

**LICENSING SUBCOMMITTEE
(2003 ACT)**16 April 2007
1.30pm to 2.45pm**Present:** Councillor Dixon (Chair), Hymans, Blencowe**07/lic/1 Apologies**

None

07/lic/2 Procedure to be Followed

The procedure for hearings of the subcommittee set out on the agenda was noted.

07/lic/3 Application to Vary Premises Licence: Mickey Flynn's, Mill Road**07/lic/3 Declarations of Interest by Subcommittee**

None

Present: Mehmet Degirmenci (Applicant), David Dadds (Applicant's Agent & National Association of Turkish Restaurants, Takeaways and Supermarkets (NARTS)), Cohan Zedek (Applicant's Translator & NARTS), Frank Gawthrop, Vikki Bruce (interested parties), Peter Sinclair (Police), Debbie Stoker (Assistant Licensing Officer), Carol Patton (Solicitor), Deborah Fletcher (Committee Clerk)**The hearing:** The Assistant Licensing Officer reported that the application was for a variation to sell alcohol off-premises for 24 hours. Representation had been received from the Police. Two previous applications had been objected to on the grounds of public nuisance and crime and disorder.

127 representations had been received from interested parties in response to this application. The Police generally supported the views held in these.

The subcommittee's options were to grant the licence subject to conditions consistent with the operating schedule, modified as necessary, or to reject the application.

The subcommittee had no questions at this stage.

David Dadds, as the Applicant's Agent, put the case for the applicant, referring to

- A proposed amendment to the application, which was as follows:

Sale/supply of alcohol (off premises)Mon – Thurs: 08.00 to 00.00
Fri & Sat: 08.00 to 01.00
Sun: 10.00 to 00.00**Hours premises open to the public**

As above

Five high-strength lager products would be available to purchase but not after 20.00 (currently these could be purchased until 23.00). These products would be kept locked away behind the counter after 20.00.

- Large majority of representations from interested parties were from people not within the vicinity. The Committee should not take into account any representations from anyone with an address further than 100m away from the shop in either direction. There were no individuals within the immediate vicinity objecting. Some were up to half a mile away.
- It appeared that some residents making representations had been instructed in what to write in their letters of objection and their representations should be treated as if they were making a petition
- Other licensed venues in the area were open until 00.00.
- The Applicant had two years' experience with no prior problems with the police or offences. He did not serve alcohol to intoxicated customers.
- The Applicant would undergo training and police checks.
- CCTV was in operation on the premises.
- The premises sold other goods such as groceries and milk, as a convenience store.
- It was unlikely that the public would travel from the city centre to the premises as there were premises open to a later time in the city centre.
- With regards to the two previous applications, the applicant had attended the first but had not understood fully; and as to the second application which was made by the organisation, they had not received a copy of the hearing date and had therefore not attended.
- The Police believed that what the applicant was proposing was reasonable.
- The Applicant would be joining the Pubwatch scheme.

The subcommittee asked for clarification of some of the aspects of the application, and this was given by the Licensing Officer and the Applicant's Agent as below.

- The Licensing Officer was unable to tell the subcommittee which premises in the city were open beyond 01.00.
- The Applicant had had no problems relating to the sale of high-strength lager, and had not and would not sell to intoxicated customers.
- There was a drug and alcohol addiction treatment centre near the premises, but the centre did not open late and so its patrons would not be in the vicinity at a late hour.
- The Applicant and his premises did not contribute to a high-strength alcohol consumption problem in the Mill Road area. Control measures outside the Licensing Act were being used. One of the representations received from a local resident referred to the problem in the past-tense.

PC Sinclair put the case for the Police as a responsible authority, and said

- The Police required the premises to make CCTV footage available for 31 days, and for a record of staff training.
- Having a lockable cabinet was not uncommon in off-licensing.
- Unfortunately a trial period couldn't be done but the Police have the option of asking for a review of the licence if necessary.
- The premises' record appeared to show that the applicant was a responsible retailer, with calls to the police regarding underage customers.
- There had been an improvement in the high-strength alcohol consumption problem in the area.
- Some venues in the city centre were open until 01.00 on Friday and Saturday.

- Police would monitor the premises.

The subcommittee asked for clarification of some of the aspects of the application, and this was given by the Responsible Authority and the Licensing Officer as below.

- The training for staff would be a national qualification.
- The Police could not attribute any cumulative effect on residents in the surrounding roads to the premises. The Licensing Act refers to the likely effect but there was no current evidence to show any issues.
- There was no real guidance available to consider the impact on residents who lived further away.
- This application, prior to the amendment, had caused the Police concern as it was for a 24-hour licence. The Police still had some concerns about the amended extension but the reduction in hours from the original application made the licensing objections more achievable.
- It was not necessary to consult local police teams in light of the amendment as the Police Officer had 11-12 years' experience of issues in Licensing and Mill Road.

