

LICENSING SUB-COMMITTEE HEARINGS

18 OCTOBER 2013

Present :- Councillor Nick Cope (Chairman)
Councillors Pauline Hazell and Gerard Oxford

Also in Attendance :- Councillor Lilley

. **Appointment of Chairman**

RESOLVED that Councillor Cope be appointed Chairman for the meeting

. **Declarations of Interest**

There were no declarations of interest.

. **Minutes**

The minutes of the meetings held on 19 July and 6 September 2013 were confirmed as a correct record.

. **Applications under the Licensing Act 2003**

The Head of Professional Services submitted reports in relation to the following applications for determination by the Sub-Committee, in accordance with the provisions of the Licensing Act 2003.

• **On The Corner**

The Sub-Committee considered an application to vary the premises licence in respect of the premises On The Corner at 7-9 High Street, Wivenhoe

In Attendance

Applicant Mrs Tuffin
Mr Stratton

Objector Mr Newman

Licensing Authority Mr M Nelson, Food Safety & Licensing Manager
Mr C. Samuel, Legal Services
Mr S Swain, Licensing Specialist Unit
Mrs S White, Licensing & Committee Co-ordinator

Mrs White gave a brief summary of the application. Mrs Tuffin presented the application and circulated further signatories to the petition, which was included in the paperwork for the Hearing; an aerial photograph of the site; a menu from the premises; two photographs of the frontage of the Bake House premises; and a one page document – Armstrong & Jamieson Ltd.

Mrs Tuffin addressed the issues raised in the representations and informed that Hearing that she did not allow glasses outside under any circumstances. Photographs of patrons from an adjoining premises with glasses were circulated. It was a condition of the licence that alcohol was served with food. With regard to the allegations of noise nuisance Mrs Tuffin expressed the view that if noise levels were as bad as was contended there would have been complaints made and she would have been made aware. They had received one call from Environmental Control and that was in relation to smoking; the matter had been investigated and no evidence had been found to support the complaint.

Mr Newman addressed the Sub-Committee on the points of his representation. His house was part of the same building as the premises although, as pointed out by Mrs Tuffin, it was separated by her house. Mr Newman explained that because of the structure and age of the building noise travelled through the walls and escaped from the single glazed windows. He referred to a few specific incidents of noise nuisance and also of people being in the premises after closing time and also contended that substantial food was not served on the premises. In response to questions, Mr Newman indicated that he had been aware of the procedure for logging complaints, as he was a former Councillor, but he had not pursued this route as he had not, in the past, found it to be very successful. Mr Newman clarified the position of the toilets which were accessed via an alleyway shared between Valentinos and On the Corner and located underneath his bedroom window.

RESOLVED to permit:-

- The supply of alcohol, the provision of live music and for the premises to be open for the following hours-

Sundays to Thursdays from 11.00 to 00.00

Fridays and Saturdays from 11.00 to 00.30

- Provision of films and recorded music for the following hours-

Sundays to Thursdays from 07.00 to 00.00

Fridays and Saturdays from 07.00 to 00.30

- Provision of late night refreshment for the following hours-

Sundays to Thursdays from 23.00 to 00.00

Fridays and Saturdays from 23.00 to 00.30

Non-Standard hours – New Year’s Eve from 23.00 to 11.00 New Year’s Day;
Christmas Eve from the end of licensed hours on Christmas Eve to 01.00 on Christmas Day.

Subject to the following conditions -

1. The premises will operate Challenge 25 in relation to the sale of alcohol, requiring all those who appear to be under 25 to be asked for a recognised form of photographic identification.
2. Alcohol to be served with table meals only.
3. Live music to be unamplified music only.

Reasons for the Determination

In arriving at the decision the Sub-Committee considered each point very carefully. It noted the representations, arguments and evidence presented by all parties including the applicant and other parties under the Licensing Act 2003.

The Sub-Committee had regard to the evidence of Mr Newman and his objections to the application. This evidence was challenged by the applicant. The Sub-Committee was mindful of the need to balance the commercial interests of the applicant against the concerns of residents and so determined to grant the application with additional conditions to address those concerns.

The objectors were reminded that they have the right to request a review if problems occur once the varied licence is in operation.

Councillor G Oxford was substituted by Councillor Lilley for the following item

• Blue Ivy, 4-5 North Hill, Colchester

The Sub-Committee considered an application for a new premises licence in respect of the Blue Ivy guest house at 4-5 North Hill, Colchester

In Attendance

Applicant Mr Moreno

Objector Mrs Hibbins

Licensing Authority Mr M Nelson, Food Safety & Licensing Manager
Mr C. Samuel, Legal Services
Mr S Swain, Licensing Specialist Unit
Mrs S White, Licensing & Committee Co-ordinator

Mrs White gave a brief summary of the application. Representations had been received

from Environmental Protection and from a local resident who expressed concern that in the event that the licence was granted as applied for the existing problems of public nuisance and anti-social behaviour in the area would be exacerbated.

