

M MINUTES

meeting: **LICENSING SUB-COMMITTEE**

date: **29 NOVEMBER 2012**

PRESENT:-

Councillors Dass (Chair), Bolshaw and N A Patten

IN ATTENDANCE:-

L Banbury	-	Democratic Support Officer, Delivery
S Hardwick	-	Senior Solicitor, Delivery
R Edge	-	Section Leader (Licensing), Education and Enterprise

Wolverhampton
City Council



PART I – OPEN ITEMS

**Licensing Act 2003 – Variation to a Premises Licence – Foxy Lady,
146 Oxford Street, Bilston, Wolverhampton (Appendix 36)**

112.

In Attendance

For the Premises

Mr D Parsons - Premises Licence Holder

Objectors

WPC N Holt - West Midlands Police

Mrs E Moreton - Licensing Authority

Mrs M Doughty-Smith - Local Health Board

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

The Section Leader (Licensing) briefly outlined the report submitted to the meeting and circulated to all parties in advance.

At this juncture, Mr Parsons outlined his application to vary the Premises Licence, indicating that he wished to bring the licensing hours in line with the Sex Entertainment Venue (SEV) Licence. He suggested that the representations made with regard to noise issues were unfounded and that there had never been any issues which had caused concern for the Police.

All parties were afforded the opportunity to question Mr Parsons. He clarified that it was intended that the supply of alcohol was for consumption on the Premises only and was happy, therefore, for the application to be amended.

At this juncture, WPC Holt outlined the representations made by the West Midlands Police, as detailed at Appendices 4 and 5 of the Licensing Officer's report. Mr Parsons had already signed up to the proposed conditions outlined at Appendix 4.

All parties were afforded the opportunity to question the Police Officer.

At this juncture, Mrs Moreton outlined the representations made on behalf of the Licensing Authority and outlined at Appendix 8 to the report, indicating that her concerns related to the timing for the supply of alcohol. She advised that Mr Parsons had agreed to bring forward the finish time for supply of alcohol to 0530 hours, which was 30 minutes prior to closing time.

At this juncture Mrs Doughty-Smith outlined the representations on behalf of the Local Health Board, which were outlined at Appendix 7 to the report. She indicated that she was happy with the conditions proposed by the West Midland Police and Licensing Authority and had no data available regarding any problems in regard to alcohol consumption in respect of these Premises.

Mr Parsons was afforded the opportunity to make a closing statement.

Exclusion of Press and Public

113. Resolved:-

That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from consideration of the items of business in Part II of the Agenda, on the grounds that in view of the nature of the business to be transacted or the nature of the proceedings, exempt information falling within paragraph 3 of Schedule 12A to the Act (Information relating to the business affairs of particular persons) is likely to be disclosed.

All parties, with the exception of the City Council's Solicitor and the Democratic Support Officer, withdrew from the meeting at this point.

PART II - EXEMPT ITEMS

Deliberations and Decisions

114. The Sub-Committee discussed the issues which had been raised during consideration of the application to vary the Premises Licence

The Solicitor advised them of the options open to them in determining the application.

Re-Admission of Press and Public

115. Resolved:-

That the press and public be readmitted to the meeting.

PART I - OPEN ITEMS

Announcement of Decision

116. All parties returned to the meeting room and the Solicitor outlined the decision of the Sub-Committee as follows:-

The Sub-Committee have taken note of all the written concerns raised in respect of Foxy lady, 146 Oxford Street, Bilston, Wolverhampton. They have listened to the arguments of those who have spoken at the hearing, both for and against the application.

The Sub-Committee have heard from the Premises Licence Holder that he wishes to bring the licensing hours in line with the Sex Entertainment Venue (SEV) Licence and also that any noise nuisance allegations are unfounded.

The Sub-Committee have heard from the West Midlands Police that there is no history of crime at these Premises and that six conditions, attached at Appendix 4 to the Licensing Officer's report, have been agreed with the Premises Licence Holder:-

The Sub-Committee have heard from the Licensing Authority and Public Health that they are concerned that there is no provision for drinking up time under the proposed hours. However, it has been agreed with the applicant that the sale of alcohol will be reduced by thirty minutes.

The Sub-Committee have considered the written representations from local Ward Councillors. Environmental Health (Commercial) have not made any representations.

