

Licensing Sub Committee

A meeting of Licensing Sub Committee was held on Tuesday, 6th January, 2009.

Present: Councillor Woodhead, Councillor Lewis

Officers: M Vaines (DNS), J. Nertney (LD)

Also in attendance: Stevensons of Oxbridge represented by Mr Hook, Solicitor, Mr Baker (Lockett & Co, Licensing Consultants), Mr Stevenson

Residents, Cllr Rix (Ward Councillor), C. Snowdon (Environmental Health)

Apologies: Cllr Large

**LSC
49/08** **Appointment of Chairman**

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

**LSC
50/08** **Declarations of Interest**

There were no declarations of interest.

**LSC
51/08** **Stevenson of Oxbridge, 83 - 89 Oxbridge Lane, Stockton
Application for Grant of a Premise Licence under the Licensing Act 2003**

The Chairman introduced all persons who were present and explained the procedure to be followed during the hearing.

The Licensing Officer presented the report to the Committee, and consideration was given to the application as outlined in the report. Members noted that a representation had been received from Environmental Health and Trading Standards. It was noted that Trading Standards had agreed eight conditions with the applicant to be attached to the licence, should it be granted, and that on this basis they had agreed to withdraw their representation. None of the other responsible authorities/statutory consultees, including the Police, had made a representation. Representation had been received from twenty nine persons living within the vicinity of the premises. Local residents were represented at the Committee by Councillor Rix, the Ward Councillor.

Mr Hook, on behalf of the applicant, was invited to initially address the question of whether the premises was excluded from holding a licence under Section 176 of the Licensing Act 2003.

Mr Hook had regard to the provisions of Section 176(1) of the Licensing Act 2003 and stated that the applicants intention was to redevelop the site of the premise creating a much larger retail space. At the present time the retail space was under 700 square feet and it was intended to develop the site to provide approximately 3000 square feet of retail space. It was proposed that the redevelopment costs would be in the region of £800,000 to £1,000,000. Planning permission had already been obtained for the proposed development.

Mr Hook suggested that a premises licence may be granted even though it may

be excluded from time to time from supplying alcohol and that it would be a matter for the premises licence holder to monitor the premise and ensure that the provisions of the act were complied with. It would also be a matter for the enforcement authorities to monitor.

Projected figures had been provided by Mr Baker from Lockett and Co, Licensing Consultants, in support of the application. Mr Hook explained that Mr Baker had many years experience in dealing with such applications around the country. Mr Hook explained that when projecting the figures they underestimated to ensure an accurate picture was provided.

Mr Hook submitted that this should satisfy the Committee that the premise was not excluded from holding a licence to supply alcohol under the Licensing Act 2003.

The Chair invited questions of Mr Hook and Mr Baker.

Mr Hook stated that retail figures would be monitored at a premise to ensure that the premise was not excluded and that monitoring normally took place over quarterly periods from point of sale information/data.

Mr Baker confirmed that the projected figures related only to projected sales of general goods and fuel and did not include any projected alcohol sales.

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

The Committee had a lengthy debate about whether the premise was excluded from holding a licence under the provisions of Section 176 of the Licensing Act 2003. The Committee noted that the only evidence on which they had to base their views were projected figures produced by Mr Baker from his previous experience in dealing with similar applications. The Committee noted that the projected figures did not include any alcohol sales and projected a month on month increase in sales of food and non fuel purchases. However the premise had not been redeveloped yet and any evidence presented was merely a projection. The Committee had not been presented with any evidence to show that the projected figures were based on a "like by like" comparison of similar premises with similar competitors etc.

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

After giving due consideration to all of the evidence the Committee agreed that there was insufficient evidence at the time to demonstrate the primary use of the premise. The Committee therefore decided to defer consideration of the application until the premise had been redeveloped and the applicant could provide accurate data and sales figures to demonstrate the primary use of the premise. The Committee suggested a minimum of six months trading before data is supplied and the Committee reconvenes to consider the application.

RESOLVED that consideration of the application be deferred for a minimum of six months in trading for data to be gathered to demonstrate the primary use of the premise.

