

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

FRIDAY, 27TH NOVEMBER 2009 AT 10.00 A.M.

PRESENT: Councillors Mrs. R. L. Dent (Chairman), Mrs. M. A. Sherrey JP and Mrs. C. J. Spencer

Officers: Mrs. D. Warren, Mr. J. Davies and Ms. P. Ross

Also in attendance: Mr. R. Bray (Club President), Mr. S. Fitzpatrick (Chairman, Hunnington Parish Council), Councillor L. Gough, Councillor F. Chancellor, (Hunnington Parish Council), Mrs. R. Mullett (Clerk, Hunnington Parish Council), Mr. P. Harris, Mr. N. Moore, Mrs. J. Moore, Mr. J. M. Hillier.

42/09 **APPOINTMENT OF CHAIRMAN FOR THE MEETING**

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

43/09 **APOLOGIES FOR ABSENCE**

No apologies for absence were received.

44/09 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

45/09 **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 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 reminded all parties present 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.

46/09

APPLICATION TO VARY A CLUB PREMISES CERTIFICATE IN RESPECT OF ROMSLEY AND HUNNINGTON SPORTS CLUB, REAR OF 332 BROMSGROVE ROAD, HUNNINGTON, HALESOWEN

The Sub-Committee was asked to consider an application to vary a Club Premises Certificate in respect of Romsley and Hunnington Sports Club, rear of 332 Bromsgrove Road, Hunnington, Halesowen. The application was subject to a Hearing in the light of representations which had been made by 13 residents living near to the premises as well as a local business. The basis of their representations related to noise associated with people leaving the premises and that the extension in hours would only exacerbate the problems. No representations had been received from any other Responsible Authorities.

The Licensing Assistant introduced the report and asked Members to note that the premises already held a Club Premises Certificate. The Licensing Assistant informed those present that Members of the Sub-Committee had carried out an announced Site Visit to the premises prior to the Hearing.

Mr. Bray then put forward the case for the applicant. He then went on to provide information on the measures put in place to address the car parking issues. Mr. Bray proposed an alteration to the Operating Schedule to reflect the actual opening hours of the premises as 1000 hours to 0100 hours rather than 0130 hours as stated in the application and the report. In addition Mr. Bray further agreed to amend the application in respect of New Year's Eve, to the effect that the hours sought for the supply sale of alcohol to members of the club and the retail sale of alcohol to guests to be those applicable on Friday and Saturday.

Supply sale of alcohol to Members of the Club

- 1000 hours – 0000 hours into the morning following every Monday through to Sunday.

Retail sale of alcohol to Guests

- 1000 hours – 0000 hours into the morning following every Monday through to Sunday.

Provision of regulated entertainment in the form of live music (inside the premises)

- 1000 hours – 0030 hours into the morning following every Monday through to Sunday.

Provision of regulated entertainment in the form of recorded music, anything of a similar description to that of live music, recorded music or performance of dance, facilities for making music (inside the premises)

- 1000 hours – 0030 hours into the morning following every Monday through to Sunday.

Actual opening hours of the Club

- 1000 hours – 0100 hours into the morning following every Monday through to Sunday.

At the Hearing, the Interested Parties who had given notice of their intention to attend the Hearing called Mr. Fitzpatrick, Chairman, Hunnington Parish Council to act as their spokesperson, and he made representations on the grounds of noise nuisance arising from people leaving the premises, concerns over increased parking creating obstructions on the footpaths; parking on the 'private drive' and anti-social behaviour. Mr. P. Harris, Mrs. J. Moore and Mr. N. Moore (all Interested Parties who had given notice of their intention to attend the Hearing) and Members of the Sub-Committee put questions to the applicant.

Members heard directly from Mr. J. M. Hillier who spoke in favour of the application as a member of the club.

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 including the submission of a revised application in respect of the permitted hours; and
- The relevant representations made by the Interested Parties

RESOLVED that the new club premises certificate be granted subject to the following and the additional conditions offered by the applicant at the hearing namely:

- **To extend the hours for the supply sale of alcohol to Members of the Club and the retail sale of alcohol to guests:**
 - **1000 hours – 2300 hours Sunday to Thursday**
 - **1000 hours – 0000 hours Friday to Saturday and New Year's Eve**
- **To permit the provision of regulated entertainment in the form of live music (inside the premises):**
 - **1000 hours – 2330 hours Sunday to Thursday**
 - **1000 hours – 0030 hours Friday to Saturday and New Year's Eve**
- **To permit the provision of regulated entertainment in the form of recorded music, anything of a similar description to that of live music, recorded music or performance of dance, facilities for making music (inside the premises):**
 - **1000 hours – 2330 hours Sunday to Thursday**
 - **1000 hours – 0030 hours Friday to Saturday**
- **To remove all conditions retained by the transition process as set out in the previous Club Registration Certificate issued by the Magistrates' Court.**

