
LICENSING SUB COMMITTEE B

A meeting of the Licensing Sub Committee B was held on 23 August 2005.

PRESENT: Councillor Regan (Chair); Councillors J A Jones and A E Ward.

OFFICIALS: C Arbuthnot, J Dixon, I Nicholls, S Ratcliffe, S Wears and S Vickers.

ALSO IN ATTENDANCE: On Behalf of the Applicant – Spirit Group Ltd:-

C Dickens – Licensee
M Craddock – Area Manager, Spirit Group
Mr Price – Legal Representative

Police Representative:-
PC Graham (Licensing Unit)
Mr Greer (Legal Representative)

**** DECLARATIONS OF MEMBERS' INTERESTS**

There were no Declarations of Interest made by Members at this point of the meeting.

LICENSING ACT 2003: APPLICATION TO VARY PREMISES LICENCE – THE GRENADIER, TRIMDON AVENUE, ACKLAM, MIDDLESBROUGH – REF NO: MBRO/PR0102/018486

The Head of Community Protection submitted a report outlining an application to vary the premises licence for the Grenadier, Trimdon Avenue, Acklam, Middlesbrough, Ref No. MBRO/PR0102/018486 as follows:-

Summary of Current Licensable Activities

Sale by retail of alcohol for consumption on and off the premises.
Recorded music, Live music, Dancing, Provision of Late Night Refreshment.

Summary of Current Hours of Licensable Activities

11.00am – 11.00pm Monday to Saturday
12.00 noon – 10.30pm Sundays.

Summary of Proposed Variation of Licensable Activities

As above.

Summary of Proposed Variation to Hours for Licensable Activities

10.00am – 12.00 Sunday - Wednesday.
10.00am – 1.00am Thursday – Saturday.
Premises to remain open for a period of one hour after the end of other regulated activities.
Premises shall open for the above activities for an additional hour on specified dates throughout the year.

Full details of the Application and Operating Schedule were attached at Appendix 1 to the submitted report.

The Chair introduced those present and outlined the procedure to be followed at the meeting.

The applicant's legal representative was present at the meeting and confirmed that copies of the report and Regulation 6 Notice had been received.

The Senior Licensing Officer presented the report which was confirmed as being an accurate reflection of the facts by the applicant's legal representative. Members were advised that

following negotiations prior to the meeting, the applicant had agreed to amend the submitted Operating Schedule to reflect the conditions requested by the Police, subsequently, allowing them to withdraw their representations.

Applicant in Attendance

The Legal Representative acting on behalf of the applicant, Spirit Group Ltd, presented the case in support of the application to vary the hours. The Committee was advised that, following discussions with the Police prior to the meeting, the applicant was willing to amend the submitted Operating Schedule to reflect nine of the conditions requested. The tenth proposed condition, that two registered SIA qualified door supervisors be employed from 11.00pm until closure of the premises every Thursday, Friday and Saturday where the premises was to open after midnight, was withdrawn as the applicant agreed to withdraw the request for a terminal hour of 1.00am Thursday to Saturday. Therefore, the applicant was now requesting a variation in hours from 10.00am to 12.00 midnight daily, with a 30 minute 'drinking up' period and also withdrew the application relating to non-standard timings.

The conditions agreed between the applicant and the Police prior to the meeting were outlined within the Police representation attached at Appendix 2 to the submitted report, and the applicant's legal representative confirmed that the operating schedule would be amended to reflect the conditions requested.

The applicant's legal representative referred to Appendix 3 of the report which contained a representation from the Council's Environmental Health Team and a letter dated 1 July 2005 which had been sent to the Spirit Group's Head Office in Staffordshire. The letter requested additional information by 10 July 2005 to enable the Environmental Health Team to assess the application in detail. The legal representative stated that both the Area Branch Manager and the Licensee of the Grenadier had no knowledge of the letter.

The Chair expressed concern that the Area Branch Manager and Licensee had no knowledge of the letter in question and announced that the Committee wished to retire to obtain legal advice.

