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Licensing Sub-Committee

Monday, 25th June, 2007

PRESENT: Councillor T Grayshon in the Chair

Councillors D Hollingsworth and V Morgan

1 "Queen Hotel" - Application for the Variation of a Premises Licence - The Queen Hotel, 102 Burley Road, Leeds LS3 1JP

This application was withdrawn from the agenda prior to the meeting as the applicants and all interested parties had reached agreements on measures suggested in order to promote the licensing objectives of the city. The Premise Licence will therefore be issued by the Licensing Officer in accordance with the agreed conditions

2 "Podger Hotel" - Application for the Variation of a Premises Licence - The Podger Hotel, Ninelands Lane, Garforth LS25 1NT

Please refer to the attached decision letter

3 "Royal Oak" - Application for the Variation of a Premises Licence - The Royal Oak, 2 Cross Hills, Kippax, Leeds LS25 7JP

Please refer to decision letter attached.

Copies of the Map are available on request.

4 "The Regent" - Application for the Variation of a Premises Licence - The Regent, 15-17 Regent Street, Chapeltown, Leeds LS7 4PE

Please refer to the attached decision letter.

Copies of the Map are available on request.

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Our Ref: A61/HG
Your Ref: Podger decision

Date : 3 July 2007

APPLICATION FOR THE VARIATION OF A PREMISES LICENCE AT: PODGER HOTEL”, NINELANDS LANE, GARFORTH, LEEDS LS25 1NT

On 25th June 2007 the Licensing Sub Committee heard an application made by Orchid Pubs Operations Limited, Park Mill, Burydell Lane, Park Street, St Albans AL2 2HB for the variation of a premises licence at the Podger Hotel, Garforth.

The applicant sought to **remove** the condition attached to the existing premise licence which states that “Patrons shall not be allowed to use the beer garden or external drinking area after 23:20 hours”.

It should be noted that all existing licensable activities and hours of operation remain unchanged by this application.

This letter represents the formal decision of the Sub Committee in respect of the application.

Preliminary Procedural Issues

The Sub Committee considered preliminary matters of a purely procedural nature. There were no declarations of interest made.

Prior to the hearing the Sub Committee had considered the Licensing Officers Report containing the application as submitted and written representations received from the following local residents: Mrs M Elmieh; Mr S Ackroyd; Mrs K Ackroyd; Mr R Reading; C & P Hanlon; Mrs A North; Miss S Dove; H & M Brown; Mr R A George; Mr D & Mrs D Simpson, plus 5 anonymous submissions

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The Sub Committee noted that not all the interested parties attended the hearing, and resolved to take their written submissions into consideration and proceed with the hearing. The Sub Committee permitted each party 10 minutes in which to make their case. This time limit was imposed having regard to the relevant Regulations and in the interests of consistency and the efficiency of business.

The Sub Committee then went on to consider the application.

The Hearing

The following interested parties attended the hearing:

Ms Helen Audsley on behalf of Orchid Pubs Limited.

Mr Mark Lamb, Area Manager

Mr Mark Quarmby, Manager and DPS of the Podger Hotel

Local ward Councillor T Murray

Local ward Councillor M Dobson (observing)

In determining the application the Sub Committee took into account the written submissions contained within the report. These had been circulated to the Parties prior to the hearing.

After considering the evidence and submissions the Sub Committee needed to satisfy itself that granting the application to vary Licence would promote the licensing objectives.

In reaching this decision the Sub Committee had regard to the provisions of the Licensing Act 2003, guidance under Section 182 of that Act and the Council's own Licensing Policy.

In particular the Sub Committee took into account Sections 34 & 35 of the Act because these were the most relevant to the application and Chapter 7 of the Guidance relating to the prevention of crime and disorder, public nuisance and public safety.

The Sub Committee then went on to consider the following paragraphs of the Licensing Policy as the Sub Committee took the view these paragraphs had bearing on the application.

11:05 to 11:10 Crime & Disorder

11:11 to 11:22 Public Safety

11:23 to 11:28 Public Nuisance

The Sub Committee noted that the following agreement had been reached between the applicant and West Yorkshire Police (WYP) regarding an amendment to the condition in question in order to address the prevention of crime and disorder objective as follows:

“Patrons consuming alcohol or food shall not be allowed to use the beer garden or any other external area after 23:30 hours”

The Sub Committee further noted that even though this measure had been agreed between the parties, it did not supersede the decision of the Sub Committee.

