

## Licensing Sub-Committee

Monday, 21st June, 2010

**PRESENT:** Councillor C Townsley in the Chair

Councillors G Hyde and V Morgan

### 16 Election of the Chair

**RESOLVED** – Councillor C Townsley was elected Chair for the duration of the meeting

### 17 Late Items

No formal late items of business were added to the agenda. The Sub Committee were in receipt of supplementary information in relation to Item 8 “Lister Fisheries” as follows:-

- letter of representation dated 24<sup>th</sup> May 2010 from West Yorkshire Police setting out their objection to the application. This document had been submitted in time but omitted from the report on the application in error.
- additional letter of representation dated 14 June 2010 from Licence Trade Consultants submitted on behalf of the applicant

### 18 Declarations of Interest

There were no declarations of interest.

### 19 "Garforth Town FC" - Application for the Grant of a Premises Licence for Garforth Town Football Club, Cedar Ridge, Garforth, Leeds LS25 2PF

This application was withdrawn from the agenda prior to the meeting as the applicants and all interested parties had reached agreements on measures suggested in order to promote the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.

### 20 "Hedley Verity" - Application for the Variation of a Premises Licence for Hedley Verity, 45 - 47 Woodhouse Lane, Leeds LS1 3HQ

This application was withdrawn from the agenda prior to the meeting as the applicants and all interested parties had reached agreements on measures suggested in order to promote the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.

### 21 "Lister Fisheries" - Application for the Variation of a Premises Licence for Lister Fisheries, 56 North Lane, Headingley, Leeds LS6 3HU

The Sub-Committee, having regard to the Licensing Act 2003, the Statement of Licensing Policy and the Statutory Guidance, considered the application and the written submissions before them relating to an application to vary the existing Premises Licence held at “Lister Fisheries”, 56 North Lane, Headingley.

Representations had been submitted by West Yorkshire Police (WYP) which had been omitted in error from the report, but had been despatched to the applicant in good time. The documents were tabled to Members and were considered at the hearing. Members had also received an additional letter from the applicant prior to the hearing regarding the representations within the licensing officers' report.

Letters of representation had also been received from the following members of the public – Mr M Cook; Mr B Unsworth; Mr & Mrs Cockerham and Mrs A Beaumont. None of the local residents attended the hearing and the Sub Committee resolved to proceed in their absence. Local ward Councillor J Monaghan also submitted a letter of representation and did attend the hearing.

The Sub-Committee firstly considered a representation from the applicant seeking the removal of the letters received from Mr Cook and Mr & Mrs Cockerham from consideration at the hearing. The request was based on the distance of the resident's address to the premises. The applicant also sought removal of Councillor Monaghan's written submission and therefore his right to speak at the hearing. This request was based on his general comments on links between noise nuisance and take-away's. The applicant referred Members to the findings of the planning inspectorate on this matter and the fact that no representation had been received from LCC Environmental Protection team. The Sub Committee received legal advice and determined to exclude the representations from Mr Cook and Mr & Mrs Cockerham, but to proceed with the representation from Councillor Monaghan as the representation was valid. The question of what weight would be given to his representation was a matter for the Sub Committee to determine in due course.

Members then considered the applicants' representation seeking removal of the submission from WYP. This request was based on the fact that WYP letter referred to the application as a new Premises Licence, and not a variation; however the applicant confirmed they would not pursue this request.

The Sub Committee noted the applicant; Mr M Quadeer was not in attendance and sought to clarify the status of those in attendance on his behalf. The applicant was represented by Mr Maguire of Licence Trade Consultants who was accompanied by Mr M Bashir and Councillor M Iqbal. It was determined that Mr Bashir was the applicants' father and Councillor Iqbal would attend only to act as interpreter for Mr Bashir.

The Sub Committee then moved onto the hearing proper and heard from Mr B Patterson on behalf of WYP who referred Members to Cumulative Impact Policy (2) which covered Headingley and had been amended in 2007 to include variations of hours at hot food take-aways such as this premises in order to address problems of crime and disorder and public nuisance.

Councillor J Monaghan then addressed the Sub Committee and described the character of the local area and stated the hours requested by the applicant

would represent a significant increase and allow them later opening hours than any other premises in Headingley. He believed this premises would attract a number of people congregating which could cause additional noise nuisance.

The Sub Committee then heard the representation from Mr Maguire on behalf of the applicant who explained that planning permission to amend the hours of operation for the premises had been granted by the Planning Inspectorate following an appeal and the findings of the Inspector were detailed in his written submission.

Mr Maguire stated this premises had operated as a take away for 8 years and noted the application had attracted only 2 valid letters of representation from residents and no comments from LCC EPT. Mr Bashir, through Councillor Iqbal, answered questions from Members on the nature and trading of the business.

The Sub Committee considered the representations made by WYP, the applicant and by members of the public both in their letters of representation and at the hearing. Members noted the assurances given at the hearing by the applicant. Members also noted that WYP and Councillor Monaghan had not mentioned any problems associated with this premises and that LCC EPT had not made a representation.

However, Members reminded all present that the CIP was in place in Headingley for specific reasons, but these were not related to this business.

The Sub Committee felt they had not heard anything at the hearing, which equated to exceptional circumstances to set aside the CIP.

**RESOLVED** – To refuse the application.

- The application was refused on the basis of the CIP alone as the Sub Committee determined there were no exceptional circumstances in this case.

