

## **BATH AND NORTH EAST SOMERSET**

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

Friday, 4th November, 2011

**Present:-** Councillors:- Douglas Nicol (Chair), Anthony Clarke and Gerry Curran

**Also in attendance:** 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**

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: 15 SEPTEMBER 2011**

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 those attending the meeting.

#### **8 APPLICATION FOR A PREMISES LICENCE FOR TEMPLE INN, MAIN ROAD, TEMPLE CLOUD, BRISTOL BS39 5DA**

Applicant: Duncan Sheen

Responsible Authorities: Avon and Somerset Police, represented by Martin Purchase (Liquor Licensing Officer)

Interested Parties: Mr and Mrs Osborne, Mr and Mrs Dean

The Licensing Officer summarised the application. The licensable activities and hours applied for were set out in paragraph 4.2 of her report. The Police had proposed additional conditions, to which the applicant had agreed in writing.

Mr Sheen stated his case. He said that he had taken over the management of the Temple Inn in October 2010. He was the owner of the business that operated the premises, but he did not own the premises. The premises owner had gone into administration and he was considering purchasing the building. Before making his application he had had talks with the Police, Licensing Officers, the Fire Authority and other agencies. A new licence was required rather than a variation because of the number of changes he wished to make. The hours on the current licence were very restricted and the sale of alcohol was permitted only in the main pub building and not in the detached function room. The ordinary operation of the pub was losing money, but he had found that he made money with special events. However, he had used his full quota of Temporary Event Notices. There was a black and white CCTV system, but the Police had recommended the installation of a new colour system, which would cost £2,000. He could retain the old CCTV system if events only took place occasionally. However, to be financially viable, the pub needed to provide regulated entertainment as a standard feature. There were two local skittles teams and three pool teams who used the premises. Because skittles matches were held in the function room, which was not covered by the current licence, members of the skittles teams had to purchase drinks in the main pub and then carry them to the function room, which was inconvenient. There had been no complaints made by residents when events had been held at the premises, though when this application had been advertised someone had said that he thought that he had been disturbed by noise on one night. In fact there had been no event on the night he mentioned.

In response to a question from Mr Purchase, Mr Sheen said that he would accept the suggestion from the Police that the non-standard times for Christmas Eve, Christmas Day and Boxing should be deleted from the application, though by an oversight he had failed to state this in his letter to Mr Purchase of 28<sup>th</sup> September 2011.

Mr Dean asked whether it would be possible to stop customers going outside to smoke from taking drinks with them. The Licensing Officer drew attention to the condition proposed by the Police that prohibited alcohol being sold or consumed in the garden and all outside areas beyond 11pm each day.

Mrs Osborne asked Mr Sheen why he wished to change the character of a quiet village pub. Mr Dean replied that he had no intention of changing the character of the pub. The fact was that Temple Cloud once had four pubs and now had only one, which at present was dying on its feet. He had found that people came to the premises in sufficient numbers to make it profitable when events were held. When a petition in favour of the application had been placed in the bar, it had been signed by 100 people in one week, whereas the petition against the application had only received 9 signatures in a month. Since he had been running the premises most customers came from Temple Cloud and Farrington Gurney, though people from other villages came as well.

Mr Dean asked why the local bingo club had been locked out of the premises, leaving people knocking at the door for an hour. Mr Sheen said that this was not the case. The bingo club had been organised by the wife of the previous landlord.

People attending bingo sessions had been charged 25p for a cup of tea, producing an income of not more than £4.50 from a session, which was completely uneconomic. He had spoken to the lady who was running the club and given her notice that it would be discontinued. Under the previous landlord there were other uneconomic activities, such as providing the Carnival Club with free tea and coffee. He submitted that these issues had no relevance to the current application.

Mr Osborne asked why the premises needed later hours. He said that people dispersed slowly after closing time, sometimes lingering for up to an hour, which meant that residents faced the prospect of disturbance until 2.30-3.30am. Mr Sheen replied that other licensed premises in the area already had the hours for which he was applying.

A Member asked Mr Sheen whether the additional activities and hours for which he was applying would give him a chance of running a viable business. Mr Sheen replied that he thought they would. He had already used the maximum number of Temporary Event Notices he was permitted, and on each occasion he had made money. There had been live music, recorded music, discos and karaoke without any complaints being received. He also submitted there was more noise at night in the vicinity than many people might think. The A37 ran past the front of the pub, and he had counted that between 1am and 2am a lorry passed the premises on average every 4 minutes. Another road licensed for use by articulated lorries ran along the side of the pub. Nearby there was a site operated by BT, which was very busy at night.

The Interested Parties stated their cases.

Mrs Dean said that she thought the hours proposed for licensable activities were unreasonable in a small village like Temple Cloud. She thought that the hours should be in line with those of the other pubs. Mr Sheen responded that the Temple Inn was the only remaining pub in Temple Cloud and that pubs in neighbouring villages already had the hours and activities for which he was applying.

