
LICENSING SUB COMMITTEE B

A meeting of the Licensing Sub Committee B was held on 6 September 2005.

PRESENT: Councillor Regan (Chair), Councillors Biswas and Elder.

OFFICIALS: M Cooper, A Gray, J Hodgson, P MacGregor and S Wears.

****ALSO IN ATTENDANCE:**

Agenda Item 4:

Premises: – The Fountain, High Street, Ormesby.

Mr W Myers, Director and Mr I McGee, Operations Manager (Nest Way Limited) - Applicant

Agenda item 5:

Premises: Southern Cross, Dixons Bank, Middlesbrough

Matthew Elliott Asker, Premises Manager,

Darren Lutey, Solicitor – Representing Spirit Group Limited

Councillor A E Ward – Ward Councillor representing local residents.

Local Objectors in attendance:

Mr and Mrs Hobson, Mr and Mrs Petrie, Mr M Taylor, Ms J Kell, Mrs M Batey, Mr L Batey

Mr P Cookson – Marton West Community Council

Agenda item 6:

Premises: The Stonehouse, 4-12 Stonehouse Street, Middlesbrough

Applicant: Mr S Rennison and Mrs D Rennison

Legal Representative: Mr C Harvard.

****APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors J A Jones and A E Ward.

APPOINTMENT OF SUBSTITUTES

Councillors Biswas and Elder were appointed as substitutes for this meeting.

DECLARATIONS OF INTEREST

No Declarations of Interest were made at this point of the meeting.

LICENSING ACT 2003: APPLICATION TO VARY PREMISES LICENCE – THE FOUNTAIN, HIGH STREET, ORMESBY, MIDDLESBROUGH – REF NO. MBRO/PRO151/019256

In Attendance:

Premises: – The Fountain, High Street, Ormesby.

Mr W Myers, Director and Mr I McGee, Operations Manager (Nest Way Limited) - Applicant

A report of the Head of Community Protection was submitted outlining an Application to Vary the Premises Licence for the Fountain, High Street, Ormesby.

Summary of current Licensable Activities:

Sale by retail of alcohol for consumption on and off the premises

Live, Recorded music, dancing under the provisions of a Public Entertainment Licence

Summary of current hours of Licensable Activities:

11.00am – 11.00pm Monday to Saturday

12 noon – 10.30pm Sundays

Summary of proposed variation of Licensable Activities:

As above plus :-
Films and indoor sporting events.

Summary of proposed variation to Hours for Licensable Activities:

10.00am – 12 midnight Monday to Sunday

Premises to open for half an hour after licensable activities cease.

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

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

The Applicant - Nestway Limited was represented by a Director of the Company and the Operations Manager. The Application was in respect of The Fountain at Ormesby. It was confirmed that a copy of the report and the Regulation 6 Notice had been received. The report was also confirmed as being an accurate representation of the facts.

It was confirmed that prior to the meeting agreement had been reached with Cleveland Police on additional conditions to be placed on the Licence to assist with the prevention of Crime and Disorder, as required by the Licensing Act 2003. Consequently the Police Representation had been withdrawn.

Applicant's Representative in Attendance

The Applicant's Representatives, in attendance, were invited to present the case in support of their Application and to address the relevant outstanding Representation from the Environmental Health Officer (Noise).

It was confirmed that the Fountain was a community pub operated by responsible owners and catering for an older customer base. The application for the extra terminal hour was merely to extend the current facilities on offer to patrons

The premises had previously operated under a Public Entertainment Licence and had had a noise device fitted, measured and set to limit noise nuisance from the premises..

The Management were prepared to take all measures necessary to prevent the escape of noise from the venue including the closing of external doors and windows during the provision of regulated entertainment.

The venue enjoyed a good relationship with the Police.

Taxis attending the premises would be encouraged to pick up passengers from the rear car park to reduce late night noise of car doors and engines. The Club next door would be invited to also use this facility for taxis.

