

LICENSING AND APPEALS SUB-COMMITTEE

3rd October 2005

PRESENT:-

Members of the Licensing and Appeals Sub-Committee

Councillors Shepherd and Southern (Labour Group) and Councillor Mrs. Littlejohn (Conservative Group).

District Council Representatives

J. Tsoi (Legal Adviser to the Committee), P. Spencer (Democratic Services), A. Kaur (Legal Officer), M. Sunter and J. Salter (Licensing).

Non Council Attendees

J. Lambell and S. Lambell (The White Hart, Derby Road, Aston-on-Trent), T. Sutton (Wolverhampton and Dudley Brewery), R. Haynes, S. Haynes and J. Holloway (Interested Parties).

LA/38. **APPOINTMENT OF CHAIR**

RESOLVED:-

That Councillor D. Shepherd be appointed Chair for the Meeting.

MATTER DELEGATED TO SUB-COMMITTEE

LA/39. **APPLICATION FOR A PREMISES LICENCE AT THE WHITE HART, DERBY ROAD, ASTON-ON-TRENT**

Following introductions, the Licensing Enforcement Officer was invited to submit his report on this application, which had been circulated with the Agenda. Questions were invited. Mr. Holloway had been asked by Aston-on-Trent Parish Council to confirm its representations. The Licensing Enforcement Officer confirmed that no written representations had been received from the Parish Council.

The interested parties were invited to make their representations. Mr. Holloway wished to ask questions relating to public nuisance and he asked how many applications the Company had submitted. The Legal Adviser explained that questions could be directed to the applicant later in the hearing. This was the opportunity for Interested Parties to summarise their objections. Mr. Holloway was concerned about the late night opening proposed, about noise from entertainment and people leaving the premises, together with unruly behaviour.

Mrs. Haynes explained that she had lived directly opposite these premises for 17 years. Previously noise levels had generally been tolerable. Noise problems occurred mainly when entertainment was provided in an upstairs function room. On these occasions, noise could be heard within her property, even with all windows and doors shut. She felt that the later opening hours would cause further problems in this large, but quiet Village. She was concerned about the potential noise problems, the attraction of

people from outside the Village and late night drinking. Mr. Haynes confirmed the same point of view.

Mr. Sutton, who was an area manager for the Wolverhampton and Dudley Brewery, explained that a local band used the function room to practice once each fortnight. Mrs. Haynes was concerned that with a Public Entertainment Licence, such entertainment would become more frequent.

On behalf of the applicants, Mr. Sutton explained planned developments to these premises, to provide a dining area and to change the focus of the public house towards dining. There was a need to attract non-village residents into the premises to keep the business viable. There were no plans to introduce live bands on a weekly basis, but it was requirement of the legislation to cover all future anticipated needs.

Mrs. Lambell spoke of their time at these premises and the efforts to improve its image. There had been previous problems with the use of foul language, which had been addressed. She spoke about the work undertaken on the Village well dressing event and the support received from community groups, in response to this application. There were no plans to keep the premises open until 1.00 a.m. as she and her husband were the only people who worked in the pub. The Chair advised that the hours requested under the application meant that the premises could potentially be open at these times. The applicant also explained their efforts to consult with Village residents on this application.

Mrs. Haynes asked the applicant why they sought such late opening hours. Mr. Holloway recognised the rights of the applicant to conduct their business. However, he spoke of the potential for additional problems associated with the application. For instance, he referred to the planned security measures and questioned why these were necessary, if there were no perceived problems. He asked about a risk assessment for noise and vibration, but the Legal Adviser explained this was outside the remit of the Licensing Sub-Committee's decision. Similarly, a further question from Mr. Holloway about the potential customer base could not be considered, as it was outside the scope of the licensing objectives. The Legal Adviser reminded of the Licensee's duties with regard to people inside the premises. Mr. Holloway replied that if there was not sufficient trade within the Village, non-residents using the premises would cause additional problems. The Legal Adviser reminded those present of the powers of the Council's Environmental Health Division to deal with such noise problems and the powers of the Derbyshire Constabulary to close a premises where there were issues of disorder. She also responded to a further point on the planned changes to Section 182 of the Licensing Act 2003 and associated guidance.

Councillor Southern asked whether the public house had double glazing, or whether the premises were a listed building. The premises did not currently have double glazing and it was an old building. It was reiterated that there were proposals to extend this public house, to provide dining facilities. In response to a question from the Legal Adviser, it was confirmed there were no plans to install closed circuit television at the premises.

Each party was invited to summarise their representation. The applicants explained that most customers using this public house were typically over 50 years of age. Younger people tended to use the other pubs within the Village.

