

LICENSING AND APPEALS SUB-COMMITTEE

27<sup>th</sup> January 2022 at 10.00am

**PRESENT: -**

**Members of the Licensing and Appeals Sub-Committee**

Councillor Gee (Chair), Councillor Haines (Conservative Group), and Councillor Dunn (Labour Group).

**District Council Representatives**

Elisabeth Page (Principal Legal Officer), Natalie Grainger (Democratic Services), Donna Foster (Democratic Services), Faye Norman (Licensing Officer), Ardip Sandhu (Head of Legal and Democratic Services & Monitoring Officer), Mark Lomas (Licensing Officer) Corrinne Bird (Licensing Officer).

LAS/23 **APOLOGIES**

The Sub-Committee was informed that no apologies have been received.

LAS/24 **DECLARATION OF INTEREST**

The Sub-Committee was informed that no declarations of interest had been received.

**MATTERS DELEGATED TO SUB-COMMITTEE**

LAS/25 **HEARING FOR THE CONSIDERATION OF A NEW PREMISES LICENCE APPLICATION – THE GARAGE, ASTON ON TRENT**

The Chairman introduced himself and other members of the Sub-Committee introduced themselves. The Legal Advisor, Clerk to the Sub-Committee, Licensing Representative and all those present also introduced themselves.

The Chairman then outlined the procedure to be followed during the hearing, in accordance with the Council's Licensing Hearings Procedure.

This was a hearing to determine the application for a Premises Licence under the Licensing Act 2003 for The Garage, Aston on Trent

The Applicant, Robin Bell, attended the hearing in person.

The Chairman invited the Council's Licensing Representative, to present the facts of the matter and an outline of the application.

The Sub-Committee and the Applicant had opportunity to ask questions of the Council's Licensing Representative.

The Sub-Committee had read all written representations submitted by the Other Persons

The Chairman invited the Applicant, to make representations to the Sub-Committee. The Sub-Committee asked questions of the Applicant and invited the Licensing Representative, to put questions to him as well.

The Chairman invited the Licensing Representative and the Applicant to sum up their representations.

The Sub-Committee retired from the Council Chamber to deliberate.

In making its decision, the Sub-Committee had regard to South Derbyshire District Council's Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 and the Human Rights Act 1998, as well as the evidence presented in writing and given orally at the hearing.

The Sub-Committee also had regard to the four 'Licensing Objectives' namely:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

The Sub-Committee considered in detail the representations of the Council's Licensing Representative, the Licensing Authority as a Responsible Authority, the Applicant and the Other Persons.

#### **RESOLVED:**

***The Sub-Committee granted the application for a Premises Licence as per the application.***

***The grant of the application for a Premises Licence was subject to the mandatory conditions contained within the Licensing Act 2003, the conditions contained within the operating schedule of the original application form and the conditions as agreed between the Licensing Authority and the Applicant.***

#### **REASON FOR THE DECISION**

***The Sub-Committee was satisfied that the requirements of the Licensing Act 2003 and the Council's Policy and Procedures had been complied with in relation to the displaying of the Notice detailing the Notification of receipt of application and invitation of representations.***

***Having taken into account the four Licensing Objectives, the guidance issued under Section 182 of the Licensing Act 2003, the Council's Licensing Policy and the Human Rights Act 1998, the Sub-Committee sought to balance the interests of the Applicant and the representations made by the Other Persons.***

***The Sub-Committee felt that it was reasonable and proportionate to grant the Premises Licence, subject to the conditions specified, which are imposed to specifically address the concerns raised.***

***The Sub-Committee noted that Planning Permission was still to be resolved and the Planning Process would consider the suitability of the change of use of the premises and car parking.***

***Further the Applicant assured the Sub-Committee that he would monitor the noise levels and, in addition, the Sub-Committee were mindful that residents could request a review of the Premises Licence should the noise emanating from the premises be such to breach of the Licensing objectives namely –***

- ***Prevention of public nuisance and Protection of children from harm.***

LAS/26 **HEARING TO CONSIDER AN APPLICATION TO REVIEW A LICENCE AT A PREMISES ON CRIME AND DISORDER GROUNDS (ROYAL OAK, NEWHALL)**

The Chairman introduced himself and other members of the Sub-Committee introduced themselves. The Legal Advisor, Clerk to the Sub-Committee, Licensing Representative and all those present also introduced themselves.

The Chairman then outlined the procedure to be followed during the hearing, in accordance with the Council's Licensing Hearings Procedure.

This was a hearing to determine Derbyshire Constabulary's application for a Review of the Premises Licence under the Licensing Act 2003.

Mr Young attended the hearing in person and was represented by Duncan Craig.

The Sub-Committee firstly heard representations as to whether the application should be heard in private with the public and press excluded after presentation of the Licensing Officers report.

This was Derbyshire Constabulary's application and the Sub-Committee heard submissions from Derbyshire Constabulary and Mr Youngs representative in favour of the application to exclude. The Legal Advisor read the letter received from Reach Plc and heard a submission from Eddie Bisknell.

The Sub-Committee deliberated and made a decision to exclude the Press and Public after presentation of the Licensing Representatives report.

**REASONS**

- The Sub-Committee accepted that the evidence that was to be presented by Derbyshire Constabulary and the Premises Licence Holder may well prejudice an investigation of a crime and that that evidence could not be separated from the rest of the evidence presented in relation to the Review of the Premises Licence.
- The Sub-Committee balanced the public interest in excluding the press and public against the public interest in not excluding them and decided that the public interest in excluding the press and public outweighed the public interest in not excluding them.
- The Sub-Committee considered the Human Rights Act Article 10 rights but decided that these were outweighed by the Premises licence Holders Article 6 rights.
- As such the Sub-Committee resolved to exclude the press and public under s100 (A)(4) LGA 1972 and Regulation 14 Licensing Act 2003 after the Licensing Representative had read the report and then invited the press and public back into the meeting to hear the decision.

The Chairman invited the Council's Licensing Representative to present the facts of the matter and an outline of the application.

The Sub-Committee, Derbyshire Constabulary and the License Holder's representative had opportunity to ask questions of the Council's Licensing Representative.

The Chairman moved that the press and public be excluded from the rest of the meeting pursuant to s100 (A)(4) LGA 1972.

The Press and Public left the meeting.

LAS/27 **LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**RESOLVED:-**

***That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.***

**HEARING TO CONSIDER AN APPLICATION TO REVIEW A LICENCE AT A PREMISES ON CRIME AND DISORDER GROUNDS (ROYAL OAK, NEWHALL)**

**RESOLVED:**

***The Legal Officer read the Decision to the Committee.***

The Meeting terminated at 13:56

COUNCILLOR GEE

CHAIR