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

- In relation to its decision relating to the extension of the hours for the supply sale of alcohol to Members of the Club and the retail sale of alcohol to guests the Sub-Committee took account of:
 - The concerns of the residents and local businesses who had objected to the proposed extension that this would lead to an increase in public nuisance in the form of noise disturbance to local residents and anti-social behaviour;
 - The risk of noise disturbance to nearby local residents caused by Members and their guests arriving at or leaving the Club at sensitive times;
 - The fact that the police did not make any representations about anti-social behaviour or car parking problems;
 - The lack of evidence of anti-social behaviour directly attributable to the Club.

The Sub-Committee acknowledged that the proposed extension to permitted hours posed a risk of noise disturbance to nearby residential properties, caused by people arriving at and leaving the Club at sensitive hours and decided that in order to minimise that risk the permitted hours for Sunday to Thursday should end earlier than for Friday to Saturday.

- In relation to its decision relating to the addition of regulated entertainment the Sub-Committee took account of:
 - The concerns of the residents and local businesses who had objected on the basis that this would lead to an increase in public nuisance in the form of noise disturbance to nearby residential properties and anti-social behaviour generally;
 - The risk of noise disturbance to nearby local residents from live or recorded music or anything of a similar description to that of live music, recorded music or performance of dance, facilities for making music (inside the premises) at sensitive times;
 - The risk of noise disturbance to nearby local residents caused by Members and their guests arriving at or leaving the Club at sensitive times;
 - The statement of the Applicant in the application that all windows and doors will be closed at 2300 hours during regulated entertainment (with doors to remain unlocked to comply with fire regulations);
 - The fact that the Environment Health officers did not make any representations about the risk of noise nuisance.

The Sub-Committee acknowledged that the proposal to hold regulated entertainment posed a risk of noise disturbance to nearby residential properties, caused by people arriving at and leaving the Club at sensitive hours and decided that in order to minimise that risk the permitted hours for Sunday to Thursday should end earlier than for Friday to Saturday.

The Sub-Committee was not persuaded that the risk of public nuisance was such that the application should be refused, and considered that the permitted hours it granted for licensable activities would address the concerns of local residents and businesses.

The Sub-Committee noted the representations made relating to parking. However, the Sub-Committee did not attach any significant weight to those representations for the following reasons:

- The Sub-Committee was advised that the licensing regime was not the appropriate means by which to control parking at the premises; regardless of whether or not any licensable activities took place at the Club vehicles would arrive at the club, and the evidence suggested that the principal problems which occurred relating to parking resulted from a large number of vehicles visiting the premises when both cricket and bowls matches were being held, and these are not licensable activities which fall within the remit of the Sub-Committee; furthermore:
- Vehicles are entitled to park on the highway; illegal parking is a matter for the police to enforce and is outside the remit of the Sub-Committee;
- In any event, evidence given at the hearing by a resident suggested that measures taken by the Club during the past year, including the installation of signage, had resulted in noticeable improvements.

The Sub-Committee did not take account of the following issues:

- whether or not there is a “need” for the additional hours for the supply and sale of alcohol or for regulated entertainment at the premises; the Sub-Committee was advised that this is not a factor the Sub-Committee is entitled to take into account; it is only entitled to determine the application in accordance with the licensing objectives, the Licensing Act 2003 and the guidance and regulations issued under it which make no provision for consideration of need;
- references to anti-social behaviour in the village as no evidence was put before the Sub-Committee that this was attributable to the Club or that it was within the control of the Club;
- whether planning permission had been given for the car park; the local planning authority did not make any representations to the Sub-Committee and the Sub-Committee was advised it was not entitled to consider planning issues.

The following legal advice was given:

- The licensing objectives should be paramount considerations;
- 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;
- “Need” for licensed premises or for additional permitted hours or licensable activities is not an issue for consideration by the Sub-Committee;
- The Sub-Committee was not entitled to consider planning issues when reaching its decision;

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.

Note:

The following is guidance given by the Sub-Committee at the hearing and does not form part of the Club Premises Certificate

If residents or other parties are concerned that they are being affected by noise, light or other pollution or environmental health concerns emanating from the premises they should contact the Council’s Environmental Health Service via the Customer Service Centre.

If residents or other parties are concerned that the Club may not be complying with the terms of the Club Premises Certificate they should contact the Council’s Licensing Section.

Residents or other Interested Parties are entitled to seek a review of the Club Premises Certificate as a whole and may seek advice on this from the Council’s Licensing Section.

The meeting closed at 11.47 a.m.

Chairman