

LICENSING SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY, 8 AUGUST 2011

Councillors Present: Jeff Beck, Billy Drummond and Geoff Mayes

Also Present: Sarah Clarke (Team Leader - Solicitor), Moira Fraser (Democratic Services Manager)

Apologies for inability to attend the meeting:

Councillor(s) Absent:

PART I

7. Declarations of Interest

There were no declarations of interest received.

8. Schedule of Licensing Applications

9. Application No. and Ward: 11/000973/LQN The Starting Gate, 75 Brummell Road, Newbury, RG14 1SG

The Sub-Committee considered a report (Agenda Item 2(1)) concerning Licensing Application 11/000973/LQN in respect of The Starting Gate, 75 Brummell Road, Newbury.

In accordance with the Council's Constitution, Claire Seymour (Designated Premises Supervisor), Bo-eun Jung (Solicitor), Edwin Pope (Punch Taverns PLC) (applicants), Emilia Matheou (Licensing Officer, West Berkshire Council), Ms Meg John (Speen Parish Council), Mr Martin Fisher, Mrs Kim Brown and Mrs Hindley-Greaves (objectors), addressed the Sub-Committee on this application. Mrs Pavier (objector) was also in attendance at the meeting.

The Sub-Committee also took into consideration the written submissions of Mrs Harper, Mr and Mrs MacWilliam, Mr Smith and Ms Willcox (all objectors) who did not attend the hearing.

The Chairman (Jeff Beck) clarified two issues that were raised in the letter from Speen Parish Council dated 21 July 2011. In respect of paragraph 5 on page 25 of the agenda he explained that where an application pertained to a premises licence it was acceptable for the notice detailing the application to vary to be displayed within the premises. The requirement to display the notice every 50m on the external perimeter was only required where the application related to an outdoor event.

Councillor Beck also explained that West Berkshire Council was not legally bound to inform the Parish Council that an application had been submitted. It was customary for the Council to do so but there was no legal obligation for the Council to undertake this activity. Councillor Beck apologised that, due to staff shortages, there had been a delay in notifying the Parish Council on this occasion.

Sarah Clarke (WBC Solicitor) explained that the Licensing Authority had received a letter from Mrs Hindley-Greaves on the 02 August 2011. As the letter was received outside of the timescales for receipt of written information (i.e. it was received within five working days of the hearing) the information had not been circulated to the Members of the Sub-Committee. Should Mrs Hindley-Greaves wish the Sub-Committee to consider the letter,

LICENSING SUB-COMMITTEE - 8 AUGUST 2011 - MINUTES

permission to do so would have to be sought from the applicant. Sarah Clarke passed a copy of the letter to the applicants. Once they had considered the content they agreed that it could be circulated to all present. The Chairman adjourned the meeting for two minutes to allow those present to digest the short letter.

Once the meeting had been reconvened Emilia Matheou introduced the report informing the committee that it was an application to vary the licence in respect of the Starting Gate, 75 Brummell Road, Newbury. The Licensing Officer noted that West Berkshire Council's Licensing Department received the application to vary the premises licence under the Licensing Act 2003 on the 24 June 2011.

Ms Matheou explained that the application for the variation was received for the following activities:

- To permit the sale of alcohol, live music, recorded music and karaoke Sunday to Thursday from 11:00 hrs until 00:00hrs and Friday and Saturday from 11:00hrs until 01:00hrs.
(Currently Monday to Thursday 11:00hrs until 23:30hrs and Friday and Saturday from 11:00 until 00:30hrs and Sunday from 12:00hrs until 23:30hrs).
- To permit the provision of facilities for dancing Sunday to Thursday from 11:00hrs until 00:00hrs and Friday and Saturday from 11:00 until 01:00hrs (currently no permission).
- To permit late night refreshment Sunday to Thursday from 23:00hrs until 00:00hrs and Friday and Saturday 23:00 until 01:00hrs (currently no permission).
- For the above a further additional hour into the morning following every Friday, Saturday, Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday weekend.
- A further additional hour into the morning following every Thursday, Friday, Saturday, Sunday and Monday for the Easter Bank Holiday weekend.
- A further additional hour every Christmas Eve and Boxing Day. From the start of permitted hours New Years Eve to the close of permitted hours New Years Day.
- To maintain an additional thirty minutes drinking up time on top of the last permitted sale of alcohol.

Ms Matheou explained that should the application be approved, there would need to be amendments to condition 9 titled "The supply of alcohol is to be permitted between the following hours", condition 10 titled "Premises to be open to the public during the following hours", and condition 11 which related to regulated entertainment would have to be removed.

The Officer explained that the consultation period had run from 24th June 2011 to 22nd July 2011. Within the prescribed 28 day consulting period the Licensing Department received representations by way of a signed and addressed petition from residents and a representation from Speen Parish Council. The representations related to noise, crime and disorder, and the prevention of public nuisance. Ms Matheou confirmed that no mediation was carried out in respect of this application to vary the premises licence.