In response to a query, the Applicant confirmed that since taking over the premises and fitting a noise limiting device there had been no complaints from residents of noise nuisance.

Consultation had also been undertaken with patrons which had indicated a requirement to extend the opening hours of the premises and it was considered that the extra hour was not excessive and was in line with the flexibility of closing encouraged by the Licensing Act 2003.

Responsible Authority – Environmental Health Officer (Noise)

The Environmental Health Officer in attendance confirmed his objection to increase the hours on the grounds of Public Nuisance. He recommended that the following conditions be attached to the Operating Schedule for the premises. If agreement from the applicant was forthcoming then the Representation would be withdrawn.

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1. That the maximum extension to the hours should be limited to 23.30 pm for the sale of alcohol and that the premises should close to the public and all entertainment ended at 12 midnight.
 2. That the existing Public Entertainment Licence conditions be transferred to the new Premises licence.

Summary of Application

The Applicant confirmed that he had nothing further to add. The Application was not considered to be excessive and reflected the spirit of the Licensing Act 2003.

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 Sub Committee determined the Application.

DECISION

ORDERED as follows:

1. That the Application to Vary the Hours for Licensable Activities be granted as follows:
10.00 am to 12 midnight Monday to Sunday
The Premises to remain open for half an hour after licensable activities cease.
2. That the Public Entertainment Licence Conditions be transferred to the Operating Schedule and become a condition of the New Premises Licence.
3. That an additional Condition that all external doors and windows in the areas of the premises used for entertainment be kept closed at all times during the provision of live and recorded music, other than in an emergency, be placed on the Premises Licence.

The decision was based on the following reasons:

1. The Application was considered on its own merits taking into account the four Licensing Objectives of the Licensing Act 2003.
2. Consideration was given to the case made by the Applicant.
3. Consideration was given to the Representations made by the Environmental Health Officer (Noise) on the grounds of public noise nuisance.
4. Consideration was given to the relevant sections of the Government Guidance to the Licensing Act 2003 (Annex G paragraph 7.38 Public Nuisance)
5. Consideration was also give to the relevant sections of Middlesbrough Council's Licensing Policy (pages 10 – 15 Prevention of Nuisance, page 10 paragraph 42 Licensed Premises in residential areas.)

LICENSING ACT 2003: APPLICATION TO VARY PREMISES LICENCE – SOUTHERN CROSS, DIXONS BANK, MIDDLESBROUGH – REF NO. MBRO/PRO134/019107

In Attendance:

Premises: Southern Cross, Dixons Bank, Middlesbrough
Matthew Elliott Asker, Premises Manager,
Darren Lutey, Solicitor – Representing Spirit Group Limited

Councillor A E Ward – Ward Councillor representing local residents.

Local Objectors in attendance:

Mr and Mrs Hobson, Mr and Mrs Petrie, Mr M Taylor, Ms J Kell, Mrs M Batey, Mr L Batey
Mr P Cookson – Marton West Community Council

The Head of Community Protection submitted a report outlining an Application to Vary the Premises Licence for the Southern Cross, Dixons Bank, Middlesbrough.

Summary of current Licensable Activities:

Sale by retail of alcohol for consumption on and off the premises
Live, Recorded music, dancing under the provisions of a Public Entertainment Licence
Provision of late night refreshment

Summary of current hours of Licensable Activities:

11.00am – 11.00pm Monday to Saturday
12 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 midnight Sunday to Wednesday
10.00am – 1.00am Thursday to Saturday

Premises to remain open for licensable activities for one extra hour on stated dates and up to twelve other occasions throughout the year.

Premises to remain open for late night refreshment one hour after other licensable activities cease.

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

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

The Applicant's representatives were present and confirmed that a copy of the report and the Regulation 6 Notice had been received. The report was also confirmed as being an accurate representation of the facts.

Relevant Representations

The following relevant Representations had been made to the Application:

Cleveland Police - objection to vary Premises Licence on grounds of prevention of Crime and Disorder.