Having considered the views of all concerned, the Sub-Committee have decided that the application to vary the Premises Licence should be granted as applied for, subject to the following modifications:-

1. Sale of alcohol on the premises only and alcohol sales to be between 1200 and 0530 hours Monday to Sunday as agreed by the Premises Licence Holder, and
2. conditions agreed between the West Midlands Police and the Premises Licence Holder, as follows:-
 - 1) Two members of door staff to be deployed from 2200 hours until the close of business and until every member of the public has left the premises; one to be situated at the front door of the premises searching patrons on entry or re-entry and the other to be floor walking providing a visible presence inside the venue. All door staff should be SIA registered, to be clearly displaying their own badges and to be in high visibility attire.
 - 2) Evidential quality CCTV to be installed and maintained to a high standard; images and recordings to be kept for 31 days and to be available on request to any member of a responsible authority. At any time, at least one member of staff should be on duty who can use/download CCTV on request. CCTV should cover entry and exit points of the premises and areas where alcohol/money is served/taken, together with all areas to where public have access.
 - 3) Challenge 25 should be adopted, with clear and visible Challenge 25 signs at the premises and records of anyone refused kept and made available to any responsible authority.
 - 4) Staff should be trained in drink/drugs awareness, in addition to underage and proxy sales, and a record to be kept and made available, with training completed every 6 months.
 - 5) An incident book should be kept at the premises, in which will be recorded any incident of crime and disorder. This book should be reviewed by senior management in association with the Designated Premises Supervisor. Any incident of crime and disorder at the premises should be reported by a staff member to the Police as soon as reasonably practicable.

- 6) No glass drinking vessels or glass bottles should be permitted outside the premises, either in the street or in the smoking area.

It is considered by the Sub-Committee that the above conditions should be attached in support of the prevention of crime and disorder licensing objective.

Conditions as are specified on/or are consistent with the operating schedule will be attached to the Licence, together with any mandatory conditions required by the Act.

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

Licensing Act 2003 – Application for a New Premises Licence – Big Chilli, 480 Dudley Road, Wolverhampton (Appendix 37)

117.

In Attendance

For the Premises

Mr O S Multani - Joint Applicant

Objectors

WPC Holt - West Midlands Police
J Freeman-Evans - Environmental Health (Commercial)
Mrs E Moreton - Licensing Authority
N Aston Baugh/
M Hayward - West Midlands Fire Service
Mrs M Doughty-Smith - Local Health Board

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

The Section Leader (Licensing) briefly outlined the report submitted to the meeting and circulated to all parties in advance.

At this juncture, Mr Multani outlined the application for a new Premises Licence. Mr Multani clarified that the intention was for alcohol to be consumed only on the Premises. He further clarified that he had authority to act on behalf of his daughter, the joint applicant, and to agree any additional conditions on the Premises Licence. He also advised that he would agreed to amend the applicant to ensure that the time of closing was 30 minutes following the termination of regulated entertainment and further that the capacity of 110 would include staff.

All parties were afforded the opportunity to question Mr Multani.

At this juncture, WPCF Holt outlined the objections of the West Midlands Police which were detailed at Appendix 6 to the Licensing Officer's report. She confirmed that the applicant had signed up to the proposed conditions.

All parties were afforded the opportunity to question the Police Officer. It was acknowledged that as there would be 100 permanent seats, there would not be room for a dance floor. However, Mr Multani advised that the regulated entertainment was required for individual performers, who would perform at such functions as weddings. The sale of alcohol from 0900 hours would only be required for functions such as weddings, which would only take place on a handful of occasions each year..

At this juncture, Mrs Freeman-Evans outlined the objections on behalf of Environmental health (Commercial) and, in so doing, advised that the applicant had signed up to two additional conditions; these were provided at the meeting.

At this point, Mr Aston-Baugh advised that the Fire Service representations had been withdrawn as the fire alarm system was now in working order and other issues had been dealt with under the Fire Services' primary legislation.

At this juncture Mrs Smith-Doughty advised that the Local Health Board representations had initially been made due to the location of the Premises; however, she now understood the rationale behind the application and no longer had any public health concerns.

Mr Multani was afforded the opportunity to make a closing statement.

Exclusion of Press and Public

118. Resolved:-

That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from consideration of the items of business in Part II of the Agenda, on the grounds that in view of the nature of the business to be transacted or the nature of the proceedings, exempt information falling within paragraph 3 of Schedule 12A to the Act (Information relating to the business affairs of particular persons) is likely to be disclosed.

All parties, with the exception of the City Council's Solicitor and the Democratic Support Officer, withdrew from the meeting at this point.

PART II - EXEMPT ITEMS

Deliberations and Decisions

119. The Sub-Committee discussed the issues which had been raised during consideration of the application for the Premises Licence

The Solicitor advised them of the options open to them in determining the application.