Mr Moreno, in presenting the application, explained that the intention was to run a boutique style 12 room guest house aimed at couples wishing to visit and stay in Colchester. The premises would have a small bar and restaurant which would serve both residents and the general public. In responding to questions Mr Moreno explained that the premises would be very similar to their current premises, the Eastgates Inn, which they had refurbished to a standard which meant that it was not particularly attractive to a younger age group. The premises, which had been previously used as a solicitors' office, needed very little work to convert it and had the advantage of 22 parking spaces. The conditions requested by Environmental Protection had been agreed and these would be applied to the grant of any licence. Mr Moreno confirmed that it was not his intention to create a noisy venue as they wished to fill the guests rooms which they would not be able to do if the bar downstairs was noisy.

Mrs Hibbins addressed the Sub-Committee in respect of her representation and stated that she had no objection to the use of the building but was concerned at the late hours that had been applied for. The conditions agreed with Environmental Protection were noted but Mrs Hibbins commented that these conditions were also in place at Twisters and had done little to control the problems at that premises so she was not sure that they would be effective in controlling any problems at this premises. Mrs Hibbins mentioned the hours of the licences for comparable premises which were shorter than those applied for in this case and questioned the need for the premises to be open until 02.00.

Mr Moreno responded that they had no intention of causing disturbance to local residents and they were prepared to compromise on hours. Twisters was a different type of bar and they were not aiming to attract the same patrons so they didn't consider that the same problems would arise. They wanted to create a venue where people could go for a quiet drink whilst also catering for their guest house residents. Mr Swain mentioned that the restrictions of the premises licence would not apply to residents of the guest house as drinks and food could be served to them without the need for a licence.

RESOLVED to permit:-

- The sale of alcohol on/off the premises and the provision of recorded music for the following hours-
Sundays to Thursdays from 11.00 to 23.30
Fridays and Saturdays from 11.00 to 01.30
- Provision of late night refreshment as follows-
Sundays to Thursdays from 23.00 to 23.30
Fridays and Saturdays from 23.00 to 01.30
- The premises are open to the public for the following hours-

Sundays to Thursdays from 11.00 to 00.00

Fridays and Saturdays from 11.00 to 02.00 (No entry to the premises by the general public after midnight)

Subject to the following conditions -

Agreed with Environmental Protection –

1. All external doors/windows must be kept closed, other than for access and egress, in all rooms when amplified music is being played.

Note to applicant - mechanical ventilation or air conditioning may be required in warm weather.

2. Amplified sound from the licensed premises shall not be audible at the boundary of any noise sensitive premises.

3. No live or amplified music to be played in the open air (including temporary structures such as marquees and tents).

4. Door staff will ensure patrons leave the vicinity quickly and quietly.

5. Prominent and clear notices will be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

6. Staff to be given adequate training on their responsibilities to minimise noise from patrons as they arrive at, queue and depart from the premises.

7. Any extract ventilation systems to be maintained so as to prevent odours causing a nuisance at sensitive premises. Maintenance records for any such system to be kept for 12 months.

8. The noise generated by such equipment shall not have any noise frequency component that exceeds 0dB above the background frequency levels as measured at all boundaries near to noise-sensitive premises.

Imposed by the Sub-Committee at the Hearing

9. No entry to the premises by the general public after midnight on Fridays and Saturdays.

10. The premises will operate Challenge 25 in relation to the sale of alcohol, requiring all those who appear to be under 25 to be asked for a recognised form of photographic identification.

11. A high quality digital CCTV system be installed and maintained and shall operate at all times the premises is open to the public. The codec format of digital computers must be available to authorised officers of the Police and Local Authority in order to download images. CD discs must be kept for 31 days. Sufficient staff to be trained in the use of the CCTV system.

Reasons for the Determination

In arriving at the decision the Sub-Committee considered each point very carefully. It noted the representations, arguments and evidence presented by all parties under the Licensing Act 2003.

The objector in presenting her objections made reference to the existing problems of anti-social behaviour and public nuisance in the area and expressed her concern that the opening hours requested could exacerbate this situation by encouraging non residents of the guest house to take advantage of late night drinking in the area. The applicant indicated his intention was to cater for a more mature clientele and not to encourage the younger/rowdier element and that he was willing to compromise on the question of opening hours but wished to provide an environment for people to enjoy a quiet drink.

The Sub-Committee noted the respective parties' positions and with a view to achieving a balance between the commercial interests of the applicant and the objections made, it determined to grant the licence with restricted weekday hours and to impose a last entry time on Fridays and Saturdays, which would apply only to members of the public and not to guest house residents..

The Head of Professional Services submitted a report in relation to the following application for determination by the Sub-Committee, in accordance with the provisions of the Licensing Act 2003.

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