

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

Non-Council Attendees

Mr. D. Cooper (Solicitors representing Applicants), Mr. T. Morgan (Joint Applicant) and Mr. C. Tolley (Manager of Premises).

LA/40. **APPOINTMENT OF CHAIR**

RESOLVED:-

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

MATTER DELEGATED TO SUB-COMMITTEE

LA/41. **APPLICATION FOR PREMISES LICENCE AT THE BLUE BELL INN, NO. 53 CHURCH STREET, 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. The report was corrected in respect of the current Supper Hours Certificate allowing the premises to sell intoxicating liquor with food. Additional correspondence had been received by e-mail from Mr. Moss (interested party) earlier in the day and this was circulated to all parties. Mr. Cooper requested the Sub-Committee to note that he had not had any opportunity to divulge this information.

The Sub-Committee considered the written representations received from Mr. Loake and Mr. Moss, who were unable to attend the Hearing. Mr. Tolley then confirmed the content of his statement previously circulated and Mr. Cooper reiterated that the licensee was seeking dated conditions to be removed and replaced by new conditions imposed under the Licensing Act 2003. Mr. Cooper advised that the licensee wished to standardise hours for several functions and considered that the extension of hours requested was relatively modest. He noted that no objections had been received from the Police and other statutory authorities. Mr. Cooper considered that the noise nuisance referred to appeared to be caused by people after they had left the premises, and, whilst condemning these actions, he advised that these incidents were not within the control of the licensee. Accordingly, he did not consider these to be relevant matters under the licensing objectives.

At 2.00 p.m., the Sub-Committee retired to consider its decision. At 2.40 p.m. the Meeting was re-convened.

In making its decision, the Sub-Committee had regard to the 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 interested parties and the applicant. The Sub-Committee resolved to grant the application for a variation of a Premises Licence, in part only, as follows:-

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

(Standard times)

- Sunday to Thursday :10:30am until 12:00am (midnight);
- Friday and Saturday : 10:30am until 1:00am;

(Non Standard times)

- Bank Holidays; Friday, Saturday, and Sunday ; 10:30am until 1:30am;
- Bank Holiday Monday : 10:30am until 12:00am (midnight);
- Christmas Eve : 10:30am until 1:30am
- Christmas Day : 10:30am until 1:30am
- Boxing Day : 10:30am until 1:30am

In relation to the Supply of Alcohol these hours were to be as follows:-

(Standard times)

- Sunday to Thursday :10:30am until 11:30pm with an additional 30 minutes drinking up time;
- Friday and Saturday : 10:30am until 12:30am with an additional 30 minutes drinking up time;

(Non Standard times)

- Bank Holidays; Friday, Saturday, and Sunday ; 10:30am until 1:00am with an additional 30 minutes drinking up time;
- Bank Holiday Monday : 10:30am until 11:30pm with an additional 30 minutes drinking up time;
- Christmas Eve : 10:30am until 1:00am with an additional 30 minutes drinking up time
- Christmas Day : 10:30am until 1:00am with an additional 30 minutes drinking up time
- Boxing Day : 10:30am until 1:00am with an additional 30 minutes drinking up time

In relation to the Live Music and Recorded Music these hours were to be as follows:-

(Standard times)

- Sunday to Thursday :10:30am until 11:30pm;
- Friday and Saturday : 10:30am until 12:30am;

(Non Standard times)

- Bank Holidays; Friday, Saturday, and Sunday ; 10:30am until 1:00am;
- Bank Holiday Monday : 10:30am until 11:30pm;
- Christmas Eve : 10:30am until 1:00am;
- Christmas Day : 10:30am until 1:00am;
- Boxing Day : 10:30am until 1:00am;

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

(Standard times)

- Sunday to Thursday :10:30am until 11:30pm;
- Friday and Saturday : 10:30am until 12:30am;

(Non Standard times)

- Bank Holidays; Friday, Saturday, and Sunday ; 10:30am until 1:00am;
- Bank Holiday Monday : 10:30am until 11:30pm;
- Christmas Eve : 10:30am until 1:00am;
- Christmas Day : 10:30am until 1:00am;
- Boxing Day : 10:30am until 1:00am;

All variations are subject to the following conditions;

- In view of the representations made with reference to outside drinking, the licensee shall ensure that the patio area and outside areas are not in use after the hours of 11:00pm for any purpose including non standard timings;
- The licensee shall ensure that all windows and doors are closed, in the room where live music and recorded music is being played, for the duration of the music, except for access to and egress from that room
- The licensee shall ensure that prominent clear notices are displayed at all exits requesting customers to respect the needs of local residents and leave the area quietly.

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 Sub-Committee sought to balance the interests of the applicant and the representations made by all the interested parties. The Sub-Committee considered it was reasonable and proportionate to allow the variation, in part, with amendments subject to the conditions specified imposed to address specifically the concerns raised, particularly the prevention of public nuisance.

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 Blue Bell Inn, No. 53 Church Street, Melbourne be granted, as set out above.

D. G. SHEPHERD

CHAIR

The Meeting terminated at 2.55 p.m.