

**THE MINUTES OF THE MEETING OF THE
LICENSING SUB-COMMITTEE
HELD ON THURSDAY, 28TH JULY, 2005**

Present: Councillor G. Pinkney (Chair)
Councillors A. Collinson and D. Raine

Also present: M. Pearson - Fire and Rescue
P. McDermott - Fire and Rescue
J. Stout - Punch Taverns
P. McWilliams - Ford and Warren
C. Burton - Punch Taverns
M. Bell - District of Easington
C. Ridley - District of Easington
S. Craig - District of Easington
R. Matharu – Legal Advisor for District of Easington

1. APPLICATION TO VARY PREMISES LICENCE UNDER THE LICENSING ACT 2003 – FORD AND WARREN, ON BEHALF OF PUNCH TAVERNS, THE GEORGE INN, THE AVENUE, DENESIDE, SEAHAM

Consideration was given to the report of the Environmental Health and Licensing Manager for an Application to Vary a Premises Licence under Section 34 of the Licensing Act 2003, a copy of which had been circulated.

The Principal Environmental Health Officer (Licensing) explained that the application was for the variation of a Premises Licence from current licensing hours, under the Licensing Act 1964, to extend the hours of sale of alcohol to 0100 Friday morning, Saturday morning, Sunday morning and 0030 on Monday morning. All other evenings would be 2300 hours.

A further additional hour was also requested for specified Bank Holiday and Public Holidays and on specified days prior to such holidays. All terminal hours for the sale of alcohol were requested to be subject to a 30 minute 'drinking up' time, meaning patrons would actually vacate the premises from 0100 until 0130. The variation was also to provide recorded and live music from the same times as those indicated. A copy of the complete application was attached at Appendix 1.

Environmental Health had made representations on the grounds that the proposed operation of the premises would have an adverse impact on nearby residents in respect of the Licensing Act objective of the prevention of public nuisance. The objection related to the probability of disturbance to residents in the area from patrons leaving the premises at the requested extended hours.

A representation had been received from the Fire Authority in respect of fire precautions in the premises and related to the objective of public safety. A copy of the Fire Safety report was attached at Appendix 2.

The applicant's solicitor had been contacted prior to the meeting by the Fire Authority and the Licensing Authority and they had not responded to enable mediation in respect of representations.

The relevant extracts of the authority's Licensing Policy and Guidance of the Secretary of State were also attached at Appendix 3 and 4.

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P. McDermott, the Fire Officer, explained that the premises were inspected on 27th June and it was found that there was no fire alarm system installed. The premises had not previously needed an inspection and had therefore not been brought to his attention. He explained that he would be serving a notice under the Workplace Regulations and felt this needed to be brought to Members' attention. He added that the fire exits were locked and the bolts were difficult to open. The emergency lighting was not up to the required standard and needed to be maintained and kept clean. The applicant had been willing to resolve the matter and the lights had been subsequently cleaned.

P McDermott explained that there was some confusion as to what the function room was used for. The applicant had explained that the room was not used at all but the exit was blocked by a trestle table. Part of the building was empty at present but damaged furniture was stored in the empty rooms and posed a fire risk as there was no way of preventing people entering the area. He added that he was keen to ensure that the works were completed. If the applicant was willing to carry out the works then he would rather do this by consultation than enforcement.

The Environmental Health Officer explained that 0100 was principally when people were asleep and there would be a much quieter background noise level which would mean that when patrons were leaving at that time, there would be a higher level of noise that could cause sleep disturbance. There was residential accommodation on all four sides of the premises and a taxi licensing office next door. It was felt that patrons could be encouraged to wait around for taxis.

P McWilliams queried if the Fire Officer was seeking conditions on the licence. P McDermott explained that he wanted to see the premises safe and would like a fire alarm system installed and the means of escape kept clear at all times. P McWilliams explained that the conditions he was seeking were covered by existing legislation and this should be used rather than licensing legislation.

P McDermott explained that he wanted to make the premises safe as quickly as possible. P McWilliams added that penalties under the Health and Safety at Work Act were far greater than any penalties that could be imposed under the Licensing Act.

A Member referred to part E of the application that related to live music and queried if the application was for live music until 0100 on Friday, Saturday and Sunday or 0130 as stated in the application. P McWilliams explained that live music would cease at 0100. He explained he would amend the application accordingly.

A Member asked why there needed to be 30 minutes of 'drinking-up' time. P McWilliams explained that Metropolitan areas suffered from people urinating in public. The additional ten minutes allowed people to use the facilities and leave in an orderly manner. Government research showed that there was more chance of people leaving in smaller groups and causing less disturbance.

P McWilliams referred to the Fire Officer's representation and explained that Workplace Regulations should be used to make the premises safe. The Government had made clear in the guidance that the Licensing Act should not be used where existing primary legislation was in place. Conditions must be necessary and not one of aspiration or hope. He requested that the legal advisor make Members aware of paragraphs 7.1, 5.69, 7.5, 7.17 and 7.18 of the Licensing Act.

P McWilliams referred to the Environmental Health Officer's representations with regard to the conduct of patrons and explained that paragraph 7.23 of the guidance

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dealt with this point and needed to be read very carefully "the essential purpose of the licences certificate in this context was to regulate behaviour on the premises and access to them where this relates to licensable activities and the licensing objectives". The local authority had other powers under statutory nuisance and the best a licensee could do was to post a sign on every exit requesting that people leave with respect to local residents.

An advert had been placed in the press and no objections had been received from residents. There was no history of any problems in the area, only Environmental Health's fears and speculation. He felt that this was in direct conflict with paragraph 6.10 where the Government recommended staggered hours. He added that he felt the licence should be granted subject to the licensee posting signs at all exits.

At this point Members of the Sub-Committee retired from the meeting to deliberate the application.

The Sub-Committee returned and advised that having considered the options available, they explained that the Fire Officers problems were current and should be dealt with through existing legislation although every application would be dealt with on its own merits. Concerns were raised regarding the lack of negotiation prior to the notice of hearing being served.

RESOLVED that the application be granted as requested with the condition that signs be posted on all exits requesting patrons to leave in an orderly manner.

JE/PH com/licensing/050802
2nd August, 2005