Environmental Health Officer – objection to Variation on grounds of prevention of Public Nuisance.

Marion West Community Council and numerous local residents on the grounds of prevention of public nuisance, prevention of crime and disorder and public safety.

The Committee was advised that prior to the commencement of the meeting agreement had been reached with the Police and the Applicant. Accordingly the Operating Schedule had been amended to include the additional conditions 2-8 (Appendix 2) requested by the Police and the Police had withdrawn their representation.

The Applicant's representative confirmed that the Police condition 1 had been amended from colour to black and white, digital CCTV and subsequently agreed.

Applicant in Attendance

The Applicant's representatives spoke in support of the Application to Vary.

Spirit Group Limited was one of the largest Licensed outlets in the country with 2,000 premises. They were very experienced in operating premises in diverse locations, both residential areas and town centres. The request was for an extension in hours that was considered to be

appropriate to the area. The applicant wished to co-exist in harmony with local residents and not spoil their enjoyment of their homes

In connection with the Representation made by the Environmental Protection Manager (Appendix 3) the Applicant agreed to the request for the existing Public Entertainment Licence conditions to be transferred as Conditions of the new Premises Licence.

There had been no noise problems relating to the premises in the past, which fact could be confirmed by the Environmental Health (Noise) Team. Noise pollution was not a significant nuisance in the area. The Management Team at the premises could confirm that they were not inundated with complaints of public nuisance from local residents.

The Application was not considered to be excessive and the Resident's concerns regarding the extended terminal hours had been considered. The public nuisance complaints were not thought to be attributable to the Premises' client base.. In an attempt to live in harmony with local neighbours the Applicant was prepared to amend the hours requested as follows:

Monday, Tuesday, Wednesday	10.00 am to 23.30 pm
Thursday, Friday, Saturday and Sunday	10.00 am to 12 midnight.

It was confirmed that signage would be placed near the entrances/exits requesting all patrons leaving to do so quietly and responsibly and this messages would be verbally endorsed by bar staff and door supervisors at closing time.

It was proposed that the Designated Premises Supervisor would organise meetings at the premises with residents' representatives on a two monthly basis to discuss local issues.

The issue of youths in the 12-18 years age bracket congregating in the vicinity of the premises was acknowledged - but these youths were not patrons of the premises. The problem was related to the shopping precinct at Marton and the 24 hour Garage was a magnet for these groups.

The issue of litter and cans in the area was also not connected to the premises as no cans were sold by the Southern Cross.

The troubles experienced by the residents were in many cases similarly experienced by the premises.

In conclusion, the Applicant's Legal representative drew attention to the Spirit Group's Responsible Drinking Policy which was attached to their Application. In response to a Member's query it was confirmed that the premises did not operate a Drinks Happy Hour at any time.

Relevant Representations from Ward Councillor/local Residents/Community Council

Ward Councillor

Councillor A E Ward was present and spoke on behalf of local residents on the grounds of prevention of noise and public nuisance. Reference was made to close proximity of the premises to a large, quiet residential estate with elderly residents and children at the rear and a block of retirement flats at the front. The later hours would lead to more people loitering around after 1 pm and an increase in noise, litter and broken glass in the vicinity of the premises.

Marton West Community Council

A representative of Marton West Community Council was in attendance and endorsed the views of the Ward Councillor on the grounds of noise nuisance late at night. Reference was made to Middlesbrough Council's Partnership Strategy and also that longer drinking hours would increase the already high, drink related poor health statistics for Middlesbrough (ie. liver disease was twice the national average).

Local Residents

The local residents in attendance were invited to outline their objections which confirmed opposition to the Application for the following reasons:

- There was no justification from patrons to support an application for longer hours.
- Longer hours would encourage people to drink away from the town centre in a residential area.
- Currently residents living near the premises could not go to bed and sleep before 12 midnight and the situation would worsen with a later terminal hour.
- Various incidents of public nuisance and crime and disorder were recounted: urination in gardens, litter, a garage broken into, smashed bus shelter and telephone kiosk, broken traffic signs, fighting, foul language
- The Residents requested the Licensing Sub Committee to have some sympathy for local people living in the vicinity of the premises.
- The character of the pub was changing from a family pub to a sports bar and older patrons would cease to use the facilities.
- Residents presented their problems at Community Council meetings to no avail.

