested Parties in reaching a decision. Accordingly, Members have done only that which is reasonable and proportionate in the circumstances.

9 APPLICATION TO VARY A CLUB PREMISES CERTIFICATE FOR THE ROYAL BRITISH LEGION CLUB BATHFORD LTD, BATHFORD HILL, BATH BA17SN

Applicant: The Royal British Legion Club Bathford Ltd, represented by Luke Emmett (Secretary)

Responsible Authority: Environmental Health Officer Diarmid Henry

Interested Parties: Mrs Philippa Bevan and Ms Sarah Tinney

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

The Licensing Officer summarised the application, which sought to extend the hours for the supply of alcohol, add permission to sell alcohol for consumption off the premises, extend the hours for live music, recorded music and facilities for dancing (for provision indoors and outdoors) and add permission for films (indoor only), indoor sporting events, dance (indoors and outdoors), facilities for making music (indoors and outdoors), provision of facilities for similar entertainment (indoors and outdoors).

Representations had been received from Environmental Health in relation to the licensing objective of the prevention of public nuisance and from the Parish Council and local residents in relation to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance.

Mr Emmett stated the case for the applicant. He explained that RBL Clubs were members' clubs and limited companies. He said that the representations received to the application had made him think carefully about the way in which the club communicated with local residents. When making the application he thought that he would make it as wide as possible to give the club maximum flexibility. In retrospect he did not think this had been a good idea. The club was surrounded by about twenty houses and he wanted the best for the club and for the local community and was prepared to compromise. After discussion with the Environmental Health Officer, he no longer wished to seek authority to provide regulated entertainment outside, even though there were only three outside events in the whole of the previous year, and only one was planned for the forthcoming year.

The EHO's representation stated that noise from the function room had been barely audible at the nearest residential premises when he had visited on 13 November 2010. That night the noise level did not go above 93db as measured by the club's sound meter. The application had offered a condition that noise should not go above 100db; on reflection he wished to amend this to 90db. He acknowledged that doors had on occasion been left open during the summer, despite a licence condition forbidding this. Compliance with the condition would be monitored more strictly in future. Patrons had also congregated on the fire escape; a club bye-law had been made restricting the use of the fire escape to ingress and egress. Signs would be placed on doors reminding patrons that the club was located in a residential area. He would be willing for drinking outdoors to cease earlier than had been stated in the operating schedule, to 10.30pm or 10pm if considered appropriate. Noise levels would be monitored with the club's sound meter. If performers or DJs did not keep music to an acceptable level, the event would be terminated.

Next year live music was booked for 20 Saturdays. The music sessions would last from 20.45-21.15, 21.15-22.30 and 22.45-23.30. Members could organise private events on other Saturdays. Most members were in their 40s-60s and there were very few younger members. He now considered that 01.00 was too late for the terminal hour for regulated entertainment, and would offer 00.00 (midnight) on Fridays and Saturdays and 23.00 Mondays to Thursdays.

He understood the concerns, expressed in the representations, about the role of alcohol in provoking anti-social behaviour, particularly among young people. However, there were few young people in the village and the club was a members-only club with a minimum membership age of 18. In addition customers who appeared to be under 21 were required to produce proof of ID. There were shops in the community that sold alcohol, with one nearby making sales of alcohol between 06.30 and 17.00. He also confirmed the mandatory conditions relating to off sales from a club premises. The club had no control over the times of deliveries or waste collections.

In response to a question from the Chair, Mr Emmett clarified that the hours he was now proposing were as follows:

Sale of Alcohol

Mon-Sat 11.00 to 00.00
Sun 10.00 to 23.30

Regulated Entertainment

Mon-Thu 09.00 to 23.00
Fri-Sat 09.00 to 00.00 (midnight)
Sun 10.00 to 22.30

Opening Hours

Mon-Sat 09.00 to 00.00 (midnight)
Sun 09.00 to 23.30

In reply to questions from Members, Mr Emmett stated

- there were 50-70 private parties a year, only 15 of which took place on Saturdays
- live music groups were no bigger than trios
- complaints had been received about one event, though generally he did not hear from local residents
- events at the club had been advertised in the village

The Environmental Health Officer Diarmid Henry stated his case. He said that he had visited the premises between 22.00 and 22.30 on 13 November 2010 during which time he had not observed any noise nuisance. He had no concerns about entertainment inside the premises, providing the licence required doors and windows to be kept closed whilst it was carried out, but would be concerned about the impact on residents of regulated entertainment outside as there would be no way of containing the sound. In response to a question, Mr Henry said he wouldn't wish to recommend a permitted sound level in decibels. He explained that such a level would be subjective and that the real test would be whether or not residents could hear the entertainment. If they were still disturbed then this would have to be dealt with as a noise nuisance.