Frank Gawthrop was asked to put the case for the interested parties.

The Applicant's Agent asked for clarification of whom the interested party was representing, Mr Gawthrop referred to The Glisson Road/Tenison Road Area Residents Association, which had about 250 resident members and covered most of the roads between Mill Road and Hills Road.

The Applicant's Agent requested an adjournment in order to read the specific letters confirming Mr Gawthrop's authority to represent them.

The Applicant's Agent then requested an adjournment because he believed that a comment made by one of the members of the subcommittee was prejudicial.

The subcommittee members adjourned to consult with the Solicitor on the legal procedure, and then returned to the meeting.

It was agreed that the Licensing subcommittee would be adjourned until Monday 14th May, 10.00am, to be heard by a differently constituted licensing subcommittee.

07/lic/ Application to Vary Premises Licence: The Green Dragon, Water Street

Declarations of Interest by Subcommittee

All members were known personally to R. Foot as he was formerly a Councillor. Cllr Rosenstiel as a member of CAMRA.

Present: Donald Moody (Applicant), R. Foot (interested party), Debbie Stoker (Assistant Licensing Officer), Carol Patton (Solicitor), Deborah Fletcher (Committee Clerk)

The hearing: The Assistant Licensing Officer explained that the applicant wished to change the commencement hour for the sale of alcohol on Sat and Sun to 10.00, an hour earlier than at present. There was also a seasonal variation to trade from the end of the permitted hours on New Years Eve to the beginning of permitted hours on New Years Day.

The application also included the introduction of an all-weather garden facility. No planning restrictions had been imposed and there were no representations from responsible authorities.

Donald Moody, as the applicant referred to

- The extension of hours in the morning would be for the use of river walkers. The smoking shelter would prevent the nuisance caused by people standing outside.

R. Foot, as an interested party asked

- Where would the all-weather facility be sited?

A: The applicant confirmed that it would be sited in the garden.

- The interested party had no further objections and so was happy to withdraw his objection.

The Decision: The Chair informed the meeting of the decision reached by the Sub Committee:-

In reaching the decision on the application, the Sub-Committee considered the material presented to the Sub-Committee orally on behalf of the local residents, and in writing, from the applicant, and including the Council's Statement of Licensing Policy, the Licensing Act 2003 and related statutory guidance and the Human Rights Act 1998.

The Sub Committee reached the decision on the individual merits of the application. Accordingly, it was decided:

1. To grant the application, as detailed below:-

Sale/supply of alcohol (on and off premises)

To vary the commencement hour for the sale of alcohol on Sat and Sun to 10.00

Seasonal Variation

To be able to trade from the end of permitted hours on New Years Eve to the beginning of permitted hours on New Years Day.

Hours premises open to the public

As for sale/supply of alcohol above (including seasonal variation)

Plan of the Premises

To alter the licensing plans to incorporate an all weather garden facility.

There are no changes to the regulated entertainment and late night refreshment elements of the licence.

The Chair also informed those present that all parties would receive written notification of the decision which would include details of the right of appeal against the decision.

07/lic/ Application to Vary Premises Licence: The Rock, Cherry Hinton Road**Declarations of Interest by Subcommittee**

Cllr Rosenstiel as a member of CAMRA.

Present: Donald Moody, Adrian Ward (Applicants), PC Peter Sinclair (Police & responsible authority), Selwyn Anderson (Environmental Protection Manager & responsible authority), Vicky Whitelaw (Assistant Principal EHO & responsible authority), Christine Allison (Licensing Officer), Debbie Stoker (Assistant Licensing Officer), Carol Patton (Solicitor), Deborah Fletcher (Committee Clerk)

The hearing: The Assistant Licensing Officer explained that the application included non-standard times, which was to open on bank holidays including 1 additional hour. Three evening events could be held each week. The licensable hours were the same for both interior and exterior drinking areas.

Representations had been received from the Police and Environmental Protection Manager as responsible authorities.

Donald Moody, as the Applicant, said that

- The smoking solution would be at the rear of the building, situated on the patio area in front of the car park; it would not take up any parking space or be on the street. Access to the premises would be alongside the smoking area, not through it.
- No music or entertainment events would take place outside the premises.
- The conditions listed at 4.3 of the report were acceptable to the Applicant.

PC Sinclair, as a responsible authority, said that

- The Police had concerns about the patio area in that it could disturb residents, and also about drinking on the street.

Selwyn Anderson, as Environmental Protection Manager, said that

- The premises was in a mixed commercial and residential area.
- The previous conditions had been deemed necessary for noise control. On 5 August 2004 a noise abatement order was issued to the previous landlord. On 19 April 2007 a resident had complained about the noise, as music was played until 5am. A noise abatement order had been served on the current landlord.
- Insulation measures would need to be used to resolve sound breakouts, such as when patrons were arriving and leaving. These breakouts would continue to be an issue until Condition 1 was resolved.