Re-Admission of Press and Public

120. Resolved:-
That the press and public be readmitted to the meeting.

PART I - OPEN ITEMS

Announcement of Decision

121. All parties returned to the meeting room and the Solicitor outlined the decision of the Sub-Committee as follows:-

The Sub-Committee have taken note of all the written concerns raised in respect of Big Chilli, 480 Dudley Road, Wolverhampton. They have listened to the arguments of those who have spoken at the hearing, both for and against the application.

The Sub-Committee have heard from the applicant that the main purpose of the premises is to be a family restaurant.

The Sub-Committee have heard from the West Midlands Police that they are content that it is the intention for the premises to serve as a family restaurant and that, should the conditions proposed at Appendix 6 to the Licensing Officer's report be agreed, they would be satisfied that the Premises Licence could be granted.

The Sub-Committee have heard from the West Midlands Fire Service that there are no longer any fire safety issues at the premises and that they would be happy for the Premises Licence to be granted.

The Sub-Committee have heard from Environmental Health (Commercial) that they have agreed two conditions regarding control of nuisance with the applicant and, should they be added to the Licence, they would be happy for it to be granted.

The Sub-Committee have heard from the Licensing Authority and Public Health that all their concerns have now been addressed.

Having considered the views of all concerned, the Sub-Committee have decided that the application for a Premises Licence should be granted, as applied for, subject to the following conditions:-

1. Hours of regulated entertainment should be between 1200 and 2330 hours, Monday to Sunday, as agreed by the applicant.
2. The following conditions, agreed between the West Midlands Police and the applicant:-
 - 1) Evidential quality CCTV should be installed and maintained to a high standard; images and recordings to be kept for 31 days and to be available on request to anyone from a responsible authority. At any time, at least one member of staff to be on duty who can

use/download the CCTV upon request. CCTV should cover entry and exit points of the premises and areas where alcohol/money is served/taken and all areas to which public have access.

- 2) Alcohol should only be served to patrons who are dining at the restaurant; there should be no patrons allowed to consume only alcohol.
- 3) Challenge 25 should be adopted with clear and visible Challenge 25 signs at the Premises and records kept of anyone refused and made available to any responsible authority.
- 4) Staff should be trained in drink/drugs awareness, in addition to underage and proxy sales, a record kept available and training to be completed every 12 months.
- 5) An incident book should be kept at the Premises, in which should be recorded any incidents of crime and disorder. This book should be reviewed by senior management in association with the Designated Premises Supervisor. Any incident of crime and disorder at the premises should be reported by a staff member to the police as soon as reasonably practicable.
- 6) Not glass drinking vessels or glass bottles should be permitted outside the premises either in the street or in the smoking area.
- 7) There should be fixed and permanent seating at the premises for 100 persons.
- 8) Maximum capacity at the premises should be 110 persons; this has agreed under advice and in conjunction with a risk assessment completed by the West Midlands Fire Service.
- 9) There should be no dance floor at the premises and no space or area should be cleared or made for the purpose of dancing.

3. The following conditions agreed between Environmental health (Commercial) and the applicant:-

- 1) Noise and vibration should not be allowed to emanate from the premises so as to cause nuisance to nearby properties or residents.
- 2) All doors and windows to be closed when regulated entertainment takes place.

The Sub-Committee have noted that Mr O S Multani has confirmed that he has the authority to act on behalf of his daughter, the joint applicant, and can agree conditions.

It is considered by the Sub-Committee that the above conditions should be attached in support of the prevention of crime and disorder, prevention of public nuisance and public safety licensing objectives.

Finally, such conditions as are specified on/or are consistent with the operating schedule will be attached to the Licence, together with any mandatory conditions required by the Act.

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

**Licensing Act 2003 – Review of a New Premises Licence –
Otter & Vixen, Old Fallings Lane, Wolverhampton (Appendix 38)**

122.

In Attendance

For the Premises

Mr A Chander	-	Premises Licence Holder
Mr A Cochrane	-	Solicitor (Marstons Brewery) - Observer
Mr R Rodonis	-	Marstons Brewery – Observer
A Downes, K Jutler, M Richmond, S Sahota And C Tomlinson	-	In support of the Premises

Applicant for Review

Mrs J Freeman-Evans	-	Environmental Health (Commercial)
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In Support of the Review

WPC Holt	-	West Midlands Police
Mrs E Moreton	-	Licensing Authority

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

The Section Leader (Licensing) briefly outlined the report submitted to the meeting and circulated to all parties in advance. He made particular reference to guidance issued under Section 182 of the Licensing Act 3003 and the Council's Statement of Licensing Policy. An amended letter was circulated on behalf of the Police, which replaced Appendix 4.