Those present, other than representatives of the Council's Legal Services and Members' Office, withdrew whilst the Committee obtained legal advice. Subsequently, all interested parties returned to the meeting.

The Chair stated that there was no evidence to suggest that the letter had not been sent and queried the reason why the Area Branch Manager and Licensee had been unaware of it. The applicant's legal representative responded that he was not suggesting that the letter had not been sent but was simply highlighting that the Spirit Group Head Office had not forwarded it on to the Area Branch Manager or Licensee.

Relevant Representations

A representation had been received from Cleveland Police on 30 June 2005 objecting to the application to increase the hours on the grounds of the prevention of crime and disorder, prevention of public nuisance and the protection of children from harm, attached at Appendix 2 to the submitted report. Prior to the meeting, agreement had been reached with the applicant to amend the submitted Operating Schedule to include a number of conditions allowing the Police to withdraw their representations to the application.

A representation had been received on 25 July 2005 from Middlesbrough Council's Environmental Health Team objecting to the application to increase the hours on the grounds of public nuisance and was attached at Appendix 3 to the submitted report.

A representation had been received on 26 July 2005 from Councillor Rogers in his capacity as a local resident, objecting to the application to increase hours on the grounds of public nuisance and was attached at Appendix 4 to the submitted report.

Representations from Cleveland Police

The Police representative confirmed that the applicant had agreed to amend the submitted operating schedule to reflect the conditions requested by the Police, allowing the Police to withdraw their representations.

Representations from Environmental Health

The Environmental Health Officer was in attendance at the meeting and was invited to present the objections to the application to vary the hours on the grounds of a potential increase in public nuisance.

The Environmental Health Officer recommended that the application to increase the hours be refused due to the location and character of the premises which were situated within a residential area and that the potential increase in public nuisance would impact on local residents. Reference was made to the Council's Licensing Policy which recommended licensing hours of 11.00pm be encouraged for licensed premises in predominately residential areas.

The Environmental Health Officer advised that the letter dated 1 July 2005 sent to the Spirit Group Head Office had requested additional information on seven separate points in order to properly assess the application which was considered to fail to adequately address the potential increase in public nuisance in the future. It was confirmed that no response had been received.

Further information was provided in relation to six visits made to the premises by the Environmental Health Noise Patrol Team between 23 July 2005 and 20 August 2005. The following observations were made on three separate visits:-

- A band was playing inside the premises at 12.15am with windows open and audible base noise recorded. The inspecting officer had spoken to the licensee in relation to the incident.
- Six people drinking outside at 11.10pm, cars observed entering the car park and playing loud music with windows open – noise audible from inside nearest residential property.
- A number of people observed to be sitting on the wall outside the premises with the side doors of the premises open at 11.30pm. On inspection inside the premises, customers were observed with full drinks and no indication of the premises closing.

The Area Branch Manager questioned how many complaints had been received by the Environmental Health Team in relation to noise disturbance from the premises. It was confirmed that one complaint had been received recently in respect of noise, with a total of two to three complaints received over the past two to three years. The Environmental Health Officer added that the Noise Team had attempted to consult with the licensee and manager of the premises but there had been no improvement.

The Chair asked the licensee to confirm whether she had been visited by the Environmental Health Officers. In response, the licensee confirmed that she could only recall one occasion in July 2005 when the Environmental Health Team had visited the premises and spoken to her regarding the band playing at 12.15am and had not been aware of any further visits being made.

The applicant's legal representative stated that the premises had a good history which was reflected by the fact that very few complaints had been made regarding the premises in the past two to three years. It was further stated that the letter which had been sent to the Spirit Group from the Environmental Health Team made no reference to the running of the premises and that the points raised within the letter related to certain conditions which could be dealt with through consultation between the applicant and Environmental Health.

Members were given the opportunity to ask questions of the Environmental Health Officer and the applicant and the following issues were raised:-

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- The Area Branch Manager confirmed that the applicant would be willing to take action to reduce noise emanating from the premises but would request sight of the noise reports from Environmental Health.
 - The applicant would consider the possibility of installing an air cooling system to prevent windows and doors being opened during periods of warm weather.
 - The Environmental Health Officer believed three possible conditions could be considered in relation to noise: closure of doors and windows by 11.00pm when entertainment was taking place; a relay system to be attached to the fire door which would automatically cut off electrically amplified sound if the fire door was opened; and, to install noise limiting equipment in consultation with Environmental Health.

