

Licensing Sub Committee

A meeting of Licensing Sub Committee was held on Friday, 12th November, 2010.

Present: Cllr Alan Lewis, Cllr Maurice Perry and Cllr Bill Woodhead.

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

Also in attendance: Applicant:- Barracuda Pubs and Bars Company Limited (represented by John Gaunt, Solicitor) Mr Brown (Area Manager, Baracuda), Mrs Smith (Designated Premises Supervisor).

Persons living with the vicinity of the premises:-
Three of the persons were in attendance to state their objections to the application.

Cllr Mick Eddy (Observer as Ward Councillor).

Apologies: None.

LSC 37/10 **Appointment of Chairman**

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

LSC 38/10 **Declarations of Interest**

There were no interests declared.

LSC 39/10 **The Griffin, Bader Avenue, Bassleton Court, Thornaby - Application for 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. Representations had not been received from any other responsible authorities. Members also heard submissions from Mrs Twinn and Mrs Norman who live within the vicinity of the premises and had made a representation.

Mr Gaunt (Solicitor representing the applicant) made it clear that the application was for a variation to two of the conditions and was not a review of the licence. The application concerns two fairly narrow issues, namely variation to conditions 5 and 9 in annex 3 of the licence. Mr Gaunt stated that in his view substantial agreement had been reached to satisfy the concerns of the Environmental Health Officer (EHO).

Mr Gaunt stated that although there were a number of representations there isn't a consistent pattern in these as some are concerned about the beer garden and some about noise from entertainment. The representations also contain a number of issues which were not relevant to the application for variation.

The initial application was for 24 occasions for live entertainment to be held under the licence but the applicant was now prepared to listen to the concerns of residents and reduce this to 12 occasions.

The applicant was seeking to manage the activities of customers who wished to smoke. In the opinion of the applicant the best control was to have them within an outside area of the pub rather than having them smoke in the car park or the area to the front of the premises.

The EHO then presented their 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 using the beer garden and from entertainment.

The EHO confirmed that he had held constructive discussions with the Applicant in order to reach agreement on conditions that could be attached to the licence, if granted, which would address their concerns over the likelihood of public nuisance.

The EHO stated that the Environmental Health section did receive complaints in 2008 but that these had been addressed with the management of the premise.

Mr and Mrs Norman, residents of Kintyre Drive and Mrs Twinn a resident of Bader Avenue were in attendance to state their representation. In addition the Committee noted that eight other representations had been received along with a petition.

Mrs Twinn stated that her bedroom overlooked the pub and she can hear deep bass sounds when music was played in the premises. The noise from the beer garden was also horrendous. Mrs Twinn stated that she did complain about the premise in 2008 but that since that time had not lodged any further complaints as she felt there was little point.

Mrs Norman stated that she did not feel this was a community pub as claimed by the applicants representative. The pub attracted a lot of people from the Thornaby area and not just those living in estates and roads close by. The numbers of people attracted to the pub had increased since another local pub was shut down. Mrs Norman stated that she complained to Environmental Health in the summer when the noise from the charity event was intrusive.

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 considered the representations that had been received and the oral evidence from the three persons who were in attendance at the Committee. The petition was general in nature and did not give specific details relating to the licensing objectives.

It was noted that many of the residents concerns in the representations were based on the fear that there could be an increase in nuisance and disorder if the variation application was granted. The Committee were mindful of relevant case law on this issue and in particular the case of Daniel Thwaites which in summary stated that residents concerns or fears cannot be used as a prima

facie case to refuse an application. If an application was to be refused it had to be based on evidence. Although there had been some complaints about the premise these were mainly in 2008 and there was little evidence of sustained or recent complaints from local residents. Although Mrs Twinn stated that she felt there was little point in complaining the Committee had to base their decision on evidence. Mrs Twinn and the other persons who made representations were advised that if they had complaints about a premise then without reporting them the relevant authorities would be unaware if there was an issue that needed resolving.

It was noted that Cleveland Police had not submitted a representation and therefore there were no police statistics available detailing crime and disorder associated with the premises. Furthermore it was noted that the conditions as agreed with the Environmental Health Officer would address the concerns of public nuisance held by the officer.

The Committee had regard to the up to date statutory guidance issued under Section 182 of the Licensing Act 2003.

RESOLVED that:-

The amended application be granted for variation of conditions in annex 3, condition 5 and 9 namely:-

- Consumption of alcohol in the beer garden shall only take place between 09:00 and 22:30. There shall be no music played in the beer garden, and no use of flood lighting likely to cause a nuisance to local residential properties.
- Amplified music will be permitted to be played within the premises on 12 occasions per year. Amplified live music will not be permitted beyond 23:00 hours.

The Committee attached the following conditions to the Licence:-

1. Use appropriate management controls to reduce the likelihood of customers causing noise disturbance to local residents when using the beer garden.
2. Any live entertainment to be held on the premises must be notified to the Councils Environmental Health Section a minimum of 48 hours prior to the event.