
PREMISES/PERSONAL LICENCES SUB-COMMITTEE 'B'

24 OCTOBER 2010

Present:- Councillors V E Guglielmi (Chairman), Shearing.

Substitute Member:- Councillor White (for Councillor G L Mitchell).

Stand-by Member:- Councillor Pugh.

In Attendance:- Legal Services Manager, Licensing Officer, Senior Democratic Services Officer, Assistant Licensing Officer, Democratic Services Officer (JCN), Licensing Assistant.

(10.00 a.m. – 11.24 p.m.)

1. APOLOGIES FOR ABSENCE

An apology for absence was submitted on behalf of Councillor G L Mitchell.

2. MINUTES

The minutes of the meeting of the Sub-Committee held on 9 March 2011 were approved as a correct record and signed by the Chairman.

3. LICENSING ACT 2003 – APPLICATION NO: 11/00711/PREMVA - APPLICATION FOR THE VARIATION OF A PREMISES LICENCE – THE WAGGON AT WIX, CLACTON ROAD, WIX

The Sub-Committee had before them for their consideration an application that had been submitted by Mr Mark Townley and Mrs Cheryl Townley for the variation of the Premises Licence held 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 current licensable activities at the premises, details of the variations 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, 5.0 and 6.0, respectively, of item A.1 of the Report of the Head of Customer Services.

The Licensing Officer drew the Sub-Committee's attention to a typographical error contained in the report and confirmed that seven letters of representation had been received in respect of this application and not two letters of representation as had been referred to in the report.

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 reported that a letter of representation had been received from the Council's Department of Public Experience (Food, Health and Safety) on the grounds that granting the application would undermine the Licensing Objective in respect of the Prevention of Public Nuisance. However, following discussions with the applicant, that representation had been withdrawn subject to the following condition being attached to the Licence (if granted):-

“The holder of the premises licence or the designated premises supervisor or any other person who at the time is in charge of the premises shall undertake routine monitoring to ensure that external levels of music are not excessive and take appropriate action where necessary, being a condition relating to the prevention of public nuisance”.

It was also reported that letters of representation had been received from seven local residents on the grounds that the Licensing Objective for the Prevention of Public Nuisance had not been satisfied. Twenty five letters of support from local residents and members of the public had been received.

The Sub-Committee were advised that the applicants and objectors had been invited to attend the meeting to put their cases.

It was reported that two objectors (namely Mr John Williams and Mr Duncan Taylor) were present at the meeting and that the other objectors were unable to attend.

In the light of the above it was thereupon:-

RESOLVED – That the case be heard in the absence of the objectors who were unable to attend, but that their representations be considered in accordance with Section 20(3) of the Licensing Act 2003 (Hearings) Regulations 2005.

Mr Townley addressed the Sub-Committee in support of his application and answered questions raised by members of the Sub-Committee and by Mr Williams and by Mr Taylor.

Mr Williams and Mr Taylor then addressed the Sub-Committee in respect of their representations on the application and answered questions raised by Mr Townley and by members of the Sub-Committee.

Following closing statements by the applicants and the objectors:-

It was moved by Councillor White, seconded by Councillor Shearing and:-

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 Legal Services Manager was asked to retire with them to advise on the legal position.

Following such deliberations the meeting was re-opened to the public. The Legal Services Manager detailed the legal advice he had given to Members during their retirement concerning whether a temporary Variation of a Premises Licence could be given.

It was moved by Councillor White, seconded by Councillor Shearing 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 applicant, the representations received from the local residents 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 decision of the Sub-Committee is to refuse this application for the following reason:-

“There is clear evidence of persistent public noise nuisance at times outside the existing hours permitted by your current licence and within those permitted hours. You indicated when questioned that on many occasions you were not aware that you had exceeded the hours for live music permitted by your existing licence and were not aware that you are responsible for noise nuisance caused by your customers in your car park. You also testified you were unaware some of your activities are ‘licensable activities’ under the Licensing Act 2003. Until we are satisfied, on balance, that these problems are unlikely to recur, we consider it would be inappropriate to grant your application for a licence.”

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

Chairman