

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, Council Offices, Chester-le-Street on **Wednesday 22 August 2012 at 10.00 am**

Present:

Councillor J Shiell (Chair)

Members of the Committee:

Councillors B Arthur, B Graham, K Holroyd and D Morgan

Also Present:

Councillor K Holroyd

Councillor D Morgan

S Grigor – Legal Officer

K Monaghan - Acting Team Leader – Licensing

Sgt T Robson – Durham Constabulary

P Montgomery – Applicant, Montgomery's

G Hunter – Applicant's representative

A High – DPS, Montgomery's

1 Declarations of Interest (if any)

There were no declarations of interest received.

2 The Minutes of the Meeting held on 3 July 2012

The Minutes of the meeting held on 3 July 2012 were agreed as a correct record and were signed by the Chair.

3 Application for the Variation of a Premises Licence - Montgomery's, 103 Front Street, Stanley

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application for the variation of a Premises Licence in respect of Montgomery's, 103 Front Street, Stanley (for copy see file of Minutes).

A plan showing the location of the premises and a copy of the application form had been circulated to Members together with representations from the Police as Responsible Authority.

Sgt T Robson of Durham Constabulary addressed the Sub-Committee. If the application was granted the Police considered that the licensing objectives of Prevention of Crime and Disorder and Prevention of Public Nuisance would be undermined.

Stanley had a small town centre and Montgomery's was the only nightclub, the nearest nightclubs being located at Consett or Chester-le-Street. The closest venue was The Royal which was open until 1am and was also owned by Mr Montgomery. Sgt Robson had patrolled the area for a number of years and had a good working relationship with the previous DPS of the premises.

In his experience the clientele could be difficult to deal with and tended to drink at weekends only. Buses did not operate at this time of night and taxis were limited, however customers were more likely to walk home. This caused disturbance in the surrounding residential areas, including residents of a local elderly persons residential home.

During his visits he had witnessed members of organised crime groups frequenting the premises, and had seen excessive drunkenness both inside and outside the venue. The Police had worked with the previous DPS to address problems.

He took Members through the incidents associated with the premises as detailed in the incident logs in the bundle of evidence. Mr Montgomery owned other licensed premises in the Front Street and as the Police had a good working relationship with these venues, he was surprised that no contact had been made by the applicant to attempt mediation.

Currently the Police had a presence on Front Street at 2am but if the application was granted it would not be possible to extend this until after 3am as Police resources would be required elsewhere.

Issues of public order and disturbance were directly linked to Montgomery's. The premises was in the centre of a hotspot of disturbance and violence; if the application was approved the problems of drunkenness and disorder would be exacerbated, and the quality of life of local residents would be affected.

In response to questions from Mr Giles Hunter, the applicant's representative, Sgt Robson advised that he had witnessed members of organised crime groups drinking in Montgomery's. Whilst many of the incidents had taken place outside the premises and he could not confirm precisely how many had been caused by patrons of Montgomery's, there had been eight recorded incidents when it was the only licensed premises open.

A Member asked about the report of underage drinking. The Sub-Committee was advised that an anonymous call had been made to the Police but when Officers attended the premises no underage person was present. Mr Montgomery stated that the report had been made at 9.10pm when the premises were empty.

Mr Hunter addressed the Sub-Committee and responded to issues within Sgt Robson's case. He challenged the comment made by Sgt Robson in his statement that the DPS was new and untested. Angela High was experienced, having been the DPS of the Queens Head at Annfield Plain for the last 3 years and having worked for Mr Montgomery for 10 years.

Security checks were in place. Underage drinking was challenged through the checking of ID at the door and door staff undertook searches for drugs and weapons. The 3 drugs offences referred to in the incident logs had come to light because of the diligence of the door staff.

The incidents relating to the possession of weapons had not been connected with Montgomery's and it was also unfair to associate the ambulance calls to the premises as there were other venues within the same postcode.

The area of Front Street where Montgomery's was located also had a bus station, takeaways and a taxi rank. These premises were areas where people naturally gravitated towards. People may also have travelled from other localities such as Newcastle, Durham or Chester-le-Street.

Mr Montgomery had been in the night club trade for 35 years and had received commendations from Strathclyde and Northumbria Police for his work against drugs and organised crime.

Mr Hunter continued that any connection with organised crime was a supposition by the Police and referred to an article which had appeared in the local press. The Chair advised that as the Sub-Committee had not seen the article, any reference to it would not be taken into account in their deliberations.

Mr Hunter advised that drinking habits had changed with people going out later as was demonstrated in other areas such as Chester-le-Street, Newcastle and Durham where premises were now open longer. Not only was there demand for the extra hour but Mr Montgomery believed that it would improve the dispersal of patrons at the end of the night. With regard to the availability of transport one taxi firm had confirmed that it would be available for the extra time requested.

In response to a question from Sgt Robson about demand for the additional hour Mr Montgomery advised that 12-15 years ago it was common for people to come into town at 11.00pm but he had found that they were now arriving between 12 midnight and 1.00am and staying out later.

Mr Montgomery addressed the Sub-Committee. He reiterated that he had been in the night club business for 35 years and outlined to Members his experience to date. He had acquired Montgomery's 10 years ago and had invested his own money in improving this venue and other premises he owned in the Front Street.

