

BATH AND NORTH EAST SOMERSET

LICENSING (GAMBLING AND LICENSING) SUB-COMMITTEE

Monday, 19th December, 2011

Present:- Councillors:- Douglas Nicol (Chair), Gabriel Batt, Dine Romero (In place of Gerry Curran) and Nathan Hartley (In place of Dine Romero for agenda items 9 and 10)

Also in attendance: Emma Stoneman (Senior Licensing Officer), Terrill Wolyn (Senior Licensing Officer) and Shaine Lewis (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 Gerry Curran, for whom Councillor Dine Romero substituted. Councillor Nathan Hartley substituted for Councillor Romero for agenda items 9 and 10.

4 DECLARATIONS OF INTEREST

There were none.

5 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

6 MINUTES: 4 NOVEMBER 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 present at the meeting.

8 APPLICATION TO VARY A PREMISES LICENCE FOR THE GREYHOUND, 1 HIGH STREET, MIDSOMER NORTON, BA3 2LE

Applicant: Punch Taverns, represented by Matthew Phipps (TLT Solicitors), Adrian Smith (Punch Taverns), Mark Ashman (Designated Premises Supervisor)

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

Interested Parties: Cllr Michael Evans, Terry Andrews, Jennifer Shore, Cllr Linda Dunford, Shaun Hughes, Mr and Mrs Harvey, Terry Bush

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

The Licensing Officer presented the report. She said that the applicant was seeking:

- to extend the terminal hour for the supply of alcohol from 01:00 to 02:00 on Fridays and Saturdays
- to maintain 30 minutes drinking up time following the last permitted sale of alcohol
- to permit the premises to open at 08:00 each day
- to remove the following condition rendered otiose by The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010:

There shall be no discounted prices on drinks, no drinks promotions and no "Happy Hours".

The Police had made a representation seeking the imposition of the following condition:

No alcohol will be consumed in any outside area after 12 midnight.

Mr Phipps stated the case for the applicant. He asked Members to focus on the essence of the application, which was a request to extend the terminal hour for the sale and supply of alcohol by one hour on Fridays and Saturdays. The application to be able to open the premises at 08:00 had nothing to do with the consumption of alcohol. The premises had recently been modernised in the style of a café. The premises were now under a new manager, with a long-term contract, unlike the temporary managers of the recent past. He believed that better management would have a positive effect on the conduct of customers. The applicant was willing to accept the condition proposed by the Police and the Police had indicated that they now supported the application. Mr Phipps suggested that some representations from Interested Parties appeared to indicate confusion about the nature of the application, which was not a review, but an application for a variation. However, having seen the representations, the applicant would now offer additional conditions should the variation be granted:

- no entry to the premises after 00:30
- two SIA-registered door staff to be employed from 9pm until the last customer left the premises on Fridays and Saturdays
- the side door not to be used by customers
- a contact phone number for the premises to be made available to local residents
- volume of music to be restricted to levels agreed with Environmental Health to encourage a process of winding down by customers before closing time

Mr Phipps responded to questions put by Members and Interested Parties.

Mr Purchase stated the case for the Police. He explained that the Police never “supported” applications; they played a neutral role and their stance was based on evidence and the feelings of the community. A major cause of concern for local residents had been the outside area. The current licence provided that “no drinking shall take place on the decking area outside the public house after 23.00 hours”, however the decking had been removed and the condition required updating.

The Interested Parties stated their cases and were questioned by Members and the Applicant.

Councillor Michael Evans said those residents who were not able to attend the hearing should have a voice. Midsomer Norton was a small market town and residents did not want people under the influence of alcohol urinating in the street and causing disturbance in the early hours. There were problems with litter. An extra hour on the licence would mean additional disturbance and nuisance for residents.