SUMMARIES

The Applicant's Representative was invited to summarise the case. There was no acceptance that the premises were unruly from a Crime and Disorder point of view. It was suggested that the Ward Councillor and Residents should exchange details with the Licensee who had a wealth of experience and wished to assist with complaints and live in harmony with local residents. The majority of issues in the area were not attributable to patrons of the premises but to youths loitering at the shops or the petrol station – the Police would not have accepted the later hours for the premises if this was not so. The applicant was taking a common sense approach and had agreed to the usual PEL conditions and the closure of doors and windows during regulated entertainment. The Application should be treated having regard to the four Licensing Objectives.

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 Licence be granted subject to the amendment to the opening hours as follows:

10.00 am – 23.30 Monday, Tuesday and Wednesday
(with 30 minutes to close the premises)

10.00 am – 12 midnight Thursday, Friday, Saturday and Sunday
(with 30 minutes to close the premises).

2. That the Operating Schedule be amended to include the Conditions requested by the Police and numbered 1-8 in the Police Representation (Appendix 2 of the report).
3. That the Operating Schedule be further amended to include the transfer of the existing Public Entertainment Licence conditions.
4. That the Committee noted the undertaking by the Applicant that notices and signs requesting patrons to leave the premises in a quiet and respectful manner be placed at the exits from the premises

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5. That meetings be held at the premises every two months between local residents and the manager.
 6. That two SIA registered door supervisors be on duty at the premises daily between 11 pm and closing time.

Reasons for the Decision

That the decision was based on the following reasons:

- a) The Application was considered on its own merits taking into account the four Licensing Objectives of the Licensing Act 2003.
- b) Consideration was given to the case made by the Applicant.
- c) Consideration was given to the Representations made by Marton West Community Council and various residents on the prevention of Public Nuisance, the prevention of Crime and Disorder and public safety..
- d) Consideration was given to the relevant sections of the Government Guidance to the Licensing Act 2003 (Annex G paragraph 7.38 - Public Nuisance and Annex D paragraph 7.20 Crime and Disorder))
- e) Consideration was also give to the relevant sections of Middlesbrough Council's Licensing Policy, Page 10 (paragraph 42) - Licensed Premises in residential areas, pages 10 – 15 (paragraph 38) - Prevention of Nuisance and pages 17 and 18 - Crime and Disorder.

LICENSING ACT 2003 – APPLICATION TO VARY PREMISES LICENCE – THE STONEHOUSE WINE BAR, STONEHOUSE STREET, MIDDLESBROUGH – REF: MBRO/PRO129/018767

In Attendance:

Premises: The Stonehouse Wine Bar, 4-12 Stonehouse Street, Middlesbrough
Applicants: Mr S Rennison and Mrs D Rennison
Legal Representative: Mr C Harvard.

A report of the Head of Community Protection was submitted outlining an Application to Vary the Premises Licence for the Stonehouse Wine Bar, Stonehouse Street, Middlesbrough.

Current Licensable Activities

Sale by retail of alcohol for consumption on and off the premises
Recorded music

Summary of current Hours of Licensable Activities

11.00 am – 11.00 pm Monday to Saturday
12 noon - 10.30 pm Sundays

Summary of Proposed Variation of Licensable Activities

As above

Summary of proposed Variation to Hours for Licensable Activities

10.00 am - 12 midnight daily
Premises to remain open for half an hour after licensable activities cease.

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

Relevant Representations

Representations had been received from Councillor Michna in his capacity as Ward Councillor and a local resident on the grounds of the prevention of public nuisance. Councillor Michna was not present at the meeting.