Just prior to the commencement of the hearing, the Chair of the Sub Committee requested the applicant indicate on the map included within the Licensing Officers report exactly where the beer garden was situated in relation to the premises. Mr Quarmby highlighted the area in

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question and this was tabled to the Sub Committee and the interested parties in attendance and retained by the Clerk

The Sub Committee began by considering the representation made by local ward Councillor T Murray. Councillor Murray explained that a local resident, Mr Simpson who had made a written submission, had requested Councillor Dobson to attend the hearing and speak on his behalf. However since that request, Councillor Dobson had been nominated to sit on the Licensing Committee, and he therefore had asked Councillor Murray to attend in order to avoid any suggestion of bias.

Moving on, Councillor Murray stated that at the time of the change to the licensing regime in 2005, local residents had many concerns and worries. Since the original decision made in 2005, the local residents had generally been happy about the management and activities of the pub. At that time a condition was attached to the premise licence which prevented late night use of the external areas around the pub, and this was felt to have worked well.

This application to vary that condition had therefore come as a surprise and led the local residents to question the need to change. Councillor Murray stated main concerns of the local residents were those of noise and disruption, and that although these problems had not materialised so far, it was felt that they would if this application was granted.

He noted that WYP had no concerns regarding the sale of food or alcohol at the later hour, and conceded that the residents probably wouldn't either, however they would have concerns about noise and disturbance at the later hours associated with patrons using the external areas. Councillor Murray concluded by referring to the map with the external area/beer garden highlighted upon it and reiterated that these areas were close to local residents, and were close enough to cause significant disturbance to them.

The Sub Committee moved to ask questions of Councillor Murray, and noted that although there were no questions from the Members, they did permit Ms Audsley on behalf of the applicant to ask one. Ms Audsley enquired whether the local councillors and residents were aware that after 1 July 2007 when the new smoking legislation preventing smoking in public areas came into force, patrons who did smoke would be entitled to leave the premises anyway and smoke anywhere outside if they wanted. This could include smoking on the pavement, the car park or the public highway and thus they would be outside of the premises and away from the licensee's control

Councillor Murray responded that he was and commented that his concerns were based on the possible numbers of smokers making use of the designated areas at a later hour, he had concerns about the numbers and the hours asked for. He added that it was too early in the legislation change to predict whether smokers would be out there in large or small numbers, but if they were; it would be the noise they generated which would create big problems

The Sub Committee then moved to hear the submission made on behalf of the applicant by Ms H Audsley. Ms Audsley described the premise as a community pub, and this application had been made as a result of the smoking ban. The application had been discussed with both WYP and LCC Environmental Health Services and as a result the application had been amended to ensure patrons could only use the external areas for smoking, and not to drink or eat as well.

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Ms Audsley pointed out it wasn't a question of whether they would or would not go outside to smoke; patrons who smoked would have to go outside after 1 July 2007. This application was about the applicant being allowed to give a sensible smoking solution in the light of that – namely a designated area outside the premises which was easily monitored by staff.

Ms Audsley added that it would be difficult for staff to monitor smokers as they intended to do outside the premises without the designated area, as those patrons would therefore be allowed to go anywhere outside to smoke. She highlighted the fact that would be likely to make use of the car park, adding that currently the licence allowed patrons to take their drinks into the car park. This application therefore best addressed the solution.

The Sub Committee noted that the area to the front of the premises appeared to be a greater distance from local residents. Mr Quarmby responded that he would be happy to designate that area; however they had applied for the two areas in order to prevent the possibility of one large group of patrons congregating in just one area. With two designated areas there would be two smaller groups. He also added that there were proposals to include heating and lighting, plus a garden area in the rear site however the relevant planning application had yet to be determined.

Councillor Murray at this point was allowed to comment and ask a question regarding the planning application which he understood to be for a pagoda type building. Mr Quarmby confirmed this pagoda would be erected to the rear area. Councillor Murray then moved to discuss the planning application in more detail, namely the hours of usage, but was reminded by the Sub Committee that the outcome of a planning application was not a matter for the licensing authority. The Legal Adviser clarified that in any event, the use of the pagoda within the external area would require both applications to be approved.

