

LICENSING ACT 2003 SUB-COMMITTEE

Friday, 18 May 2012

Present:

Councillors D McCubbin
 S Niblock
 H Smith

142 **APPOINTMENT OF CHAIR**

Resolved - That Councillor S Niblock be appointed Chair for this meeting.

143 **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members were asked to consider whether they had personal or prejudicial interests in connection with the item on the agenda, and, if so, to declare them and state what they were.

No such declarations were made.

144 **APPLICATION TO VARY A PREMISES LICENCE - SANDON ARMS, 59 MILNER ROAD, HESWALL**

The Director of Law, HR and Asset Management reported upon an application that had been received from Enterprise Inns plc to vary a Premises Licence in respect of the Sandon Arms, 59 Milner Road, Heswall, under the provisions of the Licensing Act 2003.

The hours applied for to vary the Premises Licence were outlined within the report.

The applicants had submitted an operating schedule setting out how the business would be conducted/managed in accordance with the four licensing objectives. A copy of the full application was available. Members were advised that the proposals set out in the operating schedule may become conditions of the licence should the licence be granted.

In respect of the application, nine representations had been received from local residents. The representations related to a history of noise nuisance and anti-social behaviour caused by customers of the premises at a late hour.

A representation had also been received from Environmental Health due to a history of complaints received from local residents regarding noise from music coming from the premises.

Copies of all representations were available at the meeting.

Mr R Taylor, Solicitor representing Enterprise Inns plc (the Premises Licence Holder) attended the meeting. Also in attendance were Mr G Laycock, Ms S Dunn, Designated Premises Supervisor and Ms J Morris, Assistant Manager.

Ward Councillor, Councillor A Hodson attended the meeting together with Mrs M Goulding and Mrs C Salthouse, local residents.

The Licensing Manager confirmed that all documentation had been sent and received and that a written request had been received for Councillor Hodson to speak on behalf of residents. The Licensing Manager confirmed that extra documentation had been submitted prior to the hearing which had been agreed by both parties.

Mr Taylor addressed the Sub-Committee and advised Members that the application for the variation was to extend licensable activities by one hour and to allow the use of the beer garden for an extra hour to 9.00 pm. He referred to the poor history of the premises and previous owners which had led to the premises being taken to review. He advised that the premises had subsequently closed for six months prior to Mr Laycock taking an interest in the premises. He advised that a substantial amount of money had been spent on refurbishing the premises and informed Members that he wanted to create a traditional family pub. He reported that Mr Laycock had many years experience and was a responsible operator. He believed that since September the premises had operated with no problems. He understood the concerns of local residents but believed that the concerns raised were due to the poor history and previous tenants of the premises. He reported that Mr Laycock had been in constant contact with Merseyside Police and Environmental Health in order to address any concerns raised.

Mr Taylor and Mr Laycock responded to questions from Members of the Sub-Committee, Mr Abraham, Legal Adviser to the Sub-Committee, Councillor A Hodson and local residents.

Mr N Joughin, Environmental Health Officer, confirmed that the noise limiter that had been installed at the premises had been set using recorded music and that discussions had taken place to arrange for a re-test to be carried out when live music was being played in order that the level set would also be non-intrusive.

Mr Joughin responded to questions from Members of the Sub-Committee, Mr Taylor, Councillor Hodson and local residents.

The Sub-Committee adjourned for a comfort break and reconvened at 11.50 am.

Mrs Goulding stated that local residents would suffer from noise nuisance regardless of how well the premises were run. She informed Members that noise was caused from people smoking outside the premises until 11 pm and believed this would be unacceptable if this was extended for another hour. Mrs Goulding appreciated that there had to be a balance between running a successful business against the rights of the local community to live in peace but that as the premises were unique, in that they were surrounded by residential properties, it would be impossible to stop noise nuisance occurring. She also expressed concerns regarding migration from other premises.

Miss Salthouse referred to the previous problems that had occurred at the premises. She reported that customers of the premises congregated outside long after closing hours and that noise nuisance was created by people talking and taxis arriving at the premises. She also reported that she suffered from noise nuisance from music emanating from the premises.

Councillor A Hodson addressed the Sub-Committee. He explained that the premises were unique as it was a semi-detached pub with cottages. He advised Members that when the premises were closed there was no-one to move the public and that the problem does exist as customers of the premises congregated on the wall outside. He referred to the serious problems at the premises in the past which had resulted in an Appeal being heard and dismissed by a District Judge and Criminal Proceedings against the previous Designated Premises Supervisor and Premises Licence Holder. He believed that should the application be granted this would adversely affect the lives of local residents. He also believed that the licensing objective of the prevention of public nuisance would be compromised.

Councillor Hodson, Mrs Goulding and Miss Salthouse responded to questions from the applicant, his Solicitor and Members of the Sub-Committee.

In determining the application the Licensing Act 2003 Sub-Committee had regard to the four Licensing Objectives, the Council's Statement of Licensing Policy, and the Statutory Guidance issued under Section 182 of the Licensing Act 2003.

Members heard representations in support of the application from Mr Laycock, Ms Dunn and Mr Taylor, Solicitor representing Enterprise Inns.

Members of the Licensing Act 2003 Sub-Committee gave consideration to representations made by local residents and a Ward Councillor relating to concerns that if the application was to be granted as applied for this would cause noise nuisance by customers leaving the premises at a late hour. Members also considered direct evidence from local residents regarding noise nuisance caused by noise vibration from live music being played at the premises.

Members took into account the current management of the premises and improvements that had been made which had addressed a number of problems associated with the premises. Members also had regard to the fact that the management had in place a dispersal policy which sought to prevent public nuisance being caused when people were leaving the premises.

Members gave consideration to evidence from Environmental Health that arrangements were in place to ensure the noise limiter in the premises would be set so as to prevent music being transmitted through vibration to other premises and residents being disturbed when live music in particular is played at the premises.

Members also gave consideration to the extensive conditions attached to the Premises Licence to prevent public nuisance.

Members considered that the Licensing Objective in respect of the Prevention of Public Nuisance would be undermined should the application be granted in its entirety. Members considered that the hours granted and the preservation of the conditions on the licence was a proportionate and appropriate response to the

application to support the promotion of the Licensing Objectives in particular the Prevention of Public Nuisance.

Resolved -

(1) That in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during consideration of the application.

(2) That the application to vary the Premises Licence in respect of the Sandon Arms, 59 Milner Road, Heswall be granted as follows:

Sale by Retail of Alcohol

Sunday - Thursday 11:00 to 23:00
Friday & Saturday 11:00 to 23:30

Hours Open to the Public

Sunday - Thursday 11:00 to 23:30
Friday & Saturday 11:00 to 00:00

Regulated Entertainment

Sunday - Thursday 11:00 to 23:00
Friday & Saturday 11:00 to 23:30

(3) That the Non-Standard Timings for Licensable Activities be extended as follows:

Maundy Thursday until 12:30
Good Friday until 12:30
Saturday and Sunday of Bank Holidays until 12:30
Christmas Eve until 02:00
New Years Eve until 02:00

And the premises must close to the public 30 minutes after the above times.

(4) That the request to remove the conditions be refused.