Representations had also been received from Mr and Mrs Condren, Mr Kirk and Mrs Aydon, local residents, on the grounds of the prevention of public nuisance.

Details of these objections were included as appendices to the submitted report.

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

No objectors were in attendance at the meeting and the Committee accordingly agreed to consider the written representations under Section 20 of the Licensing Act 2003 (Hearings) Regulations 2005.

Applicant in Attendance

The Applicant and the legal representative were present at the meeting and confirmed that a copy of the report and the Regulation 6 Notice had been received. The report was confirmed to be an accurate representation of the Application.

The Applicant confirmed that there were no witnesses to be called (Regulation 8 – Hearings Regulations 2005). However the legal representative requested the Committee's approval to present four letters of support for the application for extended hours from two local residents of the flats above the premises, the Captain of the Darts Team and the Chair of the local Summer Darts League. With the Committee's agreement these were circulated at the meeting.

A letter relating to the evening use of car parking facilities at Kwik-Fit premises by customers of The Stonehouse was also circulated.

The legal representative spoke in support of the Application to Vary and reference was made to the following:

The terminal hour for two other premises in the vicinity of the Stonehouse (ie. Bensons Bar and the Cleveland Hotel). The Application for the extra hour to 12 midnight each day would create an area of staggered closing hours in line with the flexibility of Licensing Act 2003

The Premises had received no complaint relating to noise nuisance from either local residents, the Community Council or the Environmental Health (Noise0 Team).

The premises were located in a side street surrounded by commercial properties.

The applicant had made a large investment in insulating the premises from noise, fitting non-opening windows at the front made of very thick toughened glass. An acoustic survey had been carried out prior to opening, after the renovation programme and no noise nuisance had been detected.

Other points referred to were that Patrons were in the 30+ age bracket, more than 15 local persons were employed at the premises and 16 CCTV Cameras were fitted in the bar and externally, with two in the car park at the rear.

In response to the Representation made by the Ward Councillor, the legal representative confirmed that the premises were completely different from Bensons Bar as referred to by Councillor Michna. The Applicant was a responsible licensee and the noise referred to emanated from traffic on Linthorpe Road. There would always be noise when patrons left premises, the premises would not have live entertainment, the only music would be background music.

In connection with litter in the streets around the premises there was no potential for the premises to produce this litter. The representations that had been made by the local residents could not be directly attributed to the Stonehouse as there was no evidence to support them.

The taxi rank nearby caused more noise nuisance to residents than the Stonehouse Wine Bar.

.Reference was made to Middlesbrough Council's Licensing Policy Page 10, paragraphs 38 and 42, relating to licensed premises in residential areas and the prevention of nuisance..

The premises were not looking to attract customers from other premises for late drinking. The application was to provide the option for existing customers. The premises did not play karaoke or disco music and attracted older patrons. The applicant had operated for the last four years without any problems at all.

The Applicant responded to Members' queries confirming that the premises did not employ Door Supervisors as there was no need, and that the wine bar did not attract young people. At the recent Bank Holiday approximately 30/40 customers had attended the premises at any one time and there was sufficient seating to accommodate this number.

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 with the following hours:

10.00 am – 12 midnight daily

Premises to remain open for half an hour after licensable activities cease.

Reasons for the Decision

That the decision was based on the following reasons:

- a) The Application was considered on its own merits taking into account the four Licensing Objectives of the Licensing Act 2003.
- b) Consideration was given to the case made by the Applicant.
- c) Consideration was given to the Representations made by Councillor Michna and various residents on the prevention of Public Nuisance.
- d) Consideration was given to the relevant sections of the Government Guidance to the Licensing Act 2003 (Annex G paragraph 7.38 - Public Nuisance).
- e) Consideration was also give to the relevant sections of Middlesbrough Council's Licensing Policy, Page 10 (paragraph 42) - Licensed Premises in residential areas and pages 10 – 15 (paragraph 38) - Prevention of Nuisance .