

LICENSING AND APPEALS SUB-COMMITTEE

6th July 2007

PRESENT:-

Members of the Licensing and Appeals Sub-Committee

Councillors Atkin and Mrs. Patten (Conservative Group) and Councillor Mrs. Lane (Labour Group).

District Council Representatives

J. Tsoi (Legal Advisor to the Sub-Committee), A. Kaur (Legal Officer), D. Townsend (Democratic Services), C. Jacobs (Commercial Standards and Licensing Manager), J. Salter and M. Sunter (Licensing Enforcement Officers), J. Twomey (Environmental Protection Manager) and I. Tranter (Pollution Control Officer).

Non Council Attendees

J. Allsopp, J. Cripps, K. Dolphin, A. Ellis, J. Harrison, K. Hughes, J. Smith, and P. Warrington.

LAS/3. **APPOINTMENT OF CHAIRMAN**

RESOLVED:-

That Councillor Mrs. Patten be appointed Chairman for the Meeting.

MATTER DELEGATED TO SUB-COMMITTEE

LAS/4. **APPLICATION FOR A REVIEW OF PREMISES LICENCE AT THE ALMA INN, DERBY ROAD, MELBOURNE.**

Following introductions, the Commercial Standards and Licensing Manager was invited to present his report, which had been circulated with the agenda. Reference was made to new legislation, which had been made available to the Sub-Committee. In addition, a map was handed out to all those present indicating the location of all households where representations had been received. There were no further questions for the Commercial Standards and Licensing Manager.

The applicant, Mr. Harrison, had indicated by letter that he would not be in attendance at this Meeting and was agreeable to the matter being dealt with in his absence. The Legal Services Manager outlined Mr. Harrison's case. The grounds for review were stated and referred to, as contained in Mr. Harrison's application.

Councillor Atkin asked for further clarification in relation to the noise limiter. The Environmental Protection Manager responded that the noise limiter could be set to zero which was effectively turned off. He also clarified that this device was not set by a decibel limit, it had been set by an Officer visiting the nearest sound sensitive premises and listening to what was considered reasonable.

The Chairman then invited Miss. Karen Hughes (Solicitor at Flint Bishop and Barnett) to present the case on behalf of the Alma Inn. Miss. Hughes stated that conditions were only imposed upon a Premises Licence where it was considered relevant and necessary, and that such conditions must be proportionate given the location of the venue. She added that the guidance stated that reviews should not be used to drive a wedge within a community, but should encourage co-operative working. The Licensee was very approachable and attempted to work closely with all responsible authorities. He understood that he had responsibilities and that all conditions in place were enforceable. Miss. Hughes believed there was no statutory nuisance, and no public nuisance, and that the current conditions were applicable and enforceable. In addition, she believed that noise could not be attributed to the Alma Inn and that the conditions should remain as currently existed.

Mr. Cripps (Licensee of the Alma Inn) added that he had never met any of the complainants and that none of the properties opposite the Alma Inn had complained. It was confirmed that the Alma Inn closed on a weekday evening at 11.00 p.m., and a Friday and Saturday at 12.30 a.m.

The Sub-Committee then asked questions of Miss. Hughes and Mr. Cripps. Mr. Cripps confirmed that there were 4 extractor fans in the Alma Inn which enabled the windows to remain closed, even in hot weather. He also confirmed that the noise limiter was on all the time. It had been set in conjunction with the District Council's Pollution Control Officer. In addition, secondary glazing had been installed in the front windows and a plastic box put across the vent. He added that live performances had taken place since January 2007 every Thursday, plus once a month on a Saturday. He policed all conditions very carefully, ensuring all windows were kept shut, and he was on the car park every weekend evening requesting people to be quiet. Currently, there was no signage requesting windows remain shut during performances of music however, he agreed to have these installed. He also confirmed that he regularly went outside to check the noise levels to ensure that they remained at a reasonable level. There was also a sign outside the public house, which asked customers to be quiet and respectful on their way home.

Mr. Cripps summed up that he believed he had been very fair, and had invited the Council to check both the noise limiting device, and to ensure that all conditions were adhered to. In addition, he believed he had policed all conditions to as greater level as possible.

At 10.30 a.m., the Sub-Committee retired to consider its decision. At 11.45 a.m. the Meeting was reconvened to allow the Sub-Committee to gain further information on the noise limiting device.

The Environmental Protection Manager confirmed that the nearest noise sensitive point was the nearest dwelling likely to be effected. In this instance it was Nos. 46 and 44 Derby Road.

Mr. Cripps also confirmed that the noise limiter was permanently on, and took approximately 5 minutes to reset, depending on whether music was from a live act or from a recorded device. He added that every artist that appeared at the Alma Inn was monitored and levels checked during a warm up session.

Mr. Cripps confirmed that he had signage. Two signs on the front door requesting 'quiet, no expletives and respect for neighbours' and one on the patio which was approximately 1 metre square which could be seen when entering the car park.

At 11.55 a.m. the Sub-Committee again retired to consider its decision. At 12.50 p.m. the Meeting was reconvened.

RESOLVED:-

That, on considering each condition originally attached to the Decision Notice of the Licensing and Appeals Sub-Committee Hearing held on 24th November 2005, the following modifications be made.

Condition 1

This condition be modified as follows:

The Licensee shall ensure that all windows and doors are kept closed for the duration of live and recorded music and other entertainment, except for access to and egress from that room. This condition is subject to the Licensee erecting signs in the premises informing customers of the necessity and reasons for windows and doors to remain shut.

Condition 2

This condition to be substituted as follows:

A noise limiting device should be installed, fitted and maintained by the Licensee in such a manner as to control all sources of amplified music at the premises in order to ensure that music will be at a reasonable level at the nearest noise sensitive point as determined by the District Councils Environmental Health Department.

Condition 3

This condition be modified as follows:

The Licensee shall ensure that prominent signage is displayed at all exit doors requesting customers to leave the area quietly and to respect neighbouring residents and their properties. In addition, there shall be prominent signage placed at the exit points of the premises car park.

Condition 4

This condition to remain.

Condition 5

This condition to remain.

J. E. PATTEN

CHAIRMAN

The Meeting terminated at 1.00 p.m.