Moving on, Ms Audsley provided the following information in reply to further questions from the Sub Committee

- if the application was refused, patrons who smoke would be free to go outside and use any external area, either within the boundary of the pub or not, to smoke. It was likely that they would use the car park surrounding the pub, which was bollarded from the pavement and it was likely they would use the bollards as seats.
- She confirmed the area to the front of the premises was further away from local residents and reiterated the applicants offer to accept a usage of just the front area (and removal of the rear area from any permission) if the Sub Committee wished
- She confirmed the premises was a busy pub with a mixture of customers and there were a number of smokers amongst the clientele
- With regards to built structures, Mr Quarmby stated there was a covered area to the front already which would provide shelter, heat and light. The pagoda intended for the rear area was really to be an extension of the beer garden

Councillor Murray further commented that he did appreciate why the application had been made. As Councillor Murray had been allowed to comment again, Ms Audsley was afforded the opportunity to respond. She stated that the Company did have experience of managing non smoking premises and already operated "dining pubs" which were entirely non-smoking. She stated that where a smoking area was provided, patrons would make use of it, but she highlighted the fact that they had to finish their drinks or leave them behind with friends in order to go out for a smoke. Furthermore she suggested that the addition of seats to the

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designated areas allowed better control of the number of smokers as they tended to wait for seat to become free before going outside.

The Decision

The Sub Committee had regard to the written and verbal submissions made by the representative of the local residents and carefully considered the verbal representations made on behalf of the applicant and the current licensee in support of the application. The Sub Committee noted the agreement made with WYP about the suggested condition made to mitigate against possible incidences of crime and disorder.

Members were satisfied that this measure would address any perceived concerns local residents may have with regards to noise and disturbance. However for the avoidance of doubt, the Sub Committee decided there was further action the authority could take to further control the use of the designated smoking areas

The Sub Committee therefore resolved to grant the application, but to impose a condition in order to provide further clarity and control as follows

It should be noted that the existing hours for the licensable activities at the premises are not affected by this application.

Conditions

- The request to vary the existing Premise Licence to remove the existing condition which states “ Patrons shall not be allowed to use the beer garden or external drinking area after 23:20 hours” be granted

That condition shall be replaced with the following:

- “Patrons consuming alcohol and/or food, or carrying on any other licensable activity, shall not be allowed to use the beer garden or any external area after 23.30, and shall not be allowed to use any external area for any purpose after 23.30 Monday to Wednesday, 00.30 Thursday to Saturday and 23.00 Sunday. In respect of Bank Holidays no external area shall be used for any purpose after the time when the public house ceases to be open to the public.

There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the Sub Committee. You must make this appeal within 21 days of this letter reaching you.

Appeals should be addressed to the Magistrates Court at:

Clerk to the Justices
Leeds Magistrates Court
Westgate
Leeds
LS1 3JP

and accompanied by a copy of this decision letter and the court fee of £75.00.

Yours faithfully,

Helen Gray
Clerk to the Licensing Sub Committee

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Minute Item 3



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11 September 2007

APPLICATION FOR THE VARIATION OF A PREMISES LICENCE: THE ROYAL OAK – 2 CROSS HILLS, KIPPAX, LS25 7JP

On the 25th June 2007 the Licensing Sub-Committee heard an application brought by Spirit Group Ltd, Jubilee House, Second Avenue, Burton-Upon-Trent, DE14 2WF for the variation of a premises licence in respect of the premises known as The Royal Oak, 2 Cross Hills, Kippax, LS25 7JP.

The applicant sought the following:

To REMOVE the condition on the existing premises licence 'Patrons shall not be allowed to use the beer garden, or any external area after 23:00 hours'

And REPLACE IT with to 'No consumption of food or alcohol in the beer garden, or any external area after 23:00 hours'.

Further to an agreement with West Yorkshire Police (WYP), the applicant then proposed to amend the condition to 'No consumption of food or alcohol and no licensable activities will be allowed in the beer garden or any external area after 23:00 hours'.

The hours of licensable activities were proposed to remain as granted in the premises licence.

This letter represents the formal decision of the Sub-Committee in respect of the application.

Preliminary Procedural Issues

The Sub-Committee considered preliminary matters of a purely procedural nature. There were no declarations of interest made. The Sub-Committee agreed that the procedure for the hearing would not be varied. The Sub-Committee then decided to exclude the public from that part of the meeting where Members would deliberate on the application as presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.

Prior to the hearing that Sub-Committee had considered the Licensing Officers report which included a copy of the application as submitted. The report also included written representations received from local residents Mr. D. Draper and Ms. M. Smith.

The Sub-Committee then went on to consider the application

The Hearing

The following interested parties attended the hearing:

- Ms. Kerry Ann Lewis, premises manager
- Ms. Irene Stephenson, Area Manager 'Spirit Group'

In determining the application the Sub-Committee took into account the written submissions from the responsible authorities contained within the report and the Notices of Hearing. These had been circulated to the parties prior to the hearing.

After considering the evidence and submissions the Sub-Committee would need to satisfy itself that granting the variation would promote the licensing objectives.