Councillor Linda Dunford said that she was speaking on behalf of many residents. She was concerned that an extra hour on the licence with half an hour’s drinking up time would mean that people would be leaving the premises at 2.30 and 3.30 in the morning. When the Greyhound had been closed for refurbishment there had been no noise or disturbance in the vicinity, but when a late event had been held under a Temporary Event Notice it had been noisier than ever. Customers of the Greyhound took their drinks outside and ran onto the main road with them. Bottles and glasses were scattered around. There had been sexual activity, vomiting and urination in the vicinity of the premises. She asked the Sub-Committee to reject the application. She felt that the application had not been properly advertised, because the notice at the premises had been obscured during the refurbishment work. An extra hour would mean that customers would be leaving the Greyhound at the same time as customers would be leaving other premises, increasing noise in the street and putting additional pressure on limited local transport services. She felt that the applicant had failed to address the licensing objectives in its application and suggested that if the licence were granted, additional conditions be attached to the licence. With the Chair’s permission a copy of her proposed conditions was tabled and a copy given to the applicant.

Terry Andrew said that he agreed with everything that Councillor Dunford had said. There was a great deal of crime and disorder in the area. Drunken people had banged on his windows and urinated against his property. Once a wounded man had been lying in the road following a drunken fight and the ambulance service had refused to attend until the police were present. He had seen three young people sitting on a wall sniffing drugs. Mr Purchase explained that the ambulance service had a policy of not attending violent incidents without a police presence.

Jennifer Shore said that she supported the attachment of the conditions proposed by Councillor Durnford. There had been shouting, violence and bad language emanating from customers of the premises. They had also been instances of public sex, drugs and underage drinking. Young people had increasing problems with alcohol. On Saturdays and Sundays she frequently had to clear mess left by drinkers

by her property. One evening there had been a large number of people sitting on a nearby wall making lots of noise.

Sean Hughes said that customers of the Greyhound ran into the street with drinks. A violent incident could flare up suddenly and be over by the time the Police, who sometimes had to come from as far away as Taunton, arrived. At premises he managed, the licence required him to have 3 door staff, but he always employed 6. He did not think that 2 door staff would be sufficient at the Greyhound. He was concerned that the premises did not comply with the Fire Regulations. There appeared to have been no noise tests carried out at the premises, and the sound insulation appeared inadequate. He was concerned about how the "winding down" period referred to by Mr Phipps would be managed. The Senior Legal Adviser noted that no representations had been received from the Fire Authority or Environment Health.

The Parties were invited to sum up.

Mr Phipps said that the applicant had no objection to the imposition of the majority of the conditions proposed by Councillor Durnford. He emphasised that today's hearing was not a review of the current operation of the premises, but the consideration of an application for an additional hour on Friday's and Saturdays for the sale and supply of alcohol only.

Councillor Evans and Councillor Durnford summed up.

Following an adjournment it was **RESOLVED** to grant the application as set out in the reasons below.

REASONS

Members have determined an application to vary a Premises Licence at The Greyhound, Midsomer Norton. 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 that which is appropriate and proportionate in the promotion of the licensing objectives on the evidence before them.

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

The applicant said the premises have been considerably refurbished and a new manager installed with a track record of turning problem premises around. He suggested that better management of the premises would lead to better conduct of its customers and that the real issue was the use of the outside areas. He therefore put forward a number of conditions to address this and promote the licensing objectives suggesting the extra hour would not have a detrimental effect on the licensing objectives. The applicant was clear in confirming that the further extra hour

referred to in the non-standard timings on the current licence would not be used on a Friday and Saturday, should the variation to extend the terminal hour for the sale of alcohol to 02:00 hours on these days be granted.

The Police stated that the premises are situated in an area which experiences incidents of antisocial behaviour, crime and disorder and residents are likely to be affected by noise nuisance from the premises. The Police therefore suggested a condition appropriate to address their concerns about crime and disorder with which the applicant agreed.

Interested parties also made representations which included a petition. However, that page of the petition that was not headed was disregarded. Nevertheless, Members noted that the representations stated the outside areas were a source of noise, particularly when drinking continued in the courtyard, and that groups of people often congregated on pavements outside causing noise and antisocial behaviour by shouting, urinating and vomiting in doorways and stepping into the path of oncoming traffic. The residents feared that granting the application would contribute to the noise and antisocial behaviour they already experienced although they did suggest a number of conditions had been suggested in the event the application were granted.

Members noted that the Police did not refer to any particular incidents of crime and disorder from customers of the premises and noted the absence of representations from the Environmental Protection team on public nuisance and the Fire and Rescue Service on public safety. Members do find a level of antisocial behaviour in the town associated with late night alcohol licensing however, none have been specifically attributed to the Greyhound.