He had introduced his own 'barring' system in all his premises and had a zero tolerance policy. In 10 years the Front Street had improved as a result of his hard work to maintain order. The Police were called whenever there were potential problems and he believed that their objection was based on financial constraints alone. The Police presence on the Front Street acted as a deterrent and many of the problems were caused by people after they left the premises or had been dropped off from other areas to visit the takeaways. This was therefore the domain of the Police. He had asked for Police assistance in the past and a response had been delayed.

Mr Montgomery also stated that he had tried to contact the Police a number of times to discuss his application.

His premises had been the subject of a recent Police raid and no drugs had been found. He had received a letter from 2 teams competing in a tournament in the adjacent Bowls Centre who had commented on the hospitality of Montgomery's and the friendliness of its customers.

In summing up Sgt Robson responded to Mr Montgomery's comments. With regard to the drugs raid he advised that the Police had been requested to enter the premises by the DPS who had seized drugs and one person had been arrested. At the time of the bowls tournament he had spoken to 3 violent individuals who had been at the Bowls Centre and then in Montgomery's all evening.

He stated that Stanley was the subject of a Community Alcohol Partnership Agreement because of issues with alcohol and anti-social behaviour. People were drinking excessively at home and then going out. The objection was not because of a lack of resources but about having to deal with patrons from the premises at a time when Police resources should be deployed elsewhere. In his experience if the hours were extended the existing problems would be exacerbated and the quality of life of neighbouring residents and the residents of an elderly residential home would be adversely affected. He asked the Sub-Committee to examine whether on the balance of probabilities the problems on Front Street were connected with the patrons of Montgomery's.

In summing up Mr Hunter reiterated that the application was for one hour only and he did not accept that this would create huge problems. It did not mean that all patrons would be excessively drunk or would cause anti-social behaviour. There may be some extra noise and transport issues but the premises were situated in a town centre, not a residential area. Some people may walk past a residential care home but Sgt Robson had not reported any problems associated with this. Mr Montgomery had demonstrated that he was a competent licensee.

At 11.15am the Sub-Committee left to deliberate the application in private. After reconvening at 11.40am the Chair delivered the Sub-Committee's decision.

In determining the application, Members had considered the report of the Licensing Officer, the relevant provisions of the Licensing Act 2003, Section 182 Guidance issued by the Secretary of State and the Council's Licensing Policy, together with the verbal and written representations of the applicant, his representative and the Police as a responsible authority.

Resolved:

That the application for the variation of the Premises Licence be refused.

The Sub-Committee agreed that the order of business on the Agenda be amended to allow the mediated application in respect of the Shell Garage, Carrville to be considered next.

4 Application for the Grant of a Premises Licence - Shell Garage, High Street, Carrville

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application for the grant of a Premises Licence in respect of the Shell Garage, Carrville (for copy see file of Minutes).

A plan showing the location of the premises and a copy of the existing Premises Licence and application form had been circulated to Members together with the representation received from Durham Constabulary.

Following successful mediation with Durham Constabulary the applicants had agreed to amend their application and had reduced the hours requested for the sale of alcohol to 0500 to 2300 hours. A copy of the signed mediation agreement had been circulated to Members.

In determining the application the Sub-Committee had considered the report of the Licensing Officer and the Mediation Agreement. The Sub-Committee had also taken into account the relevant provisions of the Licensing Act 2003, Section 182 Guidance issued by the Secretary of State and the Council's Licensing Policy.

Resolved:

That the mediation be accepted and the Premises Licence be granted as follows:-

Sale of alcohol for consumption off the premises	Monday to Sunday 05.00 to 23.00
Provision of late night refreshment (indoors only)	Monday to Sunday 23.00 to 05.00
Opening hours of the premises	Monday to Sunday 00.00 to 24.00

5 Application for the Variation of a Premises Licence - La Spaghattata, 66 Saddler Street, Durham

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application for the variation of a Premises Licence in respect of La Spaghattata, 66 Saddler Street, Durham (for copy see file of Minutes).

A plan showing the location of the premises and a copy of the existing Premises Licence and application form had been circulated to Members together with representations received from Environmental Health, Councillors D Freeman and D Stoker, and the applicant.

The Licensing Officer reported that since the papers had been circulated mediation had taken place between the applicant and Environmental Health. Both parties had given notice that a hearing was unnecessary and requested that it be dispensed with provided that any licence was granted subject to the inclusion of additional conditions within the operating schedule. A copy of the agreement was circulated to Members.

The Licensing Officer confirmed that Environmental Health had now withdrawn their objections. Councillors Freeman and Stoker had confirmed their agreement to the terms of the mediation and had also withdrawn their representations.

In determining the application, the Sub-Committee considered the report of the Licensing Officer and the Mediation Agreement. Members had also taken into account the relevant provisions of the Licensing Act 2003, Section 182 Guidance issued by the Secretary of State and the Council's Licensing Policy.

Resolved:

That the mediation be accepted and the application to vary the Premises Licence be granted, subject to the following additional conditions:-

Live music shall end at 02.00

Noise limiting equipment to be independently set to an agreed level and report forwarded to relevant authorities.