## **22 "Trax" - Application for the Variation of a Premises Licence for Trax, 148 Chapeltown Road, Chapeltown, Leeds LS7 4EE**

The Sub-Committee, having regard to the Licensing Act 2003, the Statement of Licensing Policy and the Statutory Guidance, considered the application and the written submissions before them relating to an application to vary the existing Premises Licence held at "Trax", 148 Chapeltown Road, Leeds LS7.

Representations had been submitted by West Yorkshire Police (WYP) and LCC Environmental Protection Team (LCC EPT).

The Sub-Committee firstly considered legal advice regarding the hearing procedure as this application contained three elements for consideration. The Sub Committee agreed to vary normal procedure in order to consider the requests to extend the opening/licensable hours and the provision of an outside area first. Once that decision had been reached Members would deal

with that part of the application seeking to remove and or replace embedded restrictions.

The Sub Committee then heard from Mr B Patterson and PC L Dobson on behalf of WYP who outlined the recent history of crime and disorder associated with the premises and the background to the serving of a Section 19 Closure Notice at the premises. That Notice had now been lifted however the measures contained within the Action Plan remained in place. WYP expressed deep concern over the impact the extension of hours requested and the provision of an outside drinking area would have on local residents and the possibility of further disturbance and/or disorder later into the night. Mr Patterson highlighted that the grant of this application would provide this premises with the longest opening hours in the locality.

Mr Patterson stated the applicant had not been able to identify an area within the site boundary for the external drinking area which would be acceptable to WYP. PC Dobson reiterated that the severe nature of the crimes associated with this premise had triggered the representation from WYP.

Mr B Kenny then addressed the Sub Committee on behalf of LCC EPT, highlighting the residential nature of the surrounding area and a number of complaints received from residents about noise emanating from the premises. He stated that LCC EPT were opposed to the use of any external area for drinking at this premises as noise could not be controlled outside the building and were opposed to any extension of hours as this would lead to an increase in noise and disturbance for local residents.

The Sub Committee then heard the representation from Mr Maguire on behalf of the applicant. He was accompanied by Mr E Ferguson.

Mr Maguire outlined the recent meetings he had attended with the Responsible Authorities on behalf of the applicant. Mr Ferguson confirmed measures had been taken to address the concerns raised at the time the S19 Closure Order was implemented. Mr Ferguson acknowledged that groups did congregate outside the premises but stated it was hard to control this. He addressed the history of the noise complaints made by local residents during 2008/09 and explained the background to the request for an external drinking area which he stated would be to the front of the premises, covered by CCTV and managed by doorstaff.

The Sub Committee discussed the location of the proposed external drinking area with all parties present, taking into account the more commercial nature of the area to the front of the premises, the measures proposed at the hearing to manage the external area; capacity and likely usage of that area.

The Sub Committee adjourned at this point to consider the first two elements of the application. On resuming the hearing, Members indicated that they were not prepared to grant permission for the extension of hours or the external drinking area, as they believed the premise had not previously been managed in accordance with the licensing objectives. They felt this was borne

out by the serving of the S19 Closure Notice and the implementation of the Action Plan. Members acknowledged the applicants' submission regarding measures since taken and those proposed, but felt the Notice and Action Plan showed that conditions had not been complied with previously. They commented that this application presented a significant extension to the licensed area and the hours of operation and felt it was too soon after the implementation of the Action Plan to assess whether the premises could be managed satisfactorily. Members therefore felt this application was premature.

With regards to the element of the application which would permit an external smoking area, the Sub Committee resolved to modify Condition 109 of the Premises Licence to read:

“Drinks, open bottles and glasses will be allowed to be taken from the premises into the front area up to 23:00 hours and not after that hour. This provision is limited only to the area between the front wall of the premises and the small wall abutting the highway”

The Sub Committee intended then to deal with the application to amend the embedded conditions on the Premise Licence, having regard to their earlier decision.

Mr Maguire reported that the applicant, during the adjournment, had reached agreement with WYP over the measures proposed to address the crime and disorder licensing objective. This was confirmed by WYP and the Sub Committee accepted the WYP representation regarding the conditions was settled and withdrawn. No agreement had been reached with LCC EPT over the measures contained within their representation and the Sub Committee resolved to adjourn the hearing again to afford the applicant time to discuss all the conditions with LCC EPT in the presence of WYP and the Legal Adviser to the Sub Committee.

On recommencement of the hearing, the Legal Adviser reported that agreements had now been reached between the applicant and LCC EPT regarding the conditions, importantly these would ensure inaudibility at the nearest noise sensitive premises and provision of plastic drinking glasses for use in the external area.

Members noted there were a total of 159 conditions on the current licence and the Legal Advisor reported that essentially the applicant had concurred with the requests made and wording suggested by the Responsible Authorities.

**RESOLVED –**

- a) That the elements of the application relating to the extension of hours and provision of an external drinking area be refused
- b) That Condition 109 be modified in order to permit use of an external area as a smoking area, to read: “Drinks, open bottles and glasses will be allowed to be taken from the premises into the front area up to 23:00 hours and not after that hour. This provision is limited only to the area between

the front wall of the premises and the small wall abutting the highway”. The remainder of that condition to read as proposed by WYP

- c) That with regards to the removal/amendments to the embedded conditions, Members noted the agreements now reached between the applicant and the Responsible Authorities, and noted that the agreed measures will now be imposed as conditions on the Premises Licence