Ms Boeun Jung (Solicitor) addressed the Sub-Committee on behalf of the applicants, with Edwin Pope and Claire Seymour present to answer queries. In addressing the Committee Mr Jung raised the following points:

- This was a modest application to extend opening and licensable activity times by half an hour every night;

LICENSING SUB-COMMITTEE - 8 AUGUST 2011 - MINUTES

- The letter from the objectors accepted that Claire Seymour was an effective and responsible manager. She had been the Designated Premises Supervisor (DPS) since 2009 and no complaints about the premises had been received during that time;
- The existing licence contained strict conditions in respect of reducing noise disturbance and times in which the garden area could be used;
- In accordance with the existing conditions (number 7) the DPS assessed the noise levels around the perimeter every hour during opening hours and this information was recorded in a log book;
- Claire Seymour had given her mobile telephone number to local residents so that if they had any issues they could raise it directly with her. Ms Seymour readily sought to actively engage residents;
- The application had been submitted due to requests from patrons who often worked late and would like to have a drink on their way home;
- The average age of the patrons was thirty five and over. Although the premises were frequented by a few younger patrons they were subject to tight controls by Ms Seymour;
- The premises fulfilled an important and popular service to the local area.

In response to the written representation submitted by Speen Parish Council Ms Jung explained that:

- The suggestion that additional conditions should be attached in respect of noise, should Members be minded to approve the application, as the changes were likely to increase noise levels were general and speculative. Ms Jung reminded the Sub-Committee that no objections had been received from Environmental Health, the Responsible Authority for such matters. Ms Jung was not aware that the Parish Council had raised any issues with either the DPS or the Local Authority in respect of noise nuisance emanating from this premises. The complaints about noise were therefore, in her opinion, unsubstantiated.
- The comments about crime and disorder were also speculative, as the incidents and behaviour referred to could not be linked to the Starting Gate. Much of the antisocial behaviour was purportedly undertaken by local youths, and due to the age profile of the patrons of the Starting Gate, it was unlikely to be any of them. Ms Jung reminded Members that no representations had been received from Thames Valley Police or Environmental Health about this issue either. She commented that the DPS had a positive working relationship with the police. The complaints about crime and disorder were therefore, in her opinion, unsubstantiated.

In response to the written representation submitted by the local residents Ms Jung explained that:

- The residents had confirmed that they were supportive of the management approach adopted by Ms Seymour who conducted herself in a responsible manner;
- Ms Jung accepted that residents might have some concerns about any possible deterioration in standards should Ms Seymour leave. Ms Jung hoped the fact that Ms Seymour had a ten year lease in respect of the Starting Gate would reassure those present. Should a change in management lead to a deterioration in the future, this could be dealt with by way of a Review of the Premises Licence.

LICENSING SUB-COMMITTEE - 8 AUGUST 2011 - MINUTES

In response to queries from the Sub-Committee and the objectors the applicants explained that:

- The noise levels on the perimeter were assessed by ear but that Ms Seymour was willing to purchase a monitoring device should this be deemed necessary;
- In the event that Ms Seymour did feel that the noise levels were too high, she would ask any live bands to lower the volume;
- In order to reduce noise levels she had already relocated the area set aside for live bands to the other side of the pub;
- There was not currently a sound limiter on site, but she would consider installing one if the Sub-Committee deemed it necessary.

Ms Meg John (Speen Parish Council), Mr Martin Fisher, Mrs Kim Brown and Mrs Hindley-Greaves (objectors), in addressing the Committee raised the following points:

- Ms John, who was speaking on behalf of the Parish Council, noted that there were issues associated with anti-social behaviour and crime in the parish;
- While this behaviour was not necessarily linked to the Starting Gate, nobody had ever been charged with committing any of the acts. The Parish Council was reluctant to see any changes to the licensing activity which could exacerbate the situation;
- The Parish Council accepted that although the Licensing Act was not the primary mechanism for dealing with these issues, the Parish Council did not want the local residents to be negatively impacted upon as a result of an increase in noise nuisance from the Starting Gate;
- The Parish Council was concerned that despite the request for an increase in hours and for a licence to permit dancing, no additional steps were detailed in the application as to what the Starting Gate management would be doing to address the four licensing objectives; This suggested that the application had not been fully thought through;
- She noted that the original licence had been issued in 2005 and, despite having conditions attached to it, a Noise Abatement Notice had been served on the premises in 2009;
- Ms John requested that, should the Members be minded to approve the application, consideration should be given to strictly enforcing existing conditions and include additional conditions pertaining to:
 1. keeping all windows and doors shut while music was being played;
 2. sound proofing of the area where music was being played and where dancing took place;
 3. installation of a sound limiter;
 4. ensuring that the speakers were placed away from the walls;
 5. retention of the CCTV footage for 28 days;
 6. introduction of acoustic lobbies at the exits and entrances to the premises;
 7. ensuring that the timings relating to the use of the garden area were adhered to;
 8. and using a sound monitoring device rather than relying on hearing, for monitoring sound levels on the boundary.

