

**BROMSGROVE DISTRICT COUNCIL**

**MEETING OF THE LICENSING SUB-COMMITTEE**

**TUESDAY, 4TH AUGUST 2009 AT 10.30 A.M.**

PRESENT: Councillors Mrs. R. L. Dent (Chairman), D. Hancox and L. J. Turner

Officers: Mrs. S. Sellers, Mrs. S. Smith, Ms. P. Ross and Mrs. V. Brown (observing)

Also in attendance: Mr. R. L. Smith (Applicant for Review), Mr. R. Pickering and Mr. J. Stephens, local residents, Councillor E. Murray (Ward Member for Sidemoor), Mr. R. Goundry (Team Leader, Pollution & General), PC N. Sharpe (Licensing Officer, Bromsgrove and Redditch, West Mercia Police), Mr. R. Taylor (Gosschalks Solicitors - on behalf of Enterprise Plc), Mr. P. Thomas (Regional Manager for Enterprise Plc), Mr. M. Cox (Designated Premises Supervisor), Mr. N. Davidson (Joint Lease Holder, Duke of York), Mr. R. Davidson (Joint Lease Holder, Duke of York)

37/09 **APPOINTMENT OF CHAIRMAN FOR THE MEETING**

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

38/09 **APOLOGIES FOR ABSENCE**

No apologies for absence were received.

39/09 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

40/09 **PROCEDURE**

The Chairman opened the Hearing and introduced the Members of the Sub-Committee and officers present to the Applicant for Review ('the Applicant') and other parties present.

The Chairman invited the other parties present to identify themselves, so that the applicant and/or other Interested Parties 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 its decision at the conclusion of the Hearing.

The Chairman of the Sub-Committee advised a slight amendment to the published procedure to be followed at the Hearing in relation to the running

order of the speakers (meaning the Applicant for Review would present their case first, followed by the Environmental Health Officer, the Police and finally the licensee). The Chairman advised that those parties present could be represented by a legal representative at their own expense, or by a Ward Councillor.

41/09     **APPLICATION TO REVIEW A PREMISES LICENCE IN RESPECT OF THE DUKE OF YORK, BROAD STREET, BROMSGROVE**

The Sub-Committee was asked to consider an application for a review of a Premises Licence in respect of the Duke of York, Broad Street, Bromsgrove. The application for review had been made by Mr. R. L. Smith, a local resident living in the vicinity of the premises. The basis of the representations related to noise nuisance and anti-social behaviour. Representations had also been received from the Council's Environmental Health Section on the grounds of public nuisance and West Mercia Police who had expressed concern over the management of the premises.

During the consultation period the Council's Environmental Health Section had carried out monitoring of the regulated entertainment and their report showed that the premises were in breach of a number of its licence conditions.

The Principal Licensing Officer introduced the report and asked Members to note that a number of written warnings had been issued by the Licensing Authority on 24th February and 29th June 2009, informing the Licence Holder of the need for improvement in terms of keeping the volume of the music down to an acceptable level and to ensure that all windows were kept closed in accordance with licence conditions. A joint site visit with the Police took place on 5th June 2009 with the Designated Premises Supervisor being informed of the concerns expressed by local residents. Members were informed that since the report had been issued, the Designated Premises Supervisor and Manager of the Duke of York had left the premises. Members were further advised that this may have an impact during the Hearing on the representations from West Mercia Police. The Principal Licensing Officer informed those present that Members of the Sub-Committee had carried out an announced Site Visit to the premises prior to the Hearing.

Councillor E. J. Murray, Ward Member for Sidemoor then put forward the case for the applicant and all parties present agreed for photographic evidence to be presented to the Sub-Committee. Representations were then made by Environmental Health and West Mercia Police. PC Sharpe confirmed that he had received an application for Mr. M. Cox to be appointed as the new Designated Premises Supervisor and that this would be processed in the next 14 days.

The case for the Duke of York was then put forward by Mr. R. Taylor (Gosschalks Solicitors). He explained that the Duke of York premises were owned by Enterprise Plc but leased under a tenancy agreement. Due to the issues and concerns raised that tenancy agreement had been terminated under the conditions on the lease and the tenant had been requested to vacate the property. Enterprise Plc was in the process of entering into a new

lease with Mr. N. Davidson and Mr. R. Davidson who were present during the meeting, with the intention that Mr. M. Cox (also present) would act as Manager and Designated Premises Supervisor.

Having listened to the representations made, Mr. Taylor advised that in view of the problems which had been encountered at the premises with noise levels, he agreed with the recommendation in the report from the Team Leader, Pollution & General, namely that a condition be added to the Licence to prevent the opening of windows in the premises during licensable activities. He further stated that it was the intention of Enterprise Plc and the new tenants of the premises to continue to work with Environmental Health in order for further noise monitoring to be conducted and any issues arising from such monitoring to be addressed. Mr. Taylor also asked for it to be recorded that he agreed with the issues and concerns raised by residents during the Hearing.

Members heard directly from Mr. N. Davidson, Mr. R. Davidson and Mr. M. Cox who spoke about their roles in managing the premises in the future and their wish to ensure that the terms of the licence were complied with.

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 relevant representations made on behalf of the Applicant for the Review both in writing and at the hearing
- The relevant representations made by the Environmental Health Officer and the Police both in writing and at the hearing
- The relevant representations made on behalf of the Licensee including the offer to add 1 additional condition to the Premises Licence

**RESOLVED:**

that the conditions on the Premises Licence be modified by adding new conditions to take immediate effect as follows:

- that all windows and doors to be kept shut when licensable activities (B to I inclusive) are taking place, doors to be opened only for access and egress;
- that the use of the outside drinking area shall cease at 10.00 p.m. (modified from 11.00 p.m. as at present);
- that the Designated Premises Supervisor or responsible person shall ensure that the outside drinking area is cleared of customers at 10.00 p.m.; and
- that the Designated Premises Supervisor or responsible person shall ensure that during opening hours the outside drinking area is checked regularly to discourage any inappropriate behaviour.

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

- The Sub-Committee had received evidence at the Hearing and in writing of serious on-going problems with noise from music and incidents of anti-social behaviour;
- The Sub-Committee wished to ensure that nearby residents were not disturbed by unreasonable levels of noise;
- The Sub-Committee considered that the addition of conditions would protect nearby residents from disturbance from unreasonable levels of noise;
- The Sub-Committee had taken into account the evidence from the Licence Holder as to the planned change of tenant and Designated Premises Supervisor at the Duke of York and noted that those who gave evidence were committed to running the pub in accordance with the terms of the licence;
- The Sub-Committee also noted the comments of the Environmental Health Officer and that the new management team at the Duke of York stated that they were committed to working with Mr. Goundry to address the noise issues.

The Chairman reported that the Applicant and Interested parties 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.

The meeting closed at 1.00 p.m.

Chairman