In response to the possible conditions highlighted by Environmental Health, the applicant's legal representative pointed out that if a condition was attached for windows and doors to be closed by 11.00pm, that the door into the beer garden would still be used and as the Police had no objection, he considered it reasonable for the beer garden to be in use up to 11.30pm.

The Chair proceeded to examine the letter sent to the Spirit Group by Environmental Health and asked the applicant to answer as many of the points raised as possible. The following issues were highlighted:-

- Ventilation of the premises was currently achieved by opening of windows and doors, however, the applicant was willing to consider the installation of an air conditioning system.
- The capacity of the venue was 200 persons.
- The current method of controlling noise levels during entertainment was to ensure noise was kept down and by closing doors and windows later in the evening. The applicant hoped to have air conditioning installed by next summer.
- Travel methods of the majority of customers was by foot, as they lived locally, or by taxi.
- Confirmed that all staff received rigorous training, lasting 26 weeks, which included requirements in relation to noise levels and that the applicant would be willing to liaise with Environmental Health in future to set appropriate sound levels.
- In terms of noise created by patrons leaving the premises, the applicant would be willing to affix notices asking patrons to leave quietly and have consideration for local residents.
- Confirmed that no entertainment or music would be transmitted to the area outside the premises and that the beer garden seated up to 12 people.

In response to a question from a Member, the applicant confirmed there was no intention to provide door supervisors for the 30 minute drinking up period after 12.00 midnight as it was not anticipated that there would be an excessive number of patrons still present at that time and that there had been no problems in the past with asking patrons to leave at closing time.

It was confirmed that there were no further questions and those present, other than representatives of the Council's Legal Services and Members' Office, withdrew whilst the Committee determined the application.

Subsequently, all interested parties returned to the meeting whilst the Chair announced the Committee's decision.

Decision

ORDERED as follows:-

1. That the Application to Vary the Premises Licence be granted for the following hours:-

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- i) 10.00am to 12.00 midnight Monday – Sunday, with a 30 minute ‘drinking up’ period and that the beer garden be cleared by 11.30pm.

2. Subject to the following conditions:-

- i) The additional conditions agreed with the Police prior to the meeting, in relation to Prevention of Crime and Disorder and Prevention of Public Nuisance.
- ii) That all windows and doors of the premises remain closed after 11.00pm.
- iii) That signage be fixed inside the premises requesting patrons to leave in a quiet and orderly manner.
- iv) That sound limiting equipment be installed, at a level to be agreed with the Environmental Health Noise Team, by 24 November 2005.
- v) That no entertainment or music be provided in the beer garden or car park outside the premises.

3. The reasons for the decision were based on the following:-

- i) The application was considered on its own merits, taking into account the four licensing objectives of the Licensing Act 2003, and the information contained within the submitted report.
- ii) Consideration was given to the following paragraphs of the Government Guidance:-
 - Paragraph 7.20 onwards including Annex D, in relation to Crime and Disorder.
 - Paragraph 7.38 onwards including Annex G, in relation to Public Nuisance.
 - Paragraph 7.47 onwards including Annex H in relation to Protection of Children from Harm.
- iii) Consideration was given to the following sections of the Council’s Licensing Policy:-
 - Page 10, particularly paragraph 42, in relation to Licensed Premises in Residential Areas.
 - Pages 10 to 15, particularly paragraph 38, in relation to the Prevention of Nuisance.
 - Pages 17 and 18 in relation to Crime and Disorder.
 - Pages 19 to 22 in relation to the Protection of Children from Harm.
- iv) Consideration was given to the case presented by the applicant.
- v) Consideration was given to the representations made by Environmental Health.
- vi) Consideration was given to the written representation from Councillor Rogers in his capacity as a local resident.