Having considered all the evidence presented to them Members find that with the suggested conditions as appropriate and proportionate attached to the licence this will enable the premises to operate with the variation in a way that would promote the licensing objectives therefore the variation is granted subject to the following:-

1. No consumption of alcohol at the front of the premises at any time
2. No admission or re-admission after 12 midnight
3. No drinking outside the premises or in the courtyard after 11pm
4. All windows and doors to be kept closed after 10 pm except for access and egress
5. No bottles or glasses containing alcohol to be outside after 10 pm
6. No open containers of alcohol to leave the premises
7. A facility for people to dispose of cigarette ends before entering the premises to be provided
8. CCTV to be installed and maintained covering the bar, function room and courtyard areas. CCTV recordings to be kept for at least 30 days and made available to the police or licensing authority upon reasonable request
9. Signs to be erected and maintained at exits to remind people to leave quietly, to respect neighbours and not congregate in the street.
10. A sign to be erected and maintained on the exterior of the premises with a contact telephone number for the Designated Premises Supervisor
11. The Designated Premises Supervisor to invite residents and businesses to a quarterly meeting.

12. Two SIA registered door staff to be on duty on Friday and Saturday from 9 pm until the last customer has left the premises.
13. The Designated Premises Supervisor to maintain a log of complaints
14. No pedestrian access or egress through the rear courtyard
15. The side smoking area to be screened and lit.
16. No entry from or exit through the side door save for access and egress to the smoking area
17. The pavement frontage of the premises including at least 5 meters either side of the premises to be cleared of litter and detritus at the close of business each day.

Delegated authority to the licensing officer to issue the licence

9 APPLICATION TO VARY A PREMISES LICENCE FOR MIX GRILL, 4 CLEVELAND PLACE EAST, WALCOT, BATH BA1 5GJ

Applicant: Jamie Brian

Responsible Authority: Avon and Somerset Police, represented by Martin Purchase (Liquor Licensing Officer), Inspector Steve Mildren, WPC Gemma Kirby

Interested Parties: Alex Schlesinger and one other (name withheld following request for anonymity)

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

The Licensing Officer summarised the application, which was for a variation as set out in paragraph 4.3 of the report. She said that the Police strongly opposed the application, but suggested that if it were granted additional conditions should be attached to the licence as set out in paragraph 4.14 of the report. Representations had also been received from Interested Parties.

The applicant stated his case. He said that he had reopened his shop after it had been closed for a year. Usually not many people came to the shop, though it was patronised by tourists during the summer months. He mostly did home deliveries. He wished to sell alcohol because it had been requested by customers.

A Member asked the applicant to comment on the statement made by Inspector Mildren given on page 135 of the agenda that “the Police licensing officer made several attempts to discuss the application with the applicant but was told by the applicant that he was far too busy to undertake a meeting”. Mr Brian replied that he worked till 5 am seven days a week. Attendance at today’s hearing had cost him two hours trading. He had been unable to guarantee that he would be available at a specific time for a meeting with the Police.

A Member asked the applicant at what times customers came to the shop. Mr Brian replied that they generally came until midnight or later at the weekend. Working class people coming to the shop wanted to be able to buy a drink. He didn’t think that people would be leaving nightclubs and then coming to his shop to buy alcohol.

Mr Schlesinger asked the applicant if he knew how many representations the application had received from interested parties and if he understood why there were so many? The applicant replied that he did not.

The other parties stated their cases.

Mr Purchase said that over a three week period he had tried to contact the applicant. He had left several messages on his ansaphone and had emailed, but the applicant had failed to reply. The premises were located on a busy arterial route and there was a high level of crime and disorder in the area. There were already two other licensed premises nearby. Inspector Mildren said that the premises were located within the zone where drinking on the street was forbidden. It was a densely populated area which was crossed late at night by people going home. It was his view that the granting of the application would add to the level of disorder in the area. The applicant said in response that that people had easy access to alcohol

Mr Schlesinger said that there was not a great deal to add to his written representation. He said he had moved to London Road in 1995. It was a somewhat fragile community. A recent survey of 700 people had said that they were concerned about the alcohol and drugs problems in the area. It would be perverse to increase the number of outlets selling alcohol. He had had to sweep up vomit outside his property and a neighbour had had a window broken. People had been too frightened to come to a meeting to discuss the problems of disorder and anti-social behaviour in the area. There had been a murder witnessed by forty people, yet no one had been willing to come forward to make a statement.

