

## Licensing Sub-Committee

Monday, 10th January, 2011

**PRESENT:** Councillor S Armitage in the Chair

Councillors R Downes and B Selby

**166 Election of the Chair**

**RESOLVED** - Councillor S Armitage was elected Chair of the meeting

**167 Late Items**

No formal late items of business were added to the agenda however supplementary information had been supplied in relation to Agenda item 9 – Europa shop. As documents submitted by West Yorkshire Police in support of their representation had been omitted from the report. These were despatched to all parties prior to the hearing. (minute 171 refers)

**168 Declarations of Interest**

There were no declarations of interest

**169 Restaurant/Take away" - Application for the grant of a Premises Licence for the Ground Floor Restaurant and Hot Food Take Away at Haddon Hall, Bankfield Road, Burley LS4 2JT**

The Sub-Committee, having regard to the Licensing Act 2003, the Section 182 Guidance and the Authority's own Statement of Licensing Policy considered an application for the grant of a Premises Licence for ground floor premises within the former Haddon Hall public house, Burley intended to operate as a restaurant/take-away.

Representations had been received from West Yorkshire Police (WYP); several local residents and local ward Councillor J Illingworth. Not all the local residents attended the hearing and the Sub Committee resolved to consider their written representations and proceed in their absence. Present at the hearing were Mr B Patterson & Mrs D Town (WYP) and Councillor J Illingworth (Kirkstall ward)

Members noted the applicant was not in attendance and that he had not attended a previous hearing on 10<sup>th</sup> December 2010 when determination of the application had been adjourned to this date. The Sub Committee decided to proceed with the hearing in his absence. It was reported that the applicant had not contacted the Entertainment Licensing Section or any agency since the previous hearing but had been provided with papers by his solicitor and the Clerk to the Sub Committee.

The Sub Committee heard first from Councillor Illingworth who described the residential nature of the locality and local residents concerns over the potential for noise and disturbance caused by the operation of the premises, customers and people congregating. He reported that a Costcutter supermarket operated from the same site from 06:00 hours and residents had

expressed concern about adding a late night operation which would have a detrimental effect on residents' ability to sleep. Councillor Illingworth also referred to residents experience of anti social behaviour associated with the previous use of the premises as a public house and their concern the new operation might also attract this type of behaviour.

Mr Patterson then addressed the hearing on behalf of WYP. He outlined WYP main concern as being the character of the applicant which he stated undermined all of the licensing objectives, as demonstrated by previous history.

The Sub Committee carefully considered the written and verbal representations submitted. Members acknowledged the concerns about potential noise problems but also noted the licensing history of the site and that this was an application for a licence to operate as a restaurant licence and not a late night drinking venue.

However, the Sub Committee had particular regard to the submission of WYP and felt that the antecedents of the applicant were such that the Licensing Authority could not be satisfied that he would fulfil his responsibilities under the Licensing Act 2003. As such granting the licence would not promote the four licensing objectives under the Act.

**RESOLVED** – That the application be rejected

**170 "Starlight Bar" - Application to vary a Premises Licence for the Starlight Bar, Unit 10, Shaftesbury Parade, Harehills Lane, Harehills LS9 6TA**

The Sub-Committee, having regard to the Licensing Act 2003, the Section 182 Guidance and the Authority's own Statement of Licensing Policy considered an application to vary an existing Premises Licence held at the Starlight Bar, Harehills.

Representations had been received from West Yorkshire Police (WYP); LCC Environmental Protection Team (LCC EPT) and several local residents. Not all the local residents attended the hearing and the Sub Committee resolved to consider their written representations and proceed in their absence.

Present at the hearing were:

PC L Dobson & Mrs D Town (WYP)

Mr B Kenny (LCC EPT)

Mr N Khan – the applicant

Mr A Flynn – former Designated Premises Supervisor

Mr D Coll; Mr D Cracknell and Mr D Orange – local residents

Councillor R Brett – Burmantofts & Richmond Hill ward

Councillor R Grahame - Burmantofts & Richmond Hill ward (observing)

The Sub Committee heard first from PC L Dobson (WYP) who referred to problems historically associated with the premises and a number of recent matters including the occasions when noise break out had been witnessed; the intelligence which suggested the premises operated past their existing permitted hours and the possible involvement of other third parties in the

running of the premises. WYP urged the Sub Committee to reject the application.

Mr B Kenny (LCC EPT) then addressed the hearing and explained that the premises were housed in an acoustically weak building with a large potential for noise problems as there was no air conditioning, requiring windows to be opened during warmer months, windows were only single glazed and there was a vent in the roof. LCC EPT felt that extensive and expensive acoustic treatment was required for this particular premises to operate with any problems or complaints but noted that the applicant had not proposed any measures to mitigate against noise break out.

The building was within a residential area and local residents had submitted complaints regarding noise, including 21 November 2010 at 01:00 hours during the operation of a Temporary Event Notice. Mr Kenny also had concern over the request for provision of live music which he stated was more difficult to control than the existing recorded music. Additionally, the premises had no car park and it was likely that residents would be disturbed by patrons parking in surrounding streets.

The Sub Committee then heard from local ward Councillor Brett on behalf of local residents who expressed concern over the later hours requested and the likelihood of increased noise and disturbance to local residents associated with patrons visiting the premises, smoking outside and congregating. He highlighted the impact of on-street parking in the adjacent residential streets particularly as the site opposite the premises was earmarked for a sheltered housing development. Local residents spoke in support of earlier comments and highlighted historical crime and disorder problems associated with the site which they felt could return if this application was granted.