Mrs Philippa Bevan, an Interested Party, stated her case. She said that she lived next door to the premises with her family and was regularly disturbed, particularly in the summer. She said that they put up with it at the moment as they at least knew it would stop at 11pm. She said that even an extension until midnight was too late,

Ms Sarah Tinney, an Interested Party, stated her case. She said that she lived a reasonable distance away from the premises, across the green, however she was still frequently disturbed by music coming from the club. She confirmed that she could at times sing-along to music being played whilst she was inside her home.

Following an adjournment the Sub-Committee **RESOLVED** to grant the club premises certificate as applied for with the amendments proposed by the applicant, subject to the mandatory condition in respect of the off sales of alcohol where the

club premises certificate authorises the consumption of alcohol off the premises as well as on the premises; subject to the mandatory conditions related to the showing of films and subject to conditions consistent with the operating schedule; and to a condition proposed by the Environmental Health Officer, namely:

1. All doors and windows are to be kept shut, save for ingress and egress, when live and recorded music is taking place on the premises

Hours for licensable activities shall be:

Supply of Alcohol for consumption both on and off the premises

Monday to Thursday – 11:00 to 23:00

Friday and Saturday – 11:00 to 00:00

Sunday – 12:00 to 22:30

Regulated Entertainment in the form of live and recorded music, dance, films, indoor sporting events, the provision of facilities for dancing, making music and similar entertainment – Indoors Only

Monday to Thursday – 19:30 to 23:00

Friday and Saturday – 09:00 to 00:00

Sunday – 10:00 to 22:30

Opening Hours

Monday to Thursday – 09:00 to 01:00

Friday and Saturday – 09:00 to 01:30

Sunday – 09:00 to 23:30

All non standard timings applied for are granted

Authority is delegated to the Licensing Officer to issue the certificate accordingly.

In response to a suggestion by the Chair, Mr Emmett agreed to give his mobile telephone number to local residents so that they could contact him if there were problems.

REASONS

Members have determined an application for the variation of a club premises certificate for The Royal British Legion, Bathford. In doing so they have taken account of the Licensing Act, Human Rights Act, the Council's Policy and the Statutory Guidance.

Members are aware that the proper approach under the Licensing Act is only to do what is necessary and proportionate to promote the licensing objectives.

Members considered the relevant representations and took account of the evidence put before them. They heard evidence that there was existing noise nuisance emanating from the premises.

Members also recognised that the applicant had taken responsibility for the problems experienced by the parties and had amended the application accordingly.

Members were careful to balance the competing interests of the applicant and those of the Responsible Authority, the Interested Parties and the Parish Council in reaching a decision. Accordingly, Members have done only that which is reasonable and proportionate in the circumstances.

10 APPLICATION FOR A PREMISES LICENCE FOR SAINSBURY'S, FROME ROAD, ODD DOWN, BATH BA2 5RE

Applicant: Sainsbury's Supermarkets Limited, represented by Winckworth Sherwood LLP and the Green Park Station store manager.

The Interested Parties were not present and were not represented.

The applicant's solicitor stated the Company's case. She said that the store was under construction and the scheduled opening date was 26 April 2011. She said that the applicant was aware of problems with anti-social behaviour of young people and welcomed an open dialogue with residents. Cashiers would be trained to challenge any one attempting to purchase alcohol who appeared to be under the age of 21. In response to a question from a Member about why the applicant wished to sell alcohol from 06.00 to 00.00, she replied that this would provide a service to people working shifts and non standard hours and would give the store flexibility with sales at Christmas.

Following an adjournment the Sub-Committee **RESOLVED** to grant the licence as applied for, subject to the mandatory condition related to the sale of alcohol, and to conditions consistent with the operating schedule.

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

REASONS

Members have determined an application for a new premises licence for Sainsbury's, Frome Road, Odd Down, Bath. In doing so they have taken account of the Licensing Act, Human Rights Act, the Council's Policy and the Statutory Guidance.

Members are aware that the proper approach under the Licensing Act is only to do what is necessary and proportionate to promote the licensing objectives. Members considered the relevant representations and took account of the evidence put before them.

Members were careful to balance the competing interests of the applicant and those of the Interested Parties in reaching a decision. Accordingly, Members have done only that which is reasonable and proportionate in the circumstances.

The meeting ended at Time Not Specified

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services