In reaching its decision, the Sub-Committee had regard to the provisions of the Licensing Act 2003, guidance under Section 182 of that Act and the council's own Licensing Policy.

In particular the Sub-Committee took into account Sections 34 & 35 of the Act because these were the most relevant to the application and Chapter 2 of the Guidance relating to the prevention of crime and disorder, public nuisance and public safety.

The Sub-Committee then went on to consider the following paragraphs of the Licensing Policy as the Sub-Committee took the view that these paragraphs had a bearing on the applications:

11:05 to 11:10	Crime & Disorder
11:11 to 11:22	Public Safety
11:23 to 11:28	Public Nuisance

As there were no objectors or responsible authorities present the Sub-Committee then considered the representations made on behalf of the applicant by Ms. Stephenson from 'The Spirit Group'. Ms. Stephenson had agreed to represent the applicant in the absence of her legal representative. The Sub-Committee noted that the premises was a village pub and, whilst the premises licence allowed the premises to stay open until 01:00 hours Sunday to Wednesday and 02:00 hours on a Saturday, the premises usually stopped serving alcohol at 23:00 hours and closed at 23:30 hours. In anticipation of the implementation of the smoking ban the applicant sought to allocate the 'patio' area of the beer garden as a smoking area. The premises manager indicated on the map provided in the report the area which the patio covered and advised that there were approximately 5 tables in this area with only umbrellas

for shelter. The applicant believed that, taking into consideration the number of smokers and the number of patrons those who use the premises, that this area was sufficient to deal with demand. The Spirit Group had also ensured that all staff had received training on the strict line the company was taking on the smoking ban. Staff would police smoking areas at regular intervals to ensure that no alcohol was consumed in the area outside of what the licence permitted.

In response to the objections which had been received in relation to noise problems at the premises the Sub-Committee was advised that the juke box at the premises was played on repeat during the day until 16:00 hours and patrons were then required to pay for the juke box after this time. The windows and external doors to the premises were closed at 21:00 hours to avoid and nuisance to the neighbouring properties. There had been incidents where patrons had played music in their car in the car park when they were sat in the beer garden. In these instances patrons were always asked to turn off the music or to leave if they did not adhere to the request. The Sub-Committee also noted that the car park was also frequently used by the customers of other premises in the area such as the takeaway and shops.

The Decision

The Sub-Committee discussed the application in a closed session and received legal advice on the options open to them with regard to the application. Members noted the written submissions objecting to the variation. The representations made by the applicant in support of the application were also taken into consideration by the Sub-Committee.

The Sub-Committee particularly took into consideration the fact that the application had been made as an attempt by the Applicant to control contain smoked on the premises to avoid nuisance to local residents and that the outside areas would be regularly monitored by staff to ensure adherence to the proposed conditions. After careful consideration the decision of the Sub-Committee was to grant the variation in the following terms:

The condition attached to the Premise Licence which states 'Patrons should not be allowed to use the beer garden or external drinking area after 23:00' be removed and replaced with:

'No consumption of food or alcohol and no licensable activities will be allowed in the beer garden or any external area after 23:00, and patrons shall not be allowed to use any external area after 23:00 for any purpose, except the area designated as 'patio' and marked as such by the applicant in the plan which shall not be used for any licensable purpose after 01:00 hours Sunday to Wednesday and 02:00 Thursday to Saturday.'

In making its decision the Sub-Committee was satisfied that the grant of the licence with the imposed conditions was in line with the Council's own Licensing Policy and the provisions of the Licensing Act 2003. The Sub-Committee particularly noted that the premises manager had made steps toward dealing with the noise from the car park area and urged the applicant to maintain this.

Yours sincerely

Helen Gray
Governance Services Officer

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Minute Item 4



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11 September 2007

APPLICATION FOR THE VARIATION OF A PREMISES LICENCE: THE REGENT, 15-17 REGENT STREET, CHAPEL ALLERTON, LEEDS, LS7 4PE

On 25th June 2007 the Licensing Sub-Committee heard an application brought by Spirit Group Ltd, Jubilee House, Second Avenue, Burton-Upon-Trent, DE14 2WF for the variation of a premises licence in respect of the premises known as the Regent, 15-17 Regent Street, Chapel Allerton, Leeds, LS7 4PE.

The applicant sought to vary the following condition contained within the current premises licence.

TO REMOVE 'Patrons shall not be allowed to use the beer garden, or any external area after 23:00 hours'

And **TO REPLACE** with 'No consumption of food or alcohol in the beer garden, or any external area after 23:00 hours'.

