

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber - Council Offices, Spennymoor on **Tuesday 3 July 2012 at 10.00 am**

Present:

Councillor C Carr (Chair)

Members of the Committee:

Councillors E Bell, K Holroyd, J Lee and D Morgan

Also Present:

Mr David Wilson (Applicant's Agent)
Mr Sajaad Ali (Applicant)
Mr Phil Lennox (Interested Party)
Ms Emma Frew (Interested Party)
Ms Gina Hall (Parish Councillor)
Mrs Gill Proud (Legal Officer)
Mrs Karen Monaghan (Acting Team Leader)
Mrs Y Raine (Acting Team Leader)

1 Declarations of Interest (if any)

There were no declarations of interest received.

2 Application for the Grant of a Premises Licence, Former Queens Head, 3 North View, Ludworth, Co Durham

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application for the grant a premises licence in respect of the Former Queens Head, Ludworth (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 copies of representations which had been received from Interested Parties.

A colour copy of the location plan had been circulated to Members at the meeting.

The Licensing Team Leader advised Members that there was an existing licence in place for the premises which was still valid. The new application had been submitted due to a change of use and the deadline for receipt of representations had been extended to ensure the application had been advertised in accordance with legislation.

The Licensing Team Leader indicated that 69 representations had been received many of which were duplicate in their content. The Applicant's agent had submitted a late document from Mr and Mrs Dove in support of the application and advising members that the Post Office had been encouraging customers to sign a letter template.

Durham Constabulary had not objected to the application and had mediated with the Applicant in relation to the re-wording of the CCTV condition in the operating schedule.

Mr Lennox an interested party had nominated his MP Roberta Blackman-Woods to speak on his behalf. Unfortunately she was unable to attend the hearing as she had Parliamentary commitments but her representations were read out to members at the meeting, copies of which were circulated at the meeting.

Mr Lennox accepted the statement read out from Roberta Blackman-Woods but wished to add some further points. He circulated a copy of a photograph which showed a scene of youth disorder from January 2008 which was not the worst case of anti social behaviour. This particular incident resulted in the police having to be called and he had to attend court as a witness. The Applicant's agent indicated that a 4 year old photograph was not relevant.

Mr Lennox explained that the photograph was relevant as this was the start of the residents getting their village back as they were losing the battle until then. Ludworth was a good village and they were starting to like youths again although they did still have some problems with youths and they saw this application as a perceived threat to the village. They had asked the Parish Council, Councillor Woods and the MP for help which they had provided and they were now asking the Sub-Committee to help them.

The Applicant's agent did not object to the relevance of the information or the photograph in the circumstances.

Emma Frew an interested party indicated that the MP and Mr Lennox were demonstrating that the village had lived through some serious anti-social behaviour and had worked really hard to alleviate this. In 2009 anti-social behaviour was so bad that they had to call a village meeting with police on the doors to allow residents to enter. They worked hard with the Police, Parish Councillors and had a village curfew for 6 months to stamp out the behaviour. It worked partly because there was no area for the youths to congregate and they considered that if the licence was approved, it would give a legitimate area to congregate until 11.00 pm.

The local store which sold alcohol knew the young people and knew who was 18 and they did not sell to under age children due to this knowledge and they did not feel that this establishment could do that as they did not have local knowledge.

She went on to say that the current owners had allowed the premises to become derelict and they had to tidy the premises up. She had no confidence in his statements that he would support the community.

The Chairman asked why the café would be an issue as it was not licensed to sell alcohol. She responded that they were concerned with the sale of alcohol and the café would be an area where youths congregate inside and outside as well as the community centre car park which was directly opposite the premises. The Chairman also asked for clarification as to why she thought the new applicant would not be able to recognise those children who were under 18. She responded that he had not interacted with the villagers and the lack of consultation.

The Chairman asked if she had contacted the owner, she indicated that this had been done through the MP.

Members sought clarification if the off licence was part of the Post Office. Emma Frew confirmed that the off licence was attached to the Post Office and that they operated a challenge 21 policy and had CCTV.

Gina Hall speaking on behalf of the Parish Council indicated that they had worked with the Police and the school as she was vice-chair of the governing body and had a lot to do with the village. She went to say that the applicant had not consulted with the villagers and he had had the premises since 2010 and had not done anything to tidy it up, even though the parish had written to him regarding this. A number of activities were held at the Community Centre for youths so there was no need for a café and there was no space for traffic. The café/off licence would not be of benefit to the community and she had the backing of the Parish Council.

The Chairman asked if the Parish Council had written to the applicant, she indicated that they had monthly meetings as this was an area of concern. She also referred to a resident living on the premises for 3 weeks and that the applicant had never contacted the school or arranged any meetings with the village or tidied up the premises. She thought if he wanted to get the village on his side then this should have been done.

