

**LICENSING SUBCOMMITTEE
(2003 ACT)**20 July 2005
10.37am – 12.40pm**Present:** Councillors Benstead, Boyce and Holland.**FOR THE INFORMATION OF THE COUNCIL****05/licA/17 ELECTION OF CHAIR**

Councillor Boyce was elected Chair for the meeting.

05/licA/18 APOLOGIES

All members were present.

05/licA/19 DECLARATIONS OF INTEREST

Councillor Boyce declared a personal interest in that his ex-partner and his daughter currently lived in the area and he had lived there up to 15 years ago.

05/licA/20 PROCEDURE TO BE FOLLOWED

The procedure for hearings of the subcommittee was noted.

05/licA/21 BACKSTREET BISTRO, STURTON STREET

Present: Mr Liyanage (applicant's representative), Mr Fagg (licensee). Other interested parties – residents of Sturton Street.

Preliminary matters

The Sub-Committee noted that no other persons were to appear at the hearing other than the parties present. The Sub-Committee noted that two residents who had objected and whose objections were listed at Appendix D, were not in attendance. The Sub-Committee agreed to continue with the Hearing (para. 26 of the Hearings Procedure refers).

As the resident present (who was representing 11 residents) had requested that photographs and a petition be circulated (para 13a of the Hearings Procedure refers), the Solicitor suggested that the applicant and the residents withdraw to confer about these items. As a result the applicant agreed that one photograph could be circulated.

As the resident present had also expressed the view to the Council's Solicitor that the application had not been properly advertised, the solicitor quoted the relevant parts of the legislation.

The resident expressed the view that one notice in the window facing Hooper Street which 11 households in Sturton Street had not noticed until too late was inconsistent with the spirit of the law. The notice should have been visible from both streets.

The applicant's representative said that the applicant had complied with the law by posting a notice on the premises in the correct format and by putting a notice in the local newspaper.

The Committee sympathised with the residents' views but agreed to go ahead with the hearing as the applicant had complied with the law.

Licensing Officer

The Licensing Officer then presented the report to the Sub-Committee. The following were noted

1. that as there were no objections to Part A of the application, this had already been decided under delegated powers.
2. The matter for decision by the Sub-Committee was Part B of the application as outlined in paragraph 1.2 of the report.
3. that following pre-hearing discussions between the Environmental Protection Manager and the applicant it had been agreed that the application should be amended (shown in bold) such that Regulated Entertainment by means of recorded and live music would now only be permitted until **23.00** (Mon-Sat) and thereafter only background music would be played.
4. The proposals in the operating schedule were to be translated into understandable conditions as indicated at paragraph 3.1
5. An additional condition was to be added about public safety as regards the provision of fire appliances.
6. issues to do with re-cycling and parking mentioned in the letters from residents were not relevant to the Sub-Committee's decision; problems in these areas should be addressed through the Council's enforcement procedures.

Applicant

The applicant's solicitor presented the case in support of the application. He said that most of the objections from residents were not relevant. Problems with noise had been mentioned but if these were significant the applicant would have expected representations from Environmental Health officers and they had not made any. Any conditions in the licence must be enforceable by the licensee. He said that the premises was a restaurant and not a pub, that there was an extra hour permission already in place for serving alcohol with food, and the current application was not asking for much more in addition. As the premises were a restaurant it was unlikely that everyone would be leaving at the same time.

Other Responsible Authority/ies

No other Responsible Authorities were present.

Other Interested Party/ies

One resident spoke representing 11 residents of Sturton Street. The objections were summarised:

Principal objections were Noise and Nuisance. There was a good deal of al fresco dining. Increased hours would increase both noise and nuisance. Houses in the area were old and typically had only one course of brick. Extractor fans in the premises could be heard in neighbouring properties. While not a pub, the premises were mentioned in CAMRA as a bar in which one could sit and drink.

Sum up

All relevant parties present summed up the points made.

The Sub-Committee adjourned to consider its decision. The Legal Advisor to the Sub-Committee was asked to advise members during deliberations.

Decision

In reaching a decision on the application, the Sub-Committee considered the material presented to the Sub-Committee, the written and oral representations made, the Council's Statement of Licensing Policy and the statutory guidance under the Licensing Act 2003.

In this case, the Sub-Committee reached the decision on its individual merits. The Sub-Committee took into account the fact that the premises are in a residential area. However, the Sub-Committee was of the view that the grant of the variation application sought by the applicants, in part, would not undermine any of the licensing objectives.

Accordingly, it was decided:

To grant the variation application in part only, as detailed below, subject to conditions translated from the applicant's Operating Schedule (including a condition relating to fire fighting equipment), which are considered to be necessary for the promotion of the four licensing objectives.

The Sub-Committee did not grant the variation application sought by the applicant in its entirety. The Sub-Committee felt it necessary to reject the part of the application at Part O relating to the hours the premises are open to the public. The Sub-Committee decided that the premises should be open for only 30 minutes beyond the time permitted for the sale of alcohol, rather than the 45 minutes sought, in order to promote the prevention of public nuisance.

Sale of alcohol:**Monday to Saturday: 11.00 hrs until midnight****Sunday: 11.00 until 22.30 hrs****To reflect existing New Year's Eve/Day Hours****To provide regulated entertainment by means of recorded and amplified and unamplified live music performed by no more than two entertainers:****Monday – Sat: 11.00 hrs until 23.00 hrs****Sun: 11.00 hrs to 22.30 hrs****For the premises to be open to the public:****Mon – Sat: 11.00 hrs until 00.30 hrs****Sun: 11.00 until 23.00 hrs*****With effect from:******The variation to have effect from the 24th November 2005.***

CHAIR