LICENSING SUB-COMMITTEE - 8 AUGUST 2011 - MINUTES

Mr Fisher in addressing the Sub-Committee noted that he, and Ms Pavier, had objected to the original application in 2005. He also noted that:

- He had not appreciated, until the paperwork had been received, that the applicant was Punch Taverns PLC;
- At the time the original licence had been issued (2005), the smoking ban was not in place;
- The introduction of the smoking ban meant that the smokers gathered outside of the building after 11pm, when the garden area was supposed to close, and this resulted in an increase in noise levels into the early hours of the morning;
- He was concerned about the impact that would arise should Ms Seymour leave the establishment, as the conditions would be attached to the premises and not the DPS; He noted that there had been a number of managers (4 or 5) in place between 2005 and 2009.
- He accepted that the criminal activity in the area could not be linked to the Starting Gate, but he was concerned that extending the operating hours by an additional hour each day could exacerbate the situation;
- It was being recognised by Central Government that the 24 hour drinking laws were not working as planned and that he hoped the Sub-Committee would support the local residents by accepting their objections;

Mrs Brown accepted that living near a licensed premises would mean that residents would have to tolerate a degree of noise disturbance, but that the revised hours were a step too far and this request would simply tip the balance for residents. She went on to state that:

- It was also probable that the late opening hours of this establishment would mean that other patrons would be attracted to the Starting Gate, once the establishments they frequented had closed. This would generate additional car movements and noise from the late night patrons;
- Individuals who smoked did not stop at 11pm.

Ms Seymour explained that she sympathised with residents in respect of their concerns about noise disturbance. She had therefore given them her mobile phone number so that they could call her directly should an issue arise. She respected the licensing objectives and therefore inebriated people were not served alcohol at the Starting Gate. Incidents of this nature were logged in a book. She had joined both the Neighbourhood Watch and Pubwatch schemes. She accepted that there were some issues with noise being generated by individuals smoking outside. To combat this she had moved the benches to the patio area, to assist with reducing the impact on her neighbours. She was willing to have staff monitor the levels of noise and, where required, ask the patrons to lower noise levels.

Mrs Brown felt that Ms Seymour's intentions were good, but she could not control everything and therefore preventative measures had to be put in place.

Mr Pope explained that he was not employed by Punch Taverns at the time and he was therefore not able to comment on the issues that had arisen between 2005 and 2009. He felt that it was important to note that Ms Seymour was not the manager of the Starting Gate; she was the lease holder and therefore had security of tenure.

Ms Seymour reiterated that she had no intention of turning the premises into a nightclub. She had included the amendment relating to dance at the request of her patrons.

LICENSING SUB-COMMITTEE - 8 AUGUST 2011 - MINUTES

Similarly the increase in hours had been applied for to meet the demands of the local community.

Mr Fisher queried whether it would be possible to erect an enclosed area for people to smoke in. Mr Pope explained that any smoking area needed at least 50% of the structure to be open to the air, and that it was therefore unlikely to reduce noise levels.

Mrs Pavier queried whether it would be possible to make the notices about respecting residents when exiting the premises more prominent and that signs also be erected outside in order to reduce noise levels. Mrs Brown accepted that although it was unlikely that live music would be played in accordance with the revised timings, recorded music could generate similar levels of noise disturbance and therefore, the contention that the DPS could not afford to pay musicians for the extended hours was irrelevant. The noise generated until the early hours could therefore be a problem for residents. Although it would be possible to install a noise limiter to assist residents, some sounds e.g. 'bass music', could disturb residents but might not trigger the limiter.

Ms Jung, in summing up, noted that this was an application to extend licensable activities by half an hour each day and that the application was based on demand from the local community. Some of the issues raised by residents at the hearing had not been raised with Ms Seymour before. Ms Seymour had good control of the establishment and she worked hard to engage local residents. There was therefore no need to take any disproportionate action in respect of this application.

RESOLVED that: Application 11/000973/LQN for a variation to Premises Licence number 13217 in respect of the Starting Gate, 75 Brummell Road, Speen be granted subject to the conditions as in the operating schedule, any relevant mandatory conditions in ss19-21 of the Licensing Act 2003 and the following variations:

1. All windows at the premises will be closed at 23:00 hours and will remain closed until such time that the premises are closed to the public and the last member of the public has left the premises whenever any regulated entertainment is taking place at the premises.

REASON: The prevention of public nuisance

2. Except to facilitate access and egress from the Premises, all doors will be kept closed from 23:00 hours until such time that the premises are closed to the public and the last member of the public has left the premises whenever any regulated entertainment is taking place at the Premises.

REASON: The prevention of public nuisance

3. Condition 8 of Licence Number 13217 will be replaced with a new condition 8 which will state:

"Prominent clear notices shall be prominently displayed at all public entrances and exits and in the garden area requesting that customers respect the needs of local residents and leave the premises and garden area quietly."

REASON: Prevention of public nuisance

The meeting commenced at 10.00am and closed at 10.55am)

Councillor Jeff Beck (Chairman)

Councillor Bill Drummond

Councillor Geoff Mayes