
PREMISES/PERSONAL LICENCES SUB-COMMITTEE 'B'

9 MARCH 2011

Present:- Councillors Mitchell (Chairman), Casey, D Oxley.

Stand-by Member:- Councillor Powell.

Also Present:- Councillor De-Vaux Balbirnie (except item 4(part)).

In Attendance:- Assistant Head of Technical and Procurement Services (Parking Services), Solicitor (WRR), Licensing Officer, Senior Democratic Services Officer, Assistant Licensing Officer.

(10.00 a.m. – 12.40 p.m.)

3. MINUTES

The minutes of the meeting of the Sub-Committee held on 27 September 2010 were approved as a correct record and signed by the Chairman.

4. LICENSING ACT 2003 – APPLICATION NO. 11/00024/PREMGR – APPLICATION FOR THE GRANT OF A PREMISES LICENCE – FEISTY FLANAGANS, 65 WEST STREET, HARWICH

The Sub-Committee had before them for their consideration an application that had been submitted by Whitewebs UK Limited for the grant of a Premises Licence in respect of the above premises.

The Chairman welcomed all those persons present to the meeting and outlined the procedure that would be followed during the hearing.

Members were made aware of the details of the licensable activities applied for and the steps that the applicant proposed to take to promote the licensing objectives, as set out in the application and as summarised in Sections 4.0 and 5.0, respectively, of item A.1 of the Report of the Head of Legal Services and Monitoring Officer.

The Sub-Committee were informed that the application had been advertised by the display of a notice on the premises and in the local press.

It was formally reported that a representation had been received from the Council's Acting Head of Environmental Services on the grounds that the licensing objectives in respect of the promotion of public safety and the prevention of public nuisance had not been satisfied. However, after discussions with the applicant the Acting Head of Environmental Services had submitted four proposed conditions to the applicant for agreement which the Acting Head of Environmental Services felt would satisfy the requirements of the aforementioned licensing objectives. Two of those proposed conditions had been accepted by the applicant and would therefore be imposed on the Premises Licence should the application be granted by the Sub-Committee. The two conditions in question were as follows:-

1. There shall be no provision of boxing or wrestling entertainment as regulated entertainment on the premises.
2. The provision of live music, dancing and anything of a similar description as regulated entertainment shall start at 10.00 hours.

The other two proposed conditions had not been accepted by the applicant and therefore the representation from the Acting Head of Environmental Services remained valid.

It was further reported that nine letters of representation had been received from local residents on the grounds that the licensing objective for the prevention of public nuisance had not been satisfied.

The Sub-Committee were advised that the applicant, the Acting Head of Environmental Services and the objectors had been invited to attend the meeting to put their respective cases.

Members were made aware that Mr Flack and Mr Webb were present at the meeting to speak in support of the application and that Mr Wilkins was present at the meeting to speak on behalf of the Acting Head of Environmental Services.

The Sub-Committee were informed that several objectors were present at the meeting and that some objectors had been unable to attend.

In the light of the above it was thereupon:-

RESOLVED – That the case be heard in the absence of Mr Yates, Mr Haddow and Mr Foulger but that their representations be considered in accordance with Section 20(3) of the Licensing Act 2003 (Hearings) Regulations 2005.

Mr Flack addressed the Sub-Committee in support of the application and answered questions raised by Mr Dale and by members of the Sub-Committee.

Mr Dale then addressed the Sub-Committee as a spokesperson on behalf of the members of the public who had raised representations on the application and he answered questions raised by members of the Sub-Committee. Mrs Goodall, Mrs Yates and Mrs Dale came forward as witnesses to put forward their comments.

Mr Wilkins, on behalf of the Acting Head of Environmental Services, then addressed the Sub-Committee in respect of his department's representation on the application and answered questions raised by members of the Sub-Committee.

Following closing statements by Mr Dale and Mr Flack it was:-

RESOLVED – That the public be excluded from the meeting pursuant to Section 100A(4) of the Local Government Act 1972 during the period when the Sub-Committee will be deliberating and considering its decision on the grounds that such deliberations involve the likely disclosure of exempt information as defined in paragraph 5 of Part 1 of Schedule 12A of the Act.

Members thereupon retired to deliberate and consider their decision. The Solicitor was asked to retire with them to advise on the legal position.

Following such deliberations the meeting was re-opened to the public. The Solicitor confirmed to all parties present that he had given no specific legal advice to Members during their retirement.

It was thereupon moved by Councillor Casey, seconded by Councillor D Oxley and:-

RESOLVED – That the decision of the Sub-Committee is as follows:-

The Sub-Committee has given careful consideration to this application. In reaching our decision we have taken into account the views expressed by the applicants, the representations received from local residents and the Council's Acting Head of

Environmental Services along with the Guidance issued by the Secretary of State and other matters set out in the Licensing Authority's own Statement of Licensing Policy.

The Sub-Committee does not agree to grant all the hours for licensable activities applied for. The hours for licensable activities that are not agreed are as follows:-

- (a) The opening hours of the premises shall be 08.00 – 00.30 hours on Monday to Sunday and not as applied for.
- (b) All licensable activities applied for shall cease at 00.00 hours on Monday to Sunday and not as applied for.
- (c) The non-standard timings applied for shall remain unchanged.

Reason – The Sub-Committee has not granted the applied for hours in respect of the opening hours of the premises on Friday and Saturday and in respect of the finishing time for all licensable activities on Friday and Saturday in the interests of the prevention of public nuisance. The Sub-Committee believed that these changes will reduce noise and disturbance and the loss of public amenity for the residents living in the vicinity of the premises.

However, subject to the above, the Sub-Committee has decided to grant the remainder of this application. In addition to any mandatory conditions and any conditions that are consistent with the operating schedule the following conditions will be imposed in order to satisfy the relevant licensing objective:-

In respect of the licensing objective for the prevention of public nuisance:-

- (1) There shall be no provision of late night refreshment or the consumption of alcohol in the rear courtyard after 23.00 hours.

Reason – There are concerns that if patrons used the rear courtyard, other than for the purpose of smoking after 23.00 hours it could impact on the noise nuisance suffered by residents.

- (2) The holder of the Premises Licence and staff shall ensure that all persons departing from the premises shall conduct themselves in such a manner to avoid causing nuisance and disturbance to occupiers of properties and residents in the vicinity during times that the Licence is in use.

Reason – The Sub-Committee have imposed this condition to try and lessen noise and disturbance and the loss of public amenity for the residents living in the vicinity of the premises.

In respect of the licensing objective for the protection of children from harm:-

- (3) The premises will adopt the "Challenge 25" Policy and adhere strictly to this policy at all times that the Licence is in use.

Reason – The Sub-Committee had imposed this condition in order to minimise the risk of underage sales of alcohol to children.

The decision will be confirmed in writing to all parties and they will also be informed that they will have the right of appeal to the Magistrates' Court within a period of 21 days beginning with the day the applicant is notified of the decision by notice.

Chairman