



Licensing Sub-Committee

Minutes - 22 April 2015

Attendance

Chair Cllr Alan Bolshaw (Lab)

Labour

Cllr Rita Potter

Conservative

Cllr Patricia Patten

Employees

Linda Banbury
Rob Edge
Sarah Hardwick

Democratic Support Officer
Section Leader - Licensing
Solicitor

Item No. *Title*

1 **Apologies for absence**

There were no apologies for absence.

2 **Declarations of interest**

There were no declarations of interest.

3 **Licensing Act 2003 - Application for variation to a Premises Licence in respect of The Malt Shovel, 131 Willenhall Road**

In attendance

For the premises

Mr E Shippey and Ms L Heath - Premises Licence Holders

Responsible Authorities

Elaine Moreton - Licensing Authority

Sarah Stiles - Environmental Health (Commercial)

Other Persons

Miss K Hill - local resident

Mr P Kelly - local resident

The chair introduced the parties and outlined the procedure to be followed at the meeting.

Rob Edge, Section Leader (Licensing) outlined the report submitted to the meeting and circulated to all parties in advance. A correct version of the current premises licence, to replace the document at Appendix 3 to the report, was circulated at the meeting.

At this juncture Mr Shippey outlined the application for variation of the premises licence provide for the sale of alcohol and recorded music until 2 am with close of premises extending until 2.30 am.

On a point of clarification Elaine Moreton, Section Leader (Licensing) (Responsible Authority) indicated that a conversion application had been submitted by the premises when the Licensing Act came into force in 2005. Additional conditions had been added to the licence on 10 June 2005 to address noise concerns. She added that performance of dance was not part of the current licence and the premises licence holder had agreed to withdraw this aspect from the variation application. The Sub-Committee was further advised that the capacity on the whole of the premises was limited to 60 during periods of regulated entertainment.

Rob Edge, Section Leader (Licensing) advised that some information in the variation application contradicted the current licence conditions and it was usual practice for the applicant to consider current conditions prior to submitting a variation application. This had not happened in this case.

Responding to questions, Mr Shippey stated that two events had been held in the courtyard area and the music had been turned down following requests by the Environmental Health Out of Hours team. He indicated that three door staff were employed on Friday and Saturday nights and they utilised clicks to monitor numbers entering and exiting the premises. Police monitored the premises on a weekly basis which was welcomed by the premises.

The Responsible Authorities outlined their representation in support of the prevention of public nuisance licensing objective, made due to the substantial number of noise complaints received in regard to the premises over a number of years.

In response to questions, the Sub-Committee was advised that the complaints originated from a number of local residents and had reduced since September 2014, although this could be due to the fact that residents would not have their windows open during the wintertime. The complaints related to noise from the patrons and music. The Responsible Authority representatives believed the complaints would not have been made if the premises had complied with the licence conditions. It was further noted that the noise issues could not been corroborated as the Council no longer had a reactive out of hours service.

At this juncture, the local residents outlined their representations. Miss Hill indicated that she had received complaints from a number of residents, adding that not all came via the PACT meetings. Mr Kelly indicated that his home backed on to the premises and noise nuisance emanated from outside the premises where music was played.

The residents responded to questions indicating that calls had been made to the Police who had referred them to Environmental Health. It was noted that the premises licence holder had attended PACT meetings but was of the opinion that the

noise nuisance referred to was not from his premises. It was further noted that the premises licence holder had agreed to remove the speaker from the courtyard. Prior to the visit from Environmental Health, the premises licence holder was not aware that he was breaching his licence conditions.

The Council's Solicitor sought clarification upon whether there were noise issues irrespective of the outside speaker and advised that the Sub-Committee could only deal with the variation application which did not include the outside area. The Sub-Committee could only consider the application before them. Any issues of non-compliance relating to the current licence could only be considered if an application for review of the licence was made.

All parties were afforded the opportunity to make a closing statement.

4 Exclusion of press and public

Resolved:

That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business as it involves the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A to the Act relating to the business affairs of particular persons.

5 Deliberations and decision

The Sub-Committee discussed the issues which had been raised during consideration of the application for variation of the premises licence.

6 Re-admission of press and public

The parties returned to the meeting and were advised of the Sub-Committee's decision as follows:

7 Announcement of decision

The Sub-Committee have taken note of all the written concerns raised in respect of The Malt Shovel, 131 Willenhall Road, Wolverhampton. They have listened to the arguments of those who have spoken at this hearing, both for and against the application.

The Sub-Committee have heard from Environmental (Commercial) and the Licensing Authority that the Premises have failed to comply with conditions currently on the Premises Licence which has led to issues of noise nuisance. When questioned about conditions on his Licence, the Premises Licence Holder has not only failed to comply, but appears to have limited knowledge of those conditions. They have also heard from Environmental Health that noise appears to emanate from inside and outside the premises and that, although complaints have been less since September 2014, this is likely to be due to the winter when doors are closed and music is not played outside. They have also heard that, until recently, a small speaker was housed in the courtyard to the premises in breach of the terms of the licence.

The Sub-Committee have taken note of the written representations from interested persons and also oral representations from local residents who have attend today. It is noted that complaints have been received from a number of different residents who have witnessed noise nuisance.

The Sub-Committee have also taken into account representations from the applicant and have heard that:

1. it is not always clear whether noise issues are emanating from The Malt Shovel;
2. any noise nuisance after 2 am cannot be from The Malt Shovel as the premises close at 2 am;
3. there was a small speaker in the courtyard but following talks with Environmental Health (Commercial), this has now been removed, and
4. noise levels are monitored and the patrons are asked to leave the premises quietly.

The Sub-Committee have only considered relevant matters and note there is no evidence of drug use at the premises.

However, having considered the views of all concerned, the Sub-Committee have decided that the application for variation of the Premises Licence is rejected in support of the prevention of public nuisance licensing objective.

All parties have a right of appeal to the Magistrates' Court within 21 days of receipt of this decision.