The Sub Committee then heard from Mr Khan, the applicant who explained that he had limited experience within the licensing trade. In response to comments from WYP regarding other persons known to WYP who involved with the premises; he confirmed that Mr H Rafique was his business partner and denied that he had refused to reveal his identity to WYP. Mr Khan stated that there was no reason for WYP to assume that Mr Rafique would sell illicit tobacco or alcohol from the Starlight Bar.

Mr Khan stated he had believed the premises could open without major investment but he assured the Sub Committee that he could put measures in place if necessary and wished to address potential noise issues. In response to questions from the Sub Committee Mr Khan stated he had not sought professional advice beyond that offered on the application process by the Entertainment Licensing Section.

It was reported that Mr A Flynn no longer acted as DPS of the premises and that there was no DPS in place at present. Mr Khan confirmed his intention to become the DPS although it was reported that he did not hold a Personal Licence and was not able to do so.

The Sub Committee considered all the representations before them and had particular regard to the submission of WYP, LCC EPT and local residents regarding the recent operation of the premises.

Members felt that granting the requested hours and activities at this building in this location would undermine the prevention of public nuisance licensing objective. Furthermore, Members were very concerned over the applicants' lack of knowledge of licensing legislation and accepted good practice in the industry. This lack of knowledge was highlighted in the representations by the Responsible Authorities and in his own submission to the hearing. The Sub-Committee felt that granting this application to this applicant would undermine the licensing objectives of crime and disorder and public nuisance

**RESOLVED** – That the application be rejected

- The Sub Committee took the opportunity to remind the applicant that although this variation application had been refused, the existing Premises Licence remained in place – however as there was no DPS it was not currently lawful to sell alcohol under that licence.

**171 "Europa Shop" - Application for the Grant of a Premises Licence for Europa Shop, 344A Dewsbury Road, Hunslet, Leeds, LS11 7DJ**

The Sub-Committee, having regard to the Licensing Act 2003, the Section 182 Guidance and the Authority's own Statement of Licensing Policy considered an application for the grant of a Premises Licence for premises trading as Europa Shop, 344a Dewsbury Road, Hunslet.

Representations had been received from West Yorkshire Police (WYP);.

Present at the hearing were:

PC C Arkle; Mr B Patterson and Mrs D Town (WYP)

Mr A Joodakey – the applicant

The Sub Committee heard from PC C Arkle (WYP) who outlined the unusual nature of the representation and called Mr Stephen Kilroy of Her Majesties Revenue and Customs Service as a witness.

Mr Kilroy outlined the number of occasions that HMRC had visited the Europa shop and the nature; quantity and value of smuggled tobacco seized at the premises. Mr Kilroy referred to photographs within the written submission which highlighted the concealment of the cigarettes/tobacco on the premises and the sophisticated nature of the operation. He also reported on one occasion when smuggled cigarettes were seized from Mr Joodakey's van outside the premises. Mr Kilroy stated that Mr Joodakey had been warned on each occasion of the potential for prosecution and it was his professional opinion that, given the applicants history of the sale of smuggled tobacco, it was likely that the applicant would sell smuggled alcohol from the premises, should this application be granted.

Mr Patterson (WYP) then clarified the difference between a premises licence and a personal licence and the impact any future prosecution would have should this application be granted. The Legal Advisor to the Sub Committee highlighted the relevant Section within the Guidance which indicated that the

smuggling of alcohol or tobacco were particularly serious matters in relation to criminal activity at licensed premises.

The Sub Committee then heard from Mr Joodakey, the applicant, who responded by stating that he and his business partner had stopped being involved in the smuggled tobacco trade. He stated that he had not been particularly involved in the operation, rather it had been his business partner. He assured the Sub Committee that no further offences would occur.

During questions from the Sub Committee, Mr Joodkey confirmed the Europa Shop was now managed by his business partner. He made this Premises Licence application in preparation for the sale of the Europa shop business to his business partner. He no longer managed the shop, rather he held a premises licences for another off-licence business on Beeston Road.

The Sub Committee carefully considered the written and verbal representations before them and found that the applicant had been involved in smuggling large quantities of tobacco for sale. HMRCs had seized tobacco from the applicants' vehicle in March 2010; and despite a warning being issued; large numbers of products were subsequently seized from the Europa shop premises itself up to 27 October 2010.

Members noted the Guidance on such matters and regarded the smuggling of alcohol and tobacco as a very serious matter. Members felt there were legitimate concerns as alcohol also attracted excise duty and there was potential that granting this application would result in the sale of smuggled alcohol in the same way.

Members considered the applicants submission but were not satisfied that the premises would not be involved in the sale of smuggled alcohol and tobacco. The Sub Committee therefore concluded that the premises could not be operated so as to promote the prevention of crime and disorder in the future.  
**RESOLVED** – That the application be refused

**172 "Unit 5A" - Application for the Grant of Premises Licence for Unit 5A, Moor Allerton Centre, King Lane, Moortown, Leeds, LS17 5NY**

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

**173 "Universal Pizza/Jackie Chan's" Application for a licence transfer for Universal Pizza/Jackie Chan's, 49 - 61 Queens Road, Headingley, Leeds LS6 1HY**

This item was adjourned prior to the hearing to 31<sup>st</sup> January 2011 with the agreement of all parties