

Licensing Sub Committee

A meeting of Licensing Sub Committee was held on Thursday, 23rd November, 2006.

Present: Cllr K Leonard, Cllr Mrs K F Nelson, Cllr B Woodhead.

Officers: J Nertney (LD); M Vaines, C Llewellyn, G Jardine (DNS).

Also in attendance: For Item 5 - Visions, Billingham - Punch Taverns Ltd (represented by Mr Murray, Counsel from Ford Warren Solicitors) Mr Jackson (Business Manager, Punch Taverns), Mr & Mrs French (Premises Licence Holders), PC Hodgson, PC Icton, Ward Councillor Mrs J O'Donnell, Mr Holden (Submitted Representation).

Apologies: There were no apologies.

731 Appointment of Chairman.

RESOLVED that Councillor Leonard be appointed Chairman for this meeting only.

732 Luigi's, 87 Lanehouse Road, Thornaby - Application for the grant of a Premise Licence under the Licensing Act 2003.

The Licensing Officer presented the report to the Committee.

Consideration was given to the application as outlined in the report by the Licensing Officer. Members noted and gave consideration to the representations that had been received from responsible authorities, namely the Council's Environmental Health and Planning Sections. It was noted that there was no representation from Cleveland Police and there was therefore no evidence before the Committee of any crime and disorder connected with the premise. Representations had been received from two persons living within the vicinity of the premises though they were not in attendance at the meeting and the Committee therefore had regard to their written representation. Members also heard oral submissions from Mrs Llewellyn on behalf of the Environmental Health Section and Mr Jardine on behalf of the Planning Section.

Mr Jardine noted that if the Applicant opened the premises for the hours sought then he would be in breach of his planning consent and liable to prosecution. The Planning consent granted on 8th December 2000 states that "the premises should be open for business between 17:00 and 23:30 hours Monday to Saturday and 17:00 to 22:30 hours on a Sunday".

Should the application be granted then the Applicant would need to ensure he obtained a variation to his planning consent. Mr Jardine noted that an application had been submitted though the officers preliminary view was to refuse the application and to reduce the hours to 00:00 with closing time at a terminal hour of 00:30 hours.

Mrs Llewellyn, then presented her submission to the Committee and explained that the Environmental Health Section had submitted a representation as they had concerns over the potential for public nuisance associated with noise from clients leaving the premises and concerns regarding the provision of late night

refreshment.

Mrs Llewellyn confirmed that she had informed the Applicant of conditions that could be attached to the licence, if granted, which would address their concerns over the likelihood of public nuisance.

Two representations had been received from persons living within the vicinity of the premises. Neither of these persons were in attendance at the Committee meeting.

The Members had regard to their written representations that had been received.

The applicant was not in attendance at the meeting so the Committee had regard to his application form.

In considering their decision members were mindful that they needed evidence on which to base their decision.

When considering their decision the Committee had regard to the Statutory guidance issued under Section 182 of the Licensing Act 2003 and the Councils Licensing Policy.

The Committee were mindful of the fact that the licensing issues were totally separate to Planning considerations. The Applicant would also have to ensure that he had the appropriate planning consent if he wished to open for the hours sought in his application.

It was noted that Environmental Health had little or no evidence concerning problems associated with nuisance from the premises. Furthermore it was noted that the conditions as suggested by the Environmental Health Officer would address the concerns of public nuisance held by the officer and some of the concerns expressed by residents in their representations.

The Committee noted that the Objectors concern was mainly connected with what could happen rather than what is happening. It was noted that the Environmental Health Officer had suggested a number of conditions that could be attached to the Licence to address the possibility of public nuisance associated with the application before the Committee.

The Committee noted that the persons who had made a representation were not in attendance at the Committee. The Members of the Committee were therefore unable to question or clarify any of the issues raised by those persons who had made a representation.

The Committee had regard to the up to date statutory guidance issued under Section 182 of the Licensing Act 2003. In particular paragraph 7.45 stated that 'in the context of preventing public nuisance, it is essential that the conditions are focused on the measures within the direct control of the licence holder. Conditions relating to public nuisance caused by the anti social behaviour of customers once they are beyond the control of the licence holder cannot be justified and will not serve to promote the licensing objectives. Beyond the vicinity of the premises these are matters for personal responsibility of

individuals under the law'.