Mr Osborne said that he did not wish to deny the applicant the opportunity of making a living. However, Temple Cloud was a small village. He thought that customers would be more likely to come from other villages than from Temple Cloud and was concerned about the potential for disturbance and interrupted sleep for local residents.

A Member asked him how many times he had been disturbed when events had been held under Temporary Event Notices. He replied that he did not know how many events had been held under Temporary Event Notices.

A Member asked Mr Osborne whether he thought that the applicant might be able to control smokers outside the premises so that they did not create a disturbance. Mr Osborne replied that he thought that the best solution would be reasonable hours.

Mr Purchase asked Mr Osborne whether he seen the conditions agreed between the Police and the applicant. Mr Osborne said that he had not, and Mr Purchase provided him with a copy. The Senior Legal Adviser advised Mr Osborne that the Sub-Committee had the power to impose restrictions on the hours for consumption

of alcohol outside the premises. Mr Osborne commented that making rules was one thing, enforcement another.

Mr Sheen noted that Mr Osborne had stated in his written representation that he had not suffered disturbance since the premises had changed hands. Mr Osborne agreed that he had not suffered disturbance since Mr Sheen had taken over, though he had done when the premises had been under the previous landlord.

Mr Purchase stated the case for the Police. He invited the Sub-Committee to give careful attention to the proposed conditions agreed between the applicant and the Police. He believed that they addressed many of the concerns expressed by residents.

The parties were invited to sum up.

Mr Sheen said that the statements made by Interested Parties revealed ignorance that there were once 4 pubs in the village and that 3 of them had closed. The premises needed this application to survive and there were many residents who wanted it to survive. There had been no complaints since he had been running the premises, as confirmed by one of the Interested Parties in his written representation. He had used all the Temporary Event Notices available to him, yet one of the Interested Parties had been unable to say how many events had taken place at the premises.

Mr Dean said the main concern of residents were the proposed hours. People did not always disperse quickly after closing. There was sometimes disturbance at 2am. It was not always easy to identify the source, but he did not think that he had ever heard a lorry late at night. He believed that a terminal hour of 1.30am was just too late for a village pub.

Following an adjournment it was **RESOLVED** to grant the licence as applied for subject to the modifications relating to the non-standard timings proposed on the application, by the removal of any timings relating specifically to Christmas, together with the mandatory conditions (related to the sale of alcohol, the exhibition of films, door supervisors, the prevention of irresponsible drinks promotions, the dispensing of alcohol directly by one person directly into the mouth of another, free tap water, age verification policy, and the availability of alcohol in smaller measures) conditions consistent with the Operating Schedule and all conditions proposed by the Police, namely:

- 1 A CCTV system will be installed and maintained at the premise in consultation with the police. The images will be of evidential standard and recordings will be kept for 31 days and made available to the police on reasonable request. Notices are to be displayed at the premises stating that cctv is in operation.
- 2 The garden and all outside areas will not be used for the sale or consumption of alcohol beyond 11pm each day.
- 3 All staff to receive training related to alcohol sales and refresher training to be given at 6 monthly intervals. A record will be maintained of all persons trained. This record will be kept at the premises and made available to the police and licensing authority on request.

- 4 All refused sales are to be recorded together with the reasons for their refusal. This record to be kept at the premises and made available to the police and licensing authority on request.
- 5 At the written request of the police or following a risk assessment by the DPS, SIA door supervisors will supervise all patrons entering the premises, ensure good order and ensure patrons leave in a quiet and orderly manner. They will wear yellow reflective jackets at all times whilst on duty.
- 6 Noise shall not emanate from the premises so as to cause a nuisance at the façade of the nearest noise sensitive premises.
- 7 The function room will only be used for pre-arranged functions and activities and will not operate for licensable activities after midnight each day.

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 Temple Inn, Main Road, Temple Cloud, Bristol. 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 is to be reluctant to regulate in the absence of evidence and that they must only do what is necessary and proportionate to promote the licensing objectives based on the evidence before them.

Members listened carefully to the oral representations made by the applicant, the Police and the Interested Parties. They also took account of the written representations and were careful to balance the competing interests of all the parties.

Members noted that representations had been made with regard to fire safety. They noted that such representations do not fall to be considered under the Licensing Act but are governed by The Regulatory Reform (Fire Safety) Order 2005. They therefore disregarded these representations.

They also noted that representations were made on traffic, noise and antisocial behaviour in the street away from the premises. These are also matters which do not fall within the Licensing Act and they therefore disregarded them.

Members noted that representations had been made on disorder, public safety, public nuisance and the protection of children from harm.

Members noted that no representations to the application had been made by Environmental Health, Health and Safety or the officer responsible for the protection of children.

The Members considered that the proposed measures contained in the Operating Schedule, together with the additional conditions proposed by the Police and agreed to by the applicant, would promote the licensing objectives.

They also noted that the Police had requested that the days for non-standard timings for the sale of alcohol and regulated entertainment were reduced, to which the applicant agreed at the hearing.

The applicant made much of the economic reasons as to why the application had been made, but Members acknowledged that market forces are not a licensing objective.

The meeting ended at 11.49 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**