The parties summed up.

Following an adjournment, it was **RESOLVED** to refuse the application for the reasons set out below.

REASONS

Members have determined an application to vary a Premises Licence at Mix Grill, 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 that which is appropriate and proportionate in the promotion of the licensing objectives on the evidence before them.

Accordingly, Members listened carefully to the applicant, took account of the representations from the Responsible Authority and Interested Parties and were careful to balance these competing interests. However, Members were careful to disregard matters relating to planning, parking, necessity and the safety of members of the public in the vicinity of the premises as these matters fall outside of the Licensing Act.

The applicant stated that he wanted the variation to enable him to make the most of his business. He said he provided a service to late night workers who want to eat and have a drink on the way home. He said that much of his custom is delivery based and that 90% of people attending the premises were not drunk. He said that he had invested a lot in the business but that if the committee did not want him to sell alcohol than he agreed with that. He said the area was not as bad as people had said and he felt that doing the right thing by calling the police had not helped him as it made his premises look bad.

Interested Parties stated that the area suffers from a degree of crime and disorder and nuisance in the form of fighting and shouting from customers on and outside the premises. A number of incidences have also involved staff at the premises and has often resulted in police attendance. The residents felt that to allow the variation would lead to further incidents of damage, violence and litter given the applicant does not take responsibility for the operation of his premises at present and therefore would not in the future.

The Police stated that fast food outlets are flashpoints for alcohol related crime and disorder because of the convergence of intoxicated persons on such premises whether alcohol is supplied there or not. Accordingly the Police also provided a log of incidents directly attributable to the premises. These include examples of violence against person; 29/10/10 drunk male inside the shop trying to fight staff; 19/01/11 4 or 5 males being violent inside the premises; 6/10/11 members of staff assaulted and a female outside assaulted in a separate incident and 14/07/11 a male's head is stamped on inside the premises. There are also incidents of disturbance/threats and nuisance; 14/07/11 drunk male throws bottle at the premises window; 10/07/11 male inside Mix Grill shouting; 10/06/11 shouting and disturbance and allegation of a knife being pulled and numerous allegations of intimidating behaviour and threats by and towards members of staff at Mix Grill.

Members find the premises are situated on the busy London Road. This is a main arterial route in and out of the city. Members also find the premises are located in an area with a number of other fast food outlets, shops, convenience stores, a supermarket and petrol filling station. In the circumstances noise and litter could only be attributed to these premises in part. However, Members found a level of antisocial behaviour, nuisance and crime and disorder are associated with and occurring on these premises and the licence holder is unable to cope without police attendance. Members find the premises are a crime and disorder flashpoint and further find the applicant's failure to engage with the police in this process lamentable and a demonstration of a lack of commitment to his Licensing Act responsibilities. Members also find the crime and disorder and antisocial behaviour is beyond the applicant's control and with the applicant being reluctant to engage with the police the steps he proposes are inadequate. Therefore the application is refused as there are no conditions that could reasonably be attached to promote the licensing objectives.

10 APPLICATION FOR A PREMISES LICENCE FOR KEYNSHAM MEMORIAL PARK, KEYNSHAM, BRISTOL BS31 1DG

Applicant: Keynsham Town Council represented by Dawn Drury (Deputy Town Clerk)

The Licensing Officer presented the report. Environmental Health had requested that two of the conditions proposed in the operating schedule should be reworded in order to clarify the meaning and ensure the promotion of the licensing objective. The original conditions and the proposed amended conditions were given in paragraph 4,11 of the report. The applicant had confirmed in writing their willingness to accept the amended conditions.

RESOLVED to grant the licence as applied for, subject to the amended conditions as proposed by Environmental Health.

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

REASONS

Members have determined an application for a Premises Licence for Keynsham Memorial Park. 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 that which is appropriate and proportionate in the promotion of the licensing objectives on the evidence before them.

Members noted a Responsible Authority had suggested a rewording of the steps the applicant suggested they would take to promote the four licensing objectives and that the applicant had agreed to this rewording. Members amend that wording accordingly.

The meeting ended at 2.25 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services