Further to an agreement with West Yorkshire Police (WYP), the applicant then proposed to amend the condition to 'No consumption of food or alcohol and no licensable activities will be allowed in the beer garden or any external area after 23:00 hours'.

The hours of licensable activities were proposed to remain as granted in the premises licence.

This letter represents the formal decision of the Sub-Committee in respect of the application.

Preliminary Procedural Issues

The Sub-Committee considered preliminary matters of a purely procedural nature. There were no declarations of interest made. The Sub-Committee agreed that the procedure for the hearing would not be varied. The Sub-Committee then decided to exclude the public from that part of the meeting where Members would deliberate on the application as presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.

Prior to the hearing that Sub-Committee had considered the Licensing Officers report which included a copy of the application as submitted. The report also included written representations received from local residents Ms A Birdsall, Mrs V Belton, Ms E Luddington, Ms M Price and Mrs A Sladdin.

The Sub-Committee then went on to consider the application

The Hearing

Mrs Irene Stephenson, Area Manager for the Spirit Group attended the hearing.

In determining the application the Sub-Committee took into account the written submissions from the responsible authorities contained within the report and the Notices of Hearing. These had been circulated to the parties prior to the hearing.

After considering the evidence and submissions the Sub-Committee would need to satisfy itself that granting the variation would promote the licensing objectives.

In reaching its decision, the Sub-Committee had regard to the provisions of the Licensing Act 2003, guidance under Section 182 of that Act and the council's own Licensing Policy.

In particular the Sub-Committee took into account Sections 34 & 35 of the Act because these were the most relevant to the application and Chapter 2 of the Guidance relating to the prevention of crime and disorder, public nuisance and public safety.

The Sub-Committee then went on to consider the following paragraphs of the Licensing Policy as the Sub-Committee took the view that these paragraphs had a bearing on the applications:

11:05 to 11:10	Crime & Disorder
11:11 to 11:22	Public Safety
11:23 to 11:28	Public Nuisance

As there were no objectors or responsible authorities present the Sub-Committee then considered the representations made on behalf of the applicant by Ms. Stephenson. The Sub-Committee noted that the application for the variation to the licence was in response to the smoking ban which had recently come into force. The aim of the variation was to provide a smoking area on the premises for patrons of the bar to use and would ensure that patrons were contained on the premises and not smoking on the street. It was the intention to use a specific area near the back door to the beer garden which would have a canopy and some heaters for patrons to use. Ms. Stephenson indicated on the map included in the report the area on the premises. The applicant felt that they could adequately police the area during opening hours to ensure that patrons were not drinking or eating in the area after 23:30.

The Sub-Committee was advised that The Regent was often confused with another two premises nearby which had a later licence and whose patrons often walked across the beer gardens of the premises. The applicant was aware of the disruption this caused to residents and was taking steps to address the matter.

Members of the Sub-Committee asked what alternative provision would be made if the application was turned down. Ms. Stephenson advised that those patrons who wished to smoke would have to smoke on the street outside the premises which would cause a greater disturbance to local residents and staff would find it almost impossible to police. In summing up the Sub-Committee noted that the applicant had learnt much from the smoking ban which had been in place for a longer period in Scotland and Wales. Staff at all of their premises were trained in the company's strict policy on the smoking ban and additional signage would be put up reminding patrons of the ban.

The Decision

The Sub-Committee discussed the application in a closed session and received legal advice on the options open to them with regard to the application. Members noted the written submissions objecting to the variation. The representations made by the applicant in support of the application were also taken into consideration by the Sub-Committee.

The Sub-Committee particularly took into consideration the fact that the application had been made as an attempt by the applicant to address the new smoking legislation and to avoid nuisance to local residents and that the outside areas would be regularly monitored by staff to ensure adherence to the proposed conditions. After careful consideration the decision of the Sub-Committee was to grant the variation in the following terms:

The condition attached to the Premise Licence which states 'Patrons should not be allowed to use the beer garden or external drinking area after 23:00' be removed and replaced with:

- 'Patrons consuming alcohol and/or food, or carrying on any other licensable activity, shall not be allowed to use the beer garden or any external area after 23:00 hours.
- Patrons shall not be allowed to use any external area for any purpose after 23:30 hours Monday to Thursday; 00:30 hours Friday and Saturday and 23:00 hours on Sunday"

In making its decision the Sub-Committee was satisfied that the grant of the licence with the imposed conditions was in line with the Council's own Licensing Policy and the provisions of the Licensing Act 2003. The Sub-Committee particularly noted that that the applicant had made steps toward dealing with the noise from the car park area and urged the applicant to maintain this.

Yours sincerely

Laura Pilgrim
Governance Services Officer

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