Note: at 10.40 a.m. the hearing was adjourned to enable Members to consider their decision. At 11.40 a.m. the Sub-Committee 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:

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

The Panel agreed to grant the application for transfer of an existing liquor licence to a premises licence with an application to vary the premises licence, in part only, as follows:-

In relation to the Opening Hours these were to be as follows:-

(Standard times)

Sunday to Thursday : 10:00am until 12:00am (midnight);

Friday and Saturday : 10:00am until 12:30am

(Non Standard times)

Bank Holiday; Friday, Saturday and Sunday : 10:00am until 12:30am;

Bank Holiday Monday : 10:00am until 12:00am (midnight) (standard timings apply)

Christmas Eve : 10:00am until 01:30am

Boxing Day : 10:00am until 01:30am

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

(Standard times)

Sunday to Thursday : 10:00am until 11:30pm with an additional 30 minutes drinking up time;

Friday and Saturday : 10:00am until 12:00am (midnight) with an additional 30 minutes drinking up time

(Non Standard times)

Bank Holiday; Friday, Saturday and Sunday : 10:00am until 12:00am (midnight) with an additional 30 minutes drinking up time;

Bank Holiday Monday : 10:00am until 11:30pm with an additional 30 minutes drinking up time (standard timings apply)

Christmas Eve : 10:00am until 01:00am with an additional 30 minutes drinking up time

Boxing Day : 10:00am until 01:00am with an additional 30 minutes drinking up time.

In relation to Live Music & Recorded Music, these were to be as follows:-

(Standard times)

Sunday to Thursday : 10:00am until 11:30pm ;

Friday and Saturday : 10:00am until 12:00am (midnight);

(Non Standard times)

Bank Holiday; Friday, Saturday and Sunday : 10:00am until 12:00am (midnight);

Bank Holiday Monday : 10:00am until 11:30pm (standard timings apply)

Christmas Eve : 10:00am until 1:00am

Boxing Day : 10:00am until 1:00am

In relation to Late Night Refreshment, these were to be as follows:-

(Standard times)

Sunday to Thursday : 11:00pm until 11:30pm;

Friday and Saturday : 11:00pm until 12:00am (midnight);

(Non standard times)

Bank Holiday; Friday, Saturday and Sunday : 11:00pm until 12:00am (midnight);

Bank Holiday Monday : 11:00pm until 11:30pm (standard timings apply)

Christmas Eve : 11:00pm until 01:00am

Boxing Day : 11:00pm until 01:00am

In relation to Films, these were to be as follows:-

(Standard times)

Sunday to Thursday : 10:00am until 11:30pm;

Friday and Saturday : 10:00am until 12:00am (midnight);

(Non standard times)

Bank Holiday; Friday, Saturday and Sunday : 10:00am until 12:00am (midnight);

Bank Holiday Monday : 10:00am until 11:30pm (standard timings apply)

Christmas Eve : 10:00am until 01:00am

Boxing Day : 10:00am until 01:00am

In relation to Indoor Sporting Events, these were to be as follows:-

(Standard times)

Sunday to Thursday : 10:00am until 11:30pm;

Friday and Saturday : 10:00am until 12:00am (midnight);

(Non standard times)

Bank Holiday; Friday, Saturday and Sunday : 10:00am until 12:00am (midnight);

Bank Holiday Monday : 10:00am until 11:30pm (standard timings apply)

Christmas Eve : 10:00am until 01:00am

Boxing Day : 10:00am until 01:00am

In relation to Performance of Dance, these were to be as follows:-

(Standard times)

Sunday to Thursday : 10:00am until 11:30pm ;

Friday and Saturday : 10:00am until 12:00am (midnight);

(Non Standard times)

Bank Holiday; Friday, Saturday and Sunday : 10:00am until 12:00am (midnight);

Bank Holiday Monday : 10:00am until 11:30pm (standard timings apply)

Christmas Eve : 10:00am until 1:00am

Boxing Day : 10:00am until 1:00am

In relation to Provision of Facilities for Making Music, these were to be as follows:-

(Standard times)

Sunday to Thursday : 10:00am until 11:30pm ;

Friday and Saturday : 10:00am until 12:00am (midnight);

(Non Standard times)

Bank Holiday; Friday, Saturday and Sunday : 10:00am until 12:00am (midnight);

Bank Holiday Monday : 10:00am until 11:30pm (standard timings apply)

Christmas Eve : 10:00am until 1:00am

Boxing Day : 10:00am until 1:00am

In relation to Provision of Facilities for Dancing, these were to be as follows:-

(Standard times)

Sunday to Thursday : 10:00am until 11:30pm ;

Friday and Saturday : 10:00am until 12:00am (midnight);

(Non Standard times)

Bank Holiday; Friday, Saturday and Sunday : 10:00am until 12:00am (midnight);

Bank Holiday Monday : 10:00am until 11:30pm (standard timings apply)

Christmas Eve : 10:00am until 1:00am

Boxing Day : 10:00am until 1:00am

All variations are subject to the following conditions;

The Applicant shall close windows and doors in the room where live and recorded music is played, except for access to and egress from that room;

In relation to live and recorded music, the licensee shall install a noise limiting cut out device at a decibel rating determined by South Derbyshire District Council's Environmental Health Department.

In the event of any conflict between the Decision Notice and Grandfather Rights in existence, the Grandfather Rights will take precedence.

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 panel sought to balance the interests of the Applicant and the representations made by the Interested Parties.

The panel felt that it was reasonable and proportionate to allow the variation, in part, with amendments subject to the conditions specified which are imposed to specifically address the concerns raised, in particular the prevention of public nuisance.

The Legal Adviser 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 Sub-Committee grants the application for a premises licence for The White Hart, Derby Road, Aston-on-Trent as set out above.

D.G. SHEPHERD

CHAIR

The Meeting terminated at 11.45 a.m.