

## Licensing Sub Committee

A meeting of Licensing Sub Committee was held on Tuesday, 20th October, 2009.

**Present:** Cllr Jim Beall, Cllr Roy Rix and Cllr Bill Woodhead.

**Officers:** M Vaines (DNS); Mrs J Douglas (LD).

**Also in attendance:** Applicant: Mr Emadi (in attendance) – also in attendance were Mr Emadi's son and daughter (Mr S Emadi and Miss K Emadi).

**Apologies:** None.

### **LSC 13/09 Appointment of Chairman**

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

### **LSC 14/09 Declarations of Interest**

There were no interests declared.

### **LSC 15/09 Da Vinci, 48A High Street, Yarm, Stockton on Tees - 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. Consideration was given to the application as outlined in the report. Members noted and gave consideration to the representations that had been received. The Applicant informed the Committee that conditions had been agreed with Cleveland Police. The applicant had also agreed a number of conditions with the Councils Environmental Health Section. Six representations had been received from persons living within the vicinity of the premises.

The Committee noted that the Applicants had agreed the following conditions with the Police which would be placed on the Premises Licence. On agreement of the conditions the Police had withdrawn their objection:-

1. Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals and for consumption by such persons as an ancillary to their meal. However, an exception is made for persons accompanying those partaking in a meal, so long as the numbers do not exceed 10% of the total number of persons in the premises at any given time.
2. A colour digital CCTV system must be installed with recordings kept for 31 days and to be made available to Police and other responsible authorities upon request. All staff must be trained in use of CCTV system.
3. Staff training must take place every three months. Records must be maintained and signed by the staff to confirm that training has been completed. Records must be made available to Police and Licensing Officers on request.

4. A member of staff will attend Pub Watch meetings four times a year.

Mr Emadi (Applicant) informed the Committee that the application was for a restaurant which would be serving food and alcohol. He noted that conditions had been agreed with the Police and Environmental Health. Mr Emadi noted the concerns of persons living within the vicinity of the premise and stated that in relation to the complaint from HBOS he would be putting down acoustic underlay to prevent noise nuisance.

Mr Emadi stated that he has been in the licensed trade since 1995 when he traded from other premises in Yarm. Mr Emadi stated that he has never had any problems with the Police.

The Committee had regard to the representations which had been received from six persons living within the vicinity of the premise.

A representation had been made by Environmental Health. The Applicant had agreed conditions which addressed the concerns of Environmental Health and would it was hoped address some of the concerns of those persons who had objected to the application.

The agreed conditions were:-

1. Refuse such as bottles shall be disposed of from the premises at a time when it is not likely to cause a disturbance to residents in the vicinity of the premises.
2. All external doors and windows shall be kept closed when regulated entertainment is being provided except in the event of an emergency. Any live and recorded music played within the premises shall be inaudible at the nearest residential premises. Any music shall be played indoors only.
3. 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.
4. 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.)
5. The ventilation and extraction system shall be operated and maintained in accordance with the manufacturers recommendations including the frequency of replacement of any filters.
6. Carry out weekly checks of the drainage system to ensure both the grease filter and the drains are maintained and operating so as to allow free flowing disposal of waste water. All waste water from the premises shall be disposed

of through a grease filter. Waste oil will be removed from the premises in containers for proper disposal and not through the drainage system.

7. 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.

8. The ventilation and extraction system shall be operated and maintained in accordance with the manufacturers recommendations including the frequency of replacement of any filters.

9. There shall be provided at 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.

10. Have appropriate systems in place to control pest infestations, such as a pest control contract.

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.

Members had regard to the oral representations made to them and the six representations from persons living within the vicinity of the premises.

The Committee noted that the Objectors concerns were general in nature and were concerned about what may happen rather than having any evidence that the premise would cause a problem. The Committee were mindful of relevant case law which indicated that residents fears over an application were not sufficient grounds for refusal.

The Committee were satisfied that the likelihood of noise nuisance from the premise was minimal and in addition a number of conditions had been agreed with Environmental Health which would address any potential for nuisance.

The Committee noted that the persons who had made representations were not in attendance at the Committee meeting. The Committee were satisfied that if the application was granted the licensing objectives would not be undermined. It was noted that the Police had agreed conditions and withdrawn their representation and they were therefore satisfied that the crime and disorder objective would not be undermined.

RESOLVED that:-

- The application be granted for live, recorded music and dancing between the following hours:- Monday to Sunday: 11:00 to 23:30

- The application be granted for the supply of alcohol between the following hours:-

Monday to Sunday: 11:00 to 23:30 (with the premises been open for an additional 30 minutes as a wind down period/drinking up time)

- Provision of late night refreshment between the following hours:- Monday to Sunday: 23:00 to 23:30
- Hours premises are open to the public:- Monday to Sunday: 08:00 to 24:00

On New Years Eve all licensable activities shall be extended to 02:00 hours the following day with the premises been shut 30 minutes after the provision of licensable activities.

- In addition to the conditions as agreed with Cleveland Police the following conditions were attached to the licence:-

1. Refuse such as bottles shall be disposed of from the premises at a time when it is not likely to cause a disturbance to residents in the vicinity of the premises.

2. All external doors and windows shall be kept closed when regulated entertainment is being provided except in the event of an emergency. Any live and recorded music played within the premises shall be inaudible at the nearest residential premises. Any music shall be played indoors only.

3. 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.

4. 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.)

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