

LICENSING AND APPEALS SUB-COMMITTEE

19th September 2005

PRESENT:-

Members of the Licensing and Appeals Sub-Committee

Councillors Southern and Whyman, M.B.E. (Labour Group) and Councillor Mrs. Littlejohn (Conservative Group).

District Council Representatives

J. Tsoi (Legal Adviser to the Sub-Committee), N. Betteridge (Democratic Services Officer), A. Kaur (Legal Officer), J. Salter and M. Sunter (Licensing Enforcement Officers).

Non Council Attendees

Mr. A. Cochrane (representing applicant), Mr. D. Cox (Vice-Chair and Secretary, Melbourne Royal British Legion) and Mr. C. Avery and Mr. S. Cooper (interested parties).

LA/30. **APPOINTMENT OF CHAIR**

RESOLVED:-

That Councillor B. Whyman, M.B.E. be appointed Chair for the Meeting.

MATTER DELEGATED TO SUB-COMMITTEE

LA/31. **APPLICATION FOR A PREMISES LICENCE AT THE MELBOURNE ROYAL BRITISH LEGION, NO. 87 DERBY ROAD, MELBOURNE**

Following introductions and clarification of the procedure, the Licensing Enforcement Officer was invited to present his report, which had been circulated with the agenda. An error was referred to in the report relating to proposed times and these were corrected accordingly.

Mr. C. Avery of Victoria Street, Melbourne had submitted an objection and was invited to address the Sub-Committee. Mr. Avery advised that the nature of his objection did not concern the sale of alcohol or the day-to-day operation of the pub but was more concerned with special events such as bands and discos which caused noise problems. He stated that following the redevelopment of the site in 1997, the building which was situated between his property and the club had now been removed and this open area now formed the car park to the club. The entrance to the club had also been repositioned and it now opened in the direction of the rear of his property. Mr. Avery circulated copies of improved quality photographs from those distributed with the agenda and reiterated that his objections were based on the position of the club in relation to his property. He reported that the windows of the club were often left open during events, thereby increasing noise to his bedroom window. Customers gathering outside the club also caused disturbance and Mr. Avery expressed concern at the application relating to recorded music, fearing that he could suffer from noise nuisance on any day of the week. Mr. Avery's secondary objection related to the

proposed extended opening hours for football and rugby matches. He considered that there should be some restriction on the operation during the late hours for such entertainment, as satellite coverage was available constantly. Mr. Avery concluded by stating that a reasonable extension of hours would be acceptable.

Mr. S. Cooper of Derby Road, Melbourne addressed the Sub-Committee in a similar manner but emphasised that he had no problems with music from the club but objected to the proposed increased operating hours, with the associated noise implications during late hours. He reported that this was more of a problem during the summer months, when the windows were open.

Mr. Cochrane, the solicitor on behalf of the applicant then addressed the Sub-Committee and advised that the purpose of the application was to enable the Royal British Legion to continue what it had been able to do to date. An application for a Public Entertainment Licence was necessary as the current rights of the club had been abolished under the new legislation. Mr. Cochrane reported that few people frequented the club most of the time but usually on a Saturday evening, the club organised some form of entertainment to increase the number of customers and revenue. Mr. Cochrane emphasised that a refusal of any Entertainment Licence would seriously affect the operation of the club and would create financial difficulties. The club was also let for specific functions and during the current year, thirteen such events had been held but not all of these had an extension of licensing hours. The proposed extension of hours to midnight was considered moderate and the club would be able to apply separately for special occasions. It was noted that this was a members club and was not open to the general public and a number of conditions had been proposed for the prevention of public nuisance. Mr. Cochrane also offered a further condition relating to a requirement for all windows and doors to remain closed, other than for access and egress, when regulated entertainment was taking place and it was hoped that this would alleviate Mr. Avery's concerns. This offer was welcomed by Mr. Avery.

Mr. D. Cox, the Vice-Chair and Secretary of the Melbourne Royal British Legion, would be the nominated representative to respond to complaints throughout the duration of events and Mr. Cox confirmed that he would be happy to liaise with Mr. Avery relating to any problems. He also stated that he would endeavour to maintain noise to minimum levels and would also try to ensure that bands kept down the bass levels to minimise this noise nuisance referred to in Mr. Avery's representation. Mr. Cox also confirmed that he would address any complaints from neighbours.

At 2.15 pm, the Sub-Committee retired to consider its decision. At 2.30 pm, the Meeting was reconvened.

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 and considered carefully all the evidence presented to it.

The Sub-Committee made its decision to promote the four licensing objectives, as follows:-

- (a) Prevention of Crime and Disorder.
- (b) Public Safety.
- (c) Prevention of Public Nuisance.
- (d) Protection of Children from Harm.

The Sub-Committee considered in detail the representations of the Council's Licensing Enforcement Officer, the applicant and the interested parties. The Sub-Committee resolved to grant the application for a variation of a Premises Licence, in part only, as follows:-

In relation to the Sale of Alcohol, these were to be as follows:-

- Monday to Thursday : 10.00am until 11.00pm;
- Friday and Saturday : 10.00am until 12.00am;
- Sunday : 12.00pm until 10.30pm

In relation to Associated Entertainment, these were to be as follows:-

- Monday to Thursday : 10.00am until 11.30pm;
- Friday and Saturday : 10.00am until 12.00am;
- Sunday : 12.00pm until 11.30pm

The Panel did not approve the application for extensions to permit hours for the supply of alcohol, one hour before the start of the match, and one hour after its conclusion, during televised football, rugby league and union world cup final matches of any nation. The Panel felt that it would be unstructured and inflexible to allow this extension of hours. The Panel felt that this could raise potential difficulties under two of the licensing objectives, namely, public nuisance and crime and disorder. Furthermore, the Applicant has the option of making an application of up to 12 times per year for large scale temporary events.

All variations are subject to conditions relating to the prevention of public nuisance, namely;

- No music or speech shall be relayed via external speakers, other than for events with the prior approval of the licensing authority;
- The licensee or a nominated representative shall receive and respond to complaints throughout the duration of all noisy events;
- No fireworks or other pyrotechnics shall be used other than with the prior consent of the licensing authority
- Prominent, clear notices shall be displayed at all exits requesting customers to respect the needs of local residents and leave the premises and the area quietly
- Staff must be given adequate training to ensure they keep noise levels to a minimum when leaving the premises. Prominent and clear notices shall be displayed at all exits to this effect.
- All external doors/windows must be kept closed, other than for access and egress, in all rooms when events involving amplified music or speech are taking place.

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 all the interested

parties. The Sub-Committee felt it was reasonable and proportionate to allow the variation, in part, with amendments subject to the conditions specified imposed specifically to address the concerns raised.

The Legal Advisor reminded all parties that they could appeal to the Magistrates Court against this decision within a period of 21 days from receipt of the decision notice.

RESOLVED:-

That the application for a Premises Licence for The Melbourne Royal British Legion, No. 87 Derby Road, Melbourne be granted, as set out above.

B. WHYMAN, M.B.E.

CHAIR

The Meeting terminated at 2.35 pm.