At this juncture, Mrs Freeman-Evans outlined the application for review of the Premises Licence as detailed at Appendix 3 to the Licensing Officer's report. In doing so, she advised that a number of residents had raised concerns regarding noise nuisance at the Premises but had declined to attend the hearing for fear of repercussions from the Premises. Concerns had been raised by six individual residents.

All parties were afforded the opportunity to question Mrs Freeman-Evans. She advised that some complaints had been made in the early hours of the morning and that monitoring forms had come directly from local residents. Certain controls had been requested in the Abatement Notice and if contravened would constitute a criminal offence. The review had been requested because of noise problems after the service of the Notice. She indicated that she had spoken to the Mrs Chander who appeared to understand what was required of

him in terms of measures to put in place to alleviate the noise nuisance issues, but he had indicated that at times he had difficulty controlling patrons. She concluded that a reduction in the licensing hours would assist in alleviating the noise nuisance issues.

At this juncture, Mr Chander outlined the case for the Premises. He believed that the representations originated from a local family who had been barred from the Premises and that the residents' logs should be disregarded as there were no events at the Premises on the occasions cited.

The residents' logs had been circulated to the Sub-Committee that morning and had been received by Mr Chander on 27 November. He had prepared a response which he brought with him to the hearing.

At this juncture the meeting was briefly adjourned in order for the Sub-Committee to decide whether to continue the hearing in light of the submission of additional information.

The Sub-Committee received advice from the City Council's Solicitor on the options open to them. The parties re-joined the hearing and the Chair advised that the Sub-Committee had agreed to continue with the hearing but would disregard both the residents' logs received by Mr Chander on 27 November and his written response.

Mr Chander continued his submission. He expressed the belief that a reduction in licensing hours would not assist, that all problems appeared to be blamed on his Premises and he questioned why the noise levels were not monitored. He indicated that he was prepared to install noise limiters, but that a reduced of licensing hours would kill his business.

All parties were afforded the opportunity to question Mr Chander. He indicated that following warnings from Environmental Health, he had installed triple glazing, sound proofing on doors, rubber matting under the loud speakers and had provided additional signage around the Premises. He believed that some of the noise issues were caused by young people attending the nearby Youth Centre and that issues with youths were a regular problem. Mr Chander contradicted himself as to whether he had rung the Police with regard to the youth problems. The bar, rather than the function room was used on a day to day basis. Mr Chander indicated that Sunday was his busiest day.

In response to Mr Chander's comments that the noise complaints had only recently been brought to his attention, Mrs Freeman-Evans drew attention to the issue warning letters in 2010 and 2011 and the out of hours visits made since June 2012. She referred to signed witness statements indicating that on one visit Mr Chander appeared to be drunk and was verbally aggressive.

Mrs Moreton made reference to conditions place upon the Licence in 2010, which Mr Chander accepted he was aware of.

Mr Chander was afforded the opportunity to call on the witnesses who had attended the hearing in his support. Ms Jutler concurred with Mr Chander that noise issues had arisen from the young people attending the local Youth Centre who played loud music in their cars and that an officer who attend the Premises had indicated he would "have him shut down". She had been requested to turn down music at the Premises, but on that occasion there was only music from the juke box. Mr Sahota had assisted the DJ at a family birthday part at the Premises and believed there was no hard evidence regarding noise nuisance as the levels had not been monitored. A Downs had worked at the premises and concurred with Mr Sahota that doors and windows were closed if requested.

At this juncture, WPC Holt outlined the representations made on behalf of the West Midlands Police detailed at Appendix 4 to the Licensing Officer's report. She referred to Police logs commencing in 2011, indicating that on more than one occasion the telephone operator could hear the noise in the background. She indicated that the venue was known to be attended by the criminal element. During one particular visit to the Premises, young children were presented contrary to the licence conditions and the Designated Premises Supervisor had indicated that he could no afford to employ SIA registered door staff. The Police felt that Mr Chander had no control over the Premises.

All parties were afforded the opportunity to question the Police Officer. She confirmed that of the 8 logs referred to, 6 were from different people/telephone numbers.

At this juncture, Mrs Moreton outlined the representations of the Licensing Authority in support of the review, which related to concerns in respect of the failure of management and blatant disregard of licence conditions. She suggested that the licensing hours should be reduced and that the Designated Premises Supervisor should be removed due to poor management of the Premises.