Mr Wilson the applicant's agent asked Mr Lennox who was the owner of the Post Office and village store. Mr Lennox indicated that he was the owner and that he had a policy of not selling alcohol to anyone under 21 and that he had CCTV installed which the Police had not expressed dissatisfaction with.

Mr Wilson sought clarification on who was the author of the letters of objection. Mr Lennox confirmed that he was the author of some of the letters.

Mr Lennox was asked if the objections were motivated by commercial interests. He responded that he understood that commercial interests could not be taken into consideration, he was not going to speak today in case it was thought he had an interest but he thought he should speak as he lived in the village.

Mr Wilson asked why they thought another premises would cause anti social behaviour when Mr Lennox had successfully operated a licence.

Gina Hall responded that Ludworth was a small village and the Post Office could be lost if there was competition from another premises. The Post Office was open from

8.00 am to 6.00 pm and there was no requirement for alcohol after this time and that there was no pub in Ludworth they used the local pub in Shadforth.

Mr Wilson asked if she would prefer for the premises to be opened as a public house. She responded that she had no preference but would prefer a public house.

Emma Frew indicated that adults did not have anywhere to go which is why the anti-social behaviour was so bad as the residents did not know how wide spread it was. The Post Office closed at 6.00 pm and the village became a sleepy village and if the application was approved she believed the village would change.

Mr Wilson asked if there were any discussions with the police about the public house or café. Emma Frew responded that they had a meeting with their MP and the village policeman was in attendance and they were under the impression that the police were going to object to the application.

The Chairman sought confirmation if their objection was in relation to the opening hours. Gina Hall responded that the objection was more with the off-licence. The Chair reminded the interested parties that the former public house already had a licence to sell alcohol on and off the premises. She responded that the premises had environmental issues.

Mr Wilson presented his case on behalf of the Applicant and referred to the floor plan shown on page 25 of the bundle of papers and explained that the unit on the left was the off-licence and was completely separate to the premises on the right of the plan. He also referred to page 12 of the documents which confirmed that there were no licensable activities in relation to the café and the licence was only for the retail shop.

He indicated that there was currently an extensive licence in place with extended opening hours. His applicant was asking for much shorter opening hours which would address concern of villagers. Early discussion with the Police about the premises indicated that they did not want a Public House to reopen due to previous concerns surrounding crime and disorder and drug dealing and they would prefer a café and off-licence.

He stated that they had followed the processes for planning permission and they did not want to carry out any work on the property until they knew they could obtain the licence. Work had been done to remove a dangerous fascia board.

Mr Sajaad Ali the Applicant confirmed that he was a Personal Licence Holder which he had held for over two years. He had experience in the retail industry and had a challenge 21 policy in place. He stated that he had recently sold a shop in a different area which operated on the same grounds as this application, namely a café and off licence and there were no issues with this premises or any other shops in his power. He confirmed that he was happy to accept the police amendments to the wording of the conditions contained in the operating schedule.

He also stated that this was not his first shop and he had three separate shops and had never been under any licensing review. He was fully responsible and knew that

people would try to buy alcohol who were under age and he would ensure that his staff were fully trained to deal with this.

The Chairman asked the Applicant what he had done to placate his neighbours who had objected to the application. He responded that he had been unable to do anything as they were being influenced by one person.

Mr Wilson advised Members that the MP had referred to the agent being rude and he wanted to confirm that this was not himself as he had come in at a later stage and was in fact the agent who was dealing with the planning issues.

The Chairman asked how the business was going to work if half of the village was against the proposal.

Mr Wilson responded that they were surprised that the proposal was not welcomed by some of the community but they had also received some positive views.

The Chairman advised the Sub-Committee that the letter from Mr and Mrs Dove had not been verified so the appropriate weight would be attached to this document. Mr Wilson responded that the letter did contain a name and address.

The Sub-Committee sought clarification from the Applicant on the percentage of alcohol which would be sold in the shop as opposed to general groceries. He responded that there would be one wall of alcohol and the other side would be groceries.

The Sub-Committee asked why the premises needed a licence until 11.00 pm. The Applicant responded that this was the standard opening times for all of his client's shops but he could reduce the hours if the Sub-Committee considered it appropriate. Mr Wilson explained that the shop may open later or close earlier than the hours stipulated.

The Chairman asked if alcohol could be consumed in the Café. Mr Wilson responded that legally this could be done but operationally it would not be permitted.

The Sub-Committee sought clarification about his relationship with Mr Bez. The Applicant confirmed that he was a family friend and partly owned the property. He explained that the MP had corresponded with his planning agent and the agent had been forthright, hence Mr Wilson was now dealing with the remainder of the application. He was willing to listen to the villagers and had he received the e-mails he would have been more forthcoming to the MP.