RESOLVED that the application be granted as detailed namely:-

• Provision of late night refreshment between the following hours:-

Monday to Thursday 23:00 to 00:00

Friday to Saturday 23:00 to 01:00

Sunday 23:00 to 00:00

(with the premises been closed to the public by the terminal hour)

The Committee noted that the requirements for late night refreshment only applied after 23:00 hours. It was noted from the application that the premises intended to open for business on the following days and times:-

Monday to Thursday: from 16:00 to 00:00

Friday to Saturday: from 16:00 to 01:00

Sunday: from 16:00 to 00:00

The Committee attached the following conditions to the Licence:-

1. Any odours created from cooking on the premises shall be adequately vented and/or provided with odour control so that they do not cause a nuisance to nearby premises.
2. There shall be provided on the premises containers for the storage and disposal of waste foods and other refuse from the premises. Those containers shall be constructed, maintained and located so that access to them by vermin and unauthorised persons is prevented and arrangements shall be made for the regular lawful disposal of their contents.
3. Where the premises provide food for consumption off the premises, the public area immediately surrounding the premises shall be cleared of waste food, food containers, wrappings etc. at the end of trading on each day. Such refuse shall be placed in a container designed for the storage and disposal of refuse and waste foods which shall be constructed, maintained and located so that access to it by vermin and unauthorised persons is prevented and arrangements shall be made for the regular lawful disposal of their contents.
4. Have appropriate systems in place to control pest infestations, such as a pest control contract.
5. Use appropriate management controls to reduce the likelihood of customers causing noise disturbance when using the premises.
6. The use of the rear yard at the premises should be limited to 23:00 to prevent noise nuisance affecting nearby premises.

As well as the conditions placed on the licence by Committee it was noted that mandatory conditions would also be placed on the Licence as detailed under the Licensing Act 2003. In addition the steps set out in the Applicants operating schedule at Section Q of his application will also be converted into conditions to be placed on the licence where it was reasonably practicable for them to be

converted into conditions.

733 Visions, 18 Station Road, Billingham - Application for the variation of a Premise Licence under the Licensing Act 2003.

The Licensing Officer presented the report to the Committee.

Consideration was given to the application as outlined in the report by the Licensing Officer. Members noted and gave consideration to the representations that had been received from responsible authorities, namely the Council's Environmental Health Section. It was noted that there Cleveland Police had submitted a representation but that this had been withdrawn following the Applicants agreeing to amend the application and agree conditions to be placed on the licence. Representations had been received from eight persons living within the vicinity of the premises. The Ward Councillor was in attendance to represent two of these and Mr Holden also attended to make his representation. The Committee had regard to the written representations from those persons living within the vicinity of the premises who were not in attendance at the meeting. Members also heard oral submissions from Mrs Llewellyn on behalf of the Environmental Health Section.

PC Hodgson stated that the Police had withdrawn their representation after the Applicant agreed to amend his application and reduce the hours sought for the supply of alcohol and provision of regulated entertainment. The Applicant had also agreed to conditions been placed on the licence which in the view of Cleveland Police addressed the Crime and Disorder objective.

Mrs Llewellyn, then presented her submission to the Committee and explained that the Environmental Health Section had submitted a representation as they had concerns over the potential for public nuisance associated with noise from entertainment and from clients leaving the premises.

Mrs Llewellyn confirmed that she had informed the Applicant of conditions that could be attached to the licence, if granted, which would address her concerns over the likelihood of public nuisance.

The Applicant had not been willing to agree to all of the requested conditions as there was some uncertainty as to whether there would be an external smoking area at the premises. Mrs Llewellyn was aware that an amended plan had been put before the Planning Committee which did not include an outside smoking area.

Eight representations had been received from persons living within the vicinity of the premises.

Mr Holden a resident of Station Road, Billingham, was in attendance and stated that he was concerned about noise outside the premises. He had concerns over bottles and glasses leaving the premises as this was already a problem caused by other licensed premises in the area. Mr Holden also had concerns over parking issues.

Councillor O'Donnell, the Ward Councillor, was in attendance at the meeting and represented Mrs Wood and Mrs Crawford who lived within the vicinity of the

premises. The premises was located very close to residential properties. There were concerns over parking and traffic in the area.

The Members also had regard to the written representations that had been received from persons who were not in attendance at the meeting.

Mr Murray on behalf of the Applicant informed the Committee that the premise had an existing licence allowing it to open till 23:00 with 20 minutes drinking up time. It was accepted that under previous management the premise caused some problems but this was now a clean sheet and Punch Taverns should be given the opportunity to prove themselves as they were responsible operators. The new management wished to integrate themselves with the local community. Agreement has been reached with the Police reducing the hours sought and agreeing to conditions.

The Management were happy to meet with any local residents perhaps on a weekly basis to see whether there are any problems been experienced. If so Mr French will do all in his power to address these.

Mr Murray stated that the Applicant was happy to agree that bottles will not be disposed off after 19:00.

With regard to the conditions requested about the outside smoking area he would suggest that these are preceded by the words "in the event of there been an outside smoking area"

Mr Murray stated that he did not feel there was a justification for a noise limiter at this time as the Applicant was agreeing to address any potential noise nuisance from the premises. They had agreed that any music should be played indoors only.

In considering their decision members were mindful that they needed evidence on which to base their decision.

When considering their decision the Committee had regard to the Statutory guidance issued under Section 182 of the Licensing Act 2003 and the Councils Licensing Policy.