Members asked questions of the Applicant, who replied (A):

- Would the applicant be happy to comply with music policy until the points at Condition 1 were resolved?
A: Yes, the applicant did not want to cause a nuisance for neighbours. The incident where music was played until 5am was a staff party, no members of the public were present. Both entrances had lobbies so it would be possible to manage noise break-out. There were no facilities to play music in the outside areas.
- If the smoking area was made out of bounds after 23.30, would there be a risk of smoking on the street at the front?

A: Yes. (The Licensing Officer said that the 23.30 curtailment applied only to licensable activities such as drinking alcohol).

- With regards to the use of the back of the premises by patrons, and any noise disturbance that may be caused for neighbouring residential properties, was the car park deemed part of the managed area of the premises?

A: Yes

Letters received from interested parties were attached to the officer's report. No interested parties were in attendance.

Councillors adjourned to discuss the application in light of the concerns raised by the responsible authorities and interested parties and requested legal advice from the Solicitor.

The Decision: The Chair informed the meeting of the decision reached by the Sub Committee:-

In reaching the decision on the application, the Sub-Committee considered the material presented to the Sub-Committee in writing on behalf of the local residents, and orally and in writing from the applicant, and including the Council's Statement of Licensing Policy, the Licensing Act 2003 and related statutory guidance and the Human Rights Act 1998.

The Sub Committee reached the decision on the individual merits of the application. Accordingly, it was decided:

1. To grant the application, as detailed below:-

Supply of alcohol (indoors and outdoors)

Mon – Thur & Sun	11.00 to 00.00
Fri & Sat	11.00 to 01.00

Late night refreshment (indoors and outdoors)

Mon – Thur & Sun	23.00 to 00.00
Fri & Sat	23.00 to 01.00

Hours the premises are open to the public

Mon – Thur & Sun	11.00 to 00.30
Fri & Sat	11.00 to 01.30

2. To grant the following condition, as detailed below, but with additional conditions recommended by the Environmental Protection Officer as detailed in 4.3 of the officer's report:-

1.

- a) The variation requested of the current licence in respect of Regulated Entertainment, i.e.

Live music, recorded music, anything of a similar description, provision of facilities for dancing (indoors and outdoors)

Mon – Thur & Sun	11.00 to 00.00
Fri & Sat	11.00 to 01.00

shall have no effect until a full acoustic survey report assessing the impact of noise from the premises upon neighbouring premises (having regard to representative

levels of internally generated noise in terms of music and voice) has been carried out by an acoustic consultant or competent person and submitted in writing for approval by the Environmental Protection Manager (EPM).

- b) The acoustic assessment / survey report shall determine the impact of sound breakout and if unreasonable noise disturbance is likely to be caused to neighbouring premises, an acceptable scheme of noise insulation and or measures to limit the level of noise at source (e.g. noise limiter) shall be designed by a suitable acoustic specialist and submitted in writing for approval by the Environmental Protection Manager (EPM).
- c) Any agreed noise insulation scheme shall be installed to the satisfaction of the Environmental Protection Manager (EPM) and shall not be altered without prior approval and if a noise limiter / regulatory device is required it shall be operated and maintained to an agreed noise level that shall be conditioned.
- d) The licence variation for regulated entertainment comprised of live music and or recorded music and or karaoke and or the provision of facilities for dancing shall have no effect until the works identified in 1a, b and c above have been completed to the satisfaction of the Environmental Protection Manager (EPM).

2. Regulated Entertainment in the form of live music and recorded music may only be held between 18.00 hours and 23.00 hours, and there shall only be three events per week, two of which shall be held on Fridays and Saturdays until such time that the noise insulation scheme in 1 above has been fully installed and approved by the Environmental Protection Manager (EPM).

3. Regulated entertainment in the form of Live Music may only be held on Fridays and Saturdays until such time that the noise insulation scheme in 1 above has been fully installed and approved by the Environmental Protection Manager (EPM).

4. Regulated entertainment in the form of live or recorded music shall not be played in the outside patio/garden area and external background music will be turned off at 21.00hours.

5. The outside patio/garden areas shall not be used after 23.30 hrs.

6. When regulated entertainment is held, external doors and external windows to be kept shut at all times during performances, except the main entrance doors (that allow general ingress and egress) which shall be kept closed so far as reasonably practicable during events.

7. Prominent, clear and legible notices shall be displayed at the exit, requesting patrons departing to respect the needs of local residents and to leave the premises and the area quietly.

8. No waste with the exception of ash trays will be moved, removed or placed in outside areas between 2300 hrs and 0700 hrs.