The Sub-Committee asked about the current licence. Mr Wilson responded that if the licence was granted for the off-licence the current licence for the public house would be surrendered as it would serve no purpose.

The Sub-Committee sought clarification when the opinion of the Police had been sought. Mr Wilson confirmed that it was shortly after the premises had been purchased.

The Chairman offered the Applicant the opportunity to consider whether they wished to reduce the operating hours and whether they wished to discuss with the interested parties. Mr Wilson confirmed that they wished to do this.

Gina Hall indicated that they had a monthly parish meeting and worked with the police and this was the first that she had heard that the police would prefer a café.

The parties left the meeting at 11.25 am. The meeting re-convened at 11.45 am

Mr Lennox asked who would be living and working on the premises. Mr Wilson responded that Mr Ali would be the premises supervisor. Mr Ali explained that he would be the Manager but would have staff and a member of staff who would live on the premises who would be fully trained and obtain the relevant qualifications before the premises opened.

Mr Wilson then confirmed that they would like to reduce the operating hours from 11.00 pm to 10.00 pm on a daily basis to coincide with the Post Office who had a licence until 10.00 pm.

Emma Frew indicated that the Post Office only traded until 6.00 pm. The Chairman responded that the application had to be considered on licensing grounds and not commercial grounds.

At 12.00 noon the sub-Committee left to deliberate the application in private. After reconvening at 12.15 pm the Chair delivered the Sub-Committee's decision.

In determining the application, Members had considered the report of the Licensing Officer, Section 182 Guidance and the Council's Licensing Policy, together with the verbal representations of the Applicant. They also took into account the verbal and written representations of Interested Parties.

Resolved:

That the application for a premises licence be granted as follows subject to the following conditions:-

Sale of Alcohol (off the premises)	Monday to Sunday – 09:00 to 22:00
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- i) The point of sale will clearly state the legal requirements regarding the sale of alcohol and the premises policy that proof of age is required. Identification accepted as proof of age will consist of a passport; driving licence and/or an ID card carrying a pass logo. Where appropriate the premises supervisor shall take part in Police led initiatives.
- ii) The premises supervisor shall communicate with the Police to notify and report any incidents of crime and disorder as soon as practically possible.

- iii) CCTV shall conform to a minimum police standard and will be in operation and good working order at all times that the premises are being used for licensable activities; ensuring coverage of all public entrances, exits to the licensed premises, providing continuous recording facilities for each camera to a good standard of clarity and each camera positioned to the satisfaction of the Police. Recordings shall be retained on disc hard drive or otherwise for a period of 28 days. Recordings will be made available to the Police and Responsible Authorities when requested to do so.
- iv) Notices will be displayed at the entrances advising that CCTV is in operation.
- v) The premises supervisor will ensure all staff are trained and regularly reminded of their responsibilities in relation to the Licensing laws to ensure the detection and prevention of under-age sales. The premises supervisor will ensure that all staff are trained in the importance of their responsibilities in ensuring that customers wishing to purchase alcohol are over 18 years of age and that anyone who appears to be under 21 years of age and is attempting to purchase alcohol must be required to produce satisfactory photographic proof of age, which may include a passport, driving licence or an ID card carrying a pass logo.
- vi) Requirements with regard to Health, Safety and Fire will be strictly taught and then adhered to.
- vii) Compliance with all reasonable requirements of the building control officer and fire officer.
- viii) People will be actively discouraged from congregating outside the premises.
- ix) Consumption of alcohol will not be allowed on any part of the premises.
- x) The person living on the premises will be fully trained and have obtained the necessary licensing qualifications.
- xi) The operating hours will be from 09:00 hours until 22:00 hours.
- xii) An incident book will be fully maintained on the premises and will record instances where the sale of alcohol is refused and any other incidents. The book will be made available to officers and responsible authorities when requested to do so.
- xiii) Posters will be displayed advising customer of the Challenge 21 Policy operated on the premises.

3 Application for the Variation of a Premises Licence - Planet Leisure, Unit 7/8 Maple Way, Newton Aycliffe Business Park, Newton Aycliffe

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 Planet Leisure, Newton Aycliffe (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 copies of representations which had been received from Responsible Authorities.

A successful mediation had taken place between the Applicant, Durham Constabulary and Public Health.

Durham Constabulary and Public Health had both given notice to the Authority that a hearing was unnecessary and requested that it be dispensed with provided that any licence granted be subject to the licensable hours for all licensing activities being reduced to 01:00 with the exclusion of bank holiday weekends whereby an extension to 02:00 is permitted and the inclusion of the conditions contained in the notice.