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

Exclusion of Press and Public

123. Resolved:-

That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from consideration of the items of business in Part II of the Agenda, on the grounds that in view of the nature of the business to be transacted or the nature of the proceedings, exempt information falling within paragraph 3 of Schedule 12A to the Act (Information relating to the business affairs of particular persons) is likely to be disclosed.

All parties, with the exception of the City Council's Solicitor and the Democratic Support Officer, withdrew from the meeting at this point.

PART II - EXEMPT ITEMS

Deliberations and Decisions

124. The Sub-Committee discussed the issues which had been raised during consideration of the review of the Premises Licence

The Solicitor advised them of the options open to them in determining the application.

Re-Admission of Press and Public

125. Resolved:-
That the press and public be readmitted to the meeting.

PART I - OPEN ITEMS

Announcement of Decision

126. All parties returned to the meeting room and the Solicitor outlined the decision of the Sub-Committee as follows:-

The Sub-Committee have taken note of all the written concerns raised in respect of the Otter and Vixen, Old Fallings Lane, Low Hill, Wolverhampton.

At this hearing to review the Premises Licence, the Sub-Committee have listened carefully to all representations made by the persons who have spoken at the hearing. They have considered all the evidence presented and have found the following facts:-

The Sub-Committee have heard from Environmental Health (Commercial) that:-

1. licensable hours were extended at the premises in 2010;
2. there have been 15 complaints since from 6 complainants and 2 warning letters about noise from licensable activities and behaviour of the patrons at the premises;
3. on 30 September 2012, professional Council Out of Hours Officers attended the premises. They found unacceptable levels of noise emanating from the premises, causing the windows to vibrate. As a result of their visit, it was determined that a statutory nuisance existed and therefore an Abatement Notice was served;
4. there is little management control at the premises and problems have grown since February 2012, and
5. Environmental Health (Commercial) recommend that the licensable hours be reduced in respect of the sale of alcohol and provision of regulated entertainment – Sunday to Thursday from 1100 to 2300 hours and Friday & Saturday from 1100 to 2330 hours. These hours are appropriate given the issues experienced.

Residents living close to the premises have submitted letters alluding to noise and general disturbance at the premises in the early hours of the morning on a number of occasions. The Sub-Committee are satisfied that they are not in attendance due to fear of reprisals and accept the letters submitted in accordance with paragraph 9.22 – 9.26 of S182 guidance.

The Sub-Committee have not considered complaint logs from residents served on the Premises Licence Holder on 27 November 2012 or documentation submitted by the Premises Licence Holder in response to this.

The Sub-Committee have heard from the West Midlands Police that:-

1. they have 8 complaints logged regarding noise issues at the premises; 2 logs were from the same person, the remainder being from different individuals;
2. there is a gang culture in the area and persons frequent the premises who are associated with this, and
3. WPC Holt attended with other Officers in uniform on 19 October 2012 and witnessed a breach of two licence conditions and that the premises were not well managed. Children were in the premises when not allowed and there were no door supervisors.

The Sub-Committee have heard from the Licensing Authority that:-

1. there has been a failure to manage the premises effectively in a residential area;
2. doors at the premises are left open contrary to conditions on the Premises Licence, and
3. a reduction of licensing hours and removal of the current Designated Premises Supervisor would be appropriate.

The Sub-Committee have heard from the Premises Licence Holder that:-

1. a lot of nuisance is caused by youths outside the pub;
2. reduced hours would affect his business, although he confirmed that he only had 4 events in a year and he didn't appear to require the late licence when questioned, and
3. it is denied that loud music was played on 30 September 2012.

Based upon the above and having regard to the application and relevant representations made, the Sub-Committee have decided to modify the conditions of the Premises Licence permanently as follows:-

The hours of the Licence are to be modified to:-

Regulated entertainment and sale of alcohol Sunday to Thursday from 1100 to 2300 hours, Friday and Saturday 1100 to 2330 hours with an extra 30 minutes each day in respect of the opening hours

The Sub-Committee further decided to remove the Designated Premises Supervisor.

It is considered by the Sub-Committee that the above actions are necessary and proportionate for the promotion of the prevention of crime and disorder and prevention of public nuisance licensing objectives.

An appeal may be made to the magistrates' Court against the decision by the applicant, the holder of the Premises Licence, or any other person who made a relevant representation, within 21 days of receipt of written notice of this decision.