

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

MONDAY, 12TH JANUARY 2009, AT 2.00 P.M.

PRESENT: Councillors Mrs. R. L. Dent, Mrs. M. A. Sherrey JP and L. J. Turner

Observers: Councillor D. McGrath

Officers: Mrs. D. Warren, Mrs. S. Smith and Ms. P. Ross

Also in attendance: Mr. A. Potts (Partner, Wright Hassall Solicitors - on behalf of Bromsgrove Members Club), Mr. T. Poulter, Designer for Westbourne Leisure Limited, Mr. P. Owens, Director, Westbourne Leisure Limited, Mr. K. Fitzgerald, Designated Premises Supervisor, Mr. K. Birmingham and 2 other local residents.

21/08 **APPOINTMENT OF CHAIRMAN FOR THE MEETING**

RESOLVED that Councillor Mrs. R. L. Dent be appointed Chairman of the Sub-Committee for the meeting.

22/08 **APOLOGIES FOR ABSENCE**

No apologies for absence were received.

23/08 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

24/08 **PROCEDURE**

The Chairman opened the Hearing and introduced the Members of the Sub-Committee and officers present to the applicant and other parties present.

The Chairman invited the other parties to identify themselves, so that the applicant and/or the objectors were able to satisfy themselves that no person who may be in a position to influence the Sub-Committee remained in the room when the Sub-Committee considered their decision at the conclusion of the Hearing.

The Chairman reminded all parties of the procedure to be followed during the Hearing and that those parties present could be represented by a legal representative at their own expense, or by a Ward Councillor.

25/08 **APPLICATION FOR A PREMISES LICENCE - BROMSGROVE MEMBERS CLUB, WORCESTER ROAD, BROMSGROVE**

The Sub-Committee were asked to consider an application for a premises licence in respect of Bromsgrove Members Club, Worcester Road, Bromsgrove. The application was subject to a Hearing in the light of representations which had been made by 4 residents living near to the premises. The basis of their representations related to noise nuisance arising from public entertainment events. A representation had been received from the Council's Environmental Health (Pollution Control) Section on the grounds of public nuisance. No representations had been received from any other Responsible Authorities.

The Principal Licensing Officer introduced the report and asked Members to note that the premises already held a Premises Licence which is currently subject to a review application, which was scheduled to be heard at the end of January. Mr. A. Potts then put forward the case for the applicant. At the Hearing, the Applicant's solicitor requested permission to call Mr. K. Fitzgerald, the new Designated Premises Supervisor, as a witness. All parties and the Sub-Committee agreed to this. Representations were also put forward by the Council's Environmental Health Officer. At the Hearing, the Interested Parties who had given notice of their intention to attend the Hearing called Mr. K. Birmingham as a witness. The Applicant consented to this. Mr. K. Birmingham put questions to the applicant and (on behalf of the residents) made representations on the grounds of noise nuisance arising from public entertainment.

Having had regard to:

- The licensing objectives set out in the Licensing Act 2003
- The Council's Statement of Licensing Policy
- The guidance issued under section 182 of the Act
- The application and representations made on behalf of the Applicant
- The relevant representations made by the Interested Parties
- The relevant representations made by the Responsible Authorities, namely Environmental Health

RESOLVED:

- (1) that the provisions of the Operating Schedule (with the exception of the fifth paragraph of Section P d), and conditions;
- (2) that no live or recorded music events should be permitted at the premises until all measures specified in RPS Gregory's report B5231-A/ENV/A2 paragraph 6.1 (Initial Measures) have been implemented to the satisfaction of the Environmental Health Officer. If the Environmental Health Officer considers that the Initial Measures are insufficient no live or recorded music events should be permitted at the premises until the Additional Measures under paragraph 6.2 of that report have been implemented to the satisfaction of the Environmental Health Officer;

- (3) that all doors and windows to be kept closed except for ingress and egress after 2300 hours and at all times during live or recorded music events;
- (4) that the Designated Premises Supervisor shall undertake regular monitoring to ensure external levels of music are not such as to cause annoyance. This is to be done once per hour during events and curative measures taken if necessary. Written records shall be kept of all such monitoring results and of any actions taken; and
- (5) that the electronic noise limiting device installed in the function room shall be set to an appropriate level to prevent annoyance to neighbours, and shall be used at all times to control amplification equipment used for live or recorded music events.

The reasons for the Sub-Committee's decision were as follows:

- The Sub-Committee heard evidence of noise nuisance experienced over the years by residents of nearby properties. The Environmental Health Officer confirmed that noise nuisance had been experienced by residents. The Sub-Committee noted that the Applicant accepted that there had been problems with noise affecting nearby properties.
- The Sub-Committee noted the professional opinion of the Environmental Health Officer that the measures proposed by the Applicant in the RPS Gregory report should, if properly implemented, provide satisfactory protection for nearby properties from noise nuisance.
- The Sub-Committee imposed condition 2 above in the interests of prevention of public nuisance, to ensure that residents of nearby properties would not be disturbed by noise emanating from the premises pending the satisfactory completion of the noise mitigation measures, either the Initial Measures or, should these be required, the Additional Measures proposed by RPS Gregory, and to ensure that these are completed in such a way as to ensure that nearby residents are not disturbed by noise from the premises.
- The Sub-Committee imposed conditions 3, 4 and 5 in the interest of prevention of public nuisance, to ensure that residents of nearby properties are not disturbed by noise from the premises when live or recorded music events are being held.

The following legal advice was given:

- Conditions must be necessary for the promotion of one or more of the licensing objectives.
- Conditions may not be imposed for any other reason.
- The licensing authority may not impose conditions if its discretion has not been engaged following the making of a relevant representation and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised.
- Conditions must be proportionate.

The Chairman reported that the applicant, Interested Parties and Responsible Authorities would be notified of the decision in writing within 5 working days, and that an appeal against the decision could be made to the Magistrates' Court within 21 days from the date of the decision.

The meeting closed at 4.50 p.m.

Chairman