In determining the application, the sub-committee had considered the report of the Corporate Director, Neighbourhood Services 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 Sub-Committee dispose of the variation application by varying the existing licence and conditions as follows:-

Opening Hours of the Premises

09:30 to 01:00 hrs Mon – Sun
(except bank holiday weekends whereby an extension to 02:00 is permitted)

Films (Indoors)

Ground and First Floors –

09:30 – 01:00 hrs Mon – Sun
(except bank holiday weekends whereby an extension to 02:00 is permitted)

Live Music (Indoors)

Ground and First Floors –

09:30 – 01:00 hrs Mon – Sun
(except bank holiday weekends whereby an extension to 02:00 is permitted)

<p><u>Recorded Music (Indoors)</u> Ground and First Floors – 09:30 – 01:00 hrs Mon – Sun (except bank holiday weekends whereby an extension to 02:00 is permitted)</p>
<p><u>Provision of Facilities for Making Music (Indoors)</u> Ground and First Floors – 09:30 – 01:00 hrs Mon – Sun (except bank holiday weekends whereby an extension to 02:00 is permitted)</p>
<p><u>Provision of Facilities for Dancing (Indoors)</u> Ground and First Floors – 09:30 – 01:00 hrs Mon – Sun (except bank holiday weekends whereby an extension to 02:00 is permitted)</p>
<p><u>Late Night Refreshment (Indoors)</u> Ground and First Floors – 23:00 – 01:00 hrs Mon – Sun (except bank holiday weekends whereby an extension to 02:00 is permitted)</p>
<p><u>Sale of Alcohol (On Sales only)</u> Ground and First Floors – 11:00 – 01:00 hrs Mon – Sun (except bank holiday weekends whereby an extension to 02:00 is permitted)</p>

The Prevention of Crime and Disorder

- i) Challenge 25 will ensure only persons of lawful age will be able to purchase alcohol from our store, and on deliveries, Photo ID only (PASS logo card/photo driving licence/passport).
- ii) Visual inspection and personal interaction with customer will enable staff to determine if the customer is fit to be sold alcohol. If staff believe person to be intoxicated with drink or drugs they will be refused.
- iii) CCTV will be installed and fitted to Home Office standards. Recordings will be stored for a minimum of one month.
- iv) A member of staff will be available at all times the premises is open to download CCTV footage when requested by an authorised officer.
- v) Notices will be clearly displayed at entrance and around the club stating CCTV is in operation.

- vi) Persons known to be or suspected of buying on behalf of children will be refused and reported to the police.
- vii) At least 2 SIA Doorstaff up to the occupancy of 200 persons thereafter a 1 to 100 ratio will be employed between the hours on 21:00 and close on a Friday and Saturday evening.

Public Safety

- i) Designated smoking areas.
- ii) Good housekeeping procedures in place.
- iii) The club will be an active member of Pubwatch, where we will attend meetings, and join activities.
- iv) Maintain an incident book, and record and report all instances of disorder.

The Prevention of Public Nuisance

- i) Door staff employed from 21:00 to close on Friday and Saturday evenings (as above).
- ii) Door staff will conduct regular walkthroughs in the internal areas including toilet areas and the exits/entrances to the building.
- iii) Customers will not be permitted to take their drinks outside.

The Protection of Children from Harm

- i) Challenge 25 will be enforced. Refusals will be logged, along with any behaviour associated with the refusal.
- ii) Children under the age of 11 will be supervised by an adult at all times.
- iii) Children under the age of 16 must be accompanied by an adult after 21:00.
- iv) Children using the Aerial Trekking and Karaoke Rooms* (when open) will be supervised at all times by their parent/carers.
- v) All supervisory staff will undertake the Level 1 Training on Safeguarding as a requirement of the licence. This will be extended to the staff who have specific responsibilities for the supervision of the high risk activities (Aerial Trekking).
- vi) The provision of films is limited to the instruction video for the laser arena advising the players on the rules and procedures. This will be classified as 'U'.

- vii) The Karaoke Systems are restricted to the 2 private rooms and will be censored to remove any foul language. Children using the Karaoke rooms will have to have parental supervision and there is CCTV in each room to safeguard the equipment.
- viii) The smoking area for the building will continue to be remain at 10 metres from and adjacent to the main entrance.
- ix) Persons under the age of 18 must be off the premises by 23:30.
- x) Any area on the premises hosting category C gaming machines or with category C gaming machines will be monitored to ensure no persons under the age of 18 will have access to the machines.
- xi) Persons known to be, or suspected of buying on behalf of children will be refused and reported to the Police.
- xii) We will display signs and adhere to the law regarding alcohol and children.
- xiii) If concerns arise about a child we will contact the Police for advice/assistance and not make our own investigations or conclusions.