It was noted that Environmental Health had evidence concerning problems associated with nuisance from the premises when it was operating a number of years ago. It was noted that the premise had been shut for some time and that it was now under new management. It was noted that the conditions as suggested by the Environmental Health Officer would address the concerns of public nuisance held by the officer and some of the concerns expressed by residents in their representations.

The Committee noted that the Objectors concern was mainly connected with what could happen rather than what is happening. There was a history of complaints connected with the premise. It was noted that the Environmental Health Officer had suggested a number of conditions that could be attached to the Licence to address the possibility of public nuisance associated with the application before the Committee. The Applicant had also agreed to reduce the hours sought and had varied his application to reflect this. The Applicant had

also agreed conditions with Cleveland Police to address the Crime and Disorder objective.

The Committee noted that five of the persons who had made a representation were not represented at the Committee. The Members of the Committee were therefore unable to question or clarify any of the issues raised by those persons who had made a representation and were not in attendance.

The Committee had regard to the up to date statutory guidance issued under Section 182 of the Licensing Act 2003. In particular paragraph 7.45 stated that 'in the context of preventing public nuisance, it is essential that the conditions are focused on the measures within the direct control of the licence holder. Conditions relating to public nuisance caused by the anti social behaviour of customers once they are beyond the control of the licence holder cannot be justified and would not serve to promote the licensing objectives. Beyond the vicinity of the premises these were matters for personal responsibility of individuals under the law'.

RESOLVED that the application be granted as detailed namely:-

- The supply of alcohol and provision of live and recorded music and facilities for dancing inside the premises between the following hours:-

Monday to Thursday 10:00 to 00:00

Friday to Saturday 10:00 to 01:00

Sunday 10:00 to 00:00

(with the premises been closed to the public 30 minutes after the terminal hour)

- A further additional hour into the morning following every Friday, Saturday, Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday weekend.
- A further additional hour into the morning following every Thursday, Friday, Saturday, Sunday and Monday for the Easter Bank Holiday weekend.
- A further additional hour every Christmas Eve
- A further additional hour every Boxing Day, and to reflect New Years Eve/Day hours.

The Committee attached the following conditions to the Licence:-

1. A representative from management will attend Billingham Pub Watch four times per year unless due to unforeseen circumstances when the Police will be informed.
2. A Digital CCTV system will be installed and maintained. Discs shall be retained for a minimum of one calendar month and be made available to the Council and Police if requested.
3. A drugs safe will be installed with a register kept.

4. A written drugs policy will be adopted.
5. Secure bottle bins will be on site.
6. An incident book will be kept.
7. During the hours of 21:00 and closing a minimum of three SIA door staff will be employed on a Friday and Saturday evening.
8. All external doors and windows shall be kept closed when regulated entertainment is being provided except in the event of an emergency. Any music played within the premises shall not cause a disturbance at the nearest residential premises. Any music shall be played indoors only.
9. In the event that there is an outside smoking area/beer garden at the premises a lobby area should be provided to the rear door. A double door leading to the smoking area/beer garden with an independent ventilated space shall prevent the escape of music from the premises and smoke ingress. Self closing devices shall be provided to the doors to ensure they remain in the closed position while not in use.
10. The Licence holder or his representative shall conduct periodic assessments of the noise coming from the premises when used for regulated entertainment and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be made of those assessments and shall include the time and date of the checks, the person making them and the results including any remedial action. All records shall be retained for one year.
11. Use appropriate management controls to reduce the likelihood of customers causing noise disturbance to local residents when vacating the premises. This should include placing at all exits from the premises, in a place where they can be seen and easily read by the public, notices requiring customers to leave the premises and the area quietly. (Note, This may also include a reference to vehicles).
12. In the event that there is an outside smoking area/beer garden at the premises then food and drink shall not be consumed in that external area to the rear of the premises after 23:00. There shall be no music played in the external smoking area/beer garden, and no use of flood lighting likely to cause a nuisance to local residential properties.
13. Disposal of bottles into waste containers outside the premises shall be limited from 09:00 to 19:00
14. A relay system shall be installed to the fire door(s) to the rear of the premises and shall thereafter be maintained in good working order.
15. On receipt of a request from a member of the public, whether in writing or orally, the Management of the premises shall arrange a meeting to discuss their complaint or issues within seven days at a mutually acceptable location.

The Committee were of the view that there was no justification for requiring a noise limiting device at this time. It was noted that should complaints be received from local residents in the future then this issue could be taken up by the EHO with the management of the premises who could agree to the installation without the need for a review of the premises licence.

As well as the conditions placed on the licence by Committee it was noted that mandatory conditions would also be placed on the Licence as detailed under the Licensing Act 2003. In addition the steps set out in the Applicants operating schedule at Section P of his application will also be converted into conditions to be placed on the licence where it is reasonably practicable for them to be converted into conditions.

734 Georgia Browns, 22 Dovecot Street, Stockton on Tees - Application for the variation of a Premise Licence under the Licensing Act 2003.

Members were informed that as the representations from the Police and Environmental Health had been withdrawn the item had been withdrawn the agenda.