

LICENSING AND APPEALS SUB-COMMITTEE

11th August 2005

**PRESENT:-**

**Labour Group**

Councillors Dunn and Harrington.

**Conservative Group**

Councillor Lemmon.

**Officers of South Derbyshire District Council**

J. Tsoi (Principal Legal Officer), P. McEvoy (Commercial Standards and Licensing Manager), M. Sunter (Licensing Enforcement Officer), D. Cook (Democratic Services Officer).

**Applicants**

Miss J Eley (Square and Compass, Linton) and Mr C. Phizacklea (Pyramid Pub Management Company Limited).

**Objectors**

Mr C. Potter, Mr. R. King, Mrs. E. Lindley, Mr. D. Lindley, Mr. M.G. Denton and Mr. J. Swift.

LA/14. **APPOINTMENT OF CHAIR**

**RESOLVED:-**

***That Councillor W. Dunn be appointed Chair of the Meeting.***

LA/15. **APPLICATION FOR PREMISES LICENCE AT SQUARE AND COMPASS, CAULDWELL ROAD, LINTON**

The Council's Licensing Enforcement Officer outlined the purpose of the report and the details of the application, namely to consider an application for a premises licence at the Square and Compass, Cauldwel Road, Linton. The application requested the transfer of an existing liquor licence to a premise licence with an application to vary the premise licence simultaneously. The existing liquor licence allowed the premises to trade under the National Licensing Hours which were Monday to Saturday 11.00 a.m. to 11.00 p.m., Sunday and Good Friday 12 noon to 10.30 p.m. and Christmas Day 12 noon until 3.00 p.m. and 7.00 p.m. until 10.30 p.m. The applicant also held a Public Entertainment Licence for Thursday, Friday and Saturday between 8.00 p.m. and 11.00 p.m. and Sunday between 8.00 p.m. and 10.30 p.m. The premises did not currently hold a Supper Licence.

The Sub-Committee was advised that the application requested that the existing licence be converted to a Premise Licence under the Licensing Act 2003 and an application to vary the Premise Licence. This meant that the only area for consideration was the part of the application dealing with the variation of the Premise Licence. The applicant had submitted an original

proposed variation to the current application but following representations had amended the application requesting the following:-

- Monday to Thursday: Sale of alcohol until midnight, premises open until 12.30 p.m.
- Friday to Saturday: Sale of alcohol until 1.00 a.m. premises open until 1.30 a.m.
- Sunday: Sale of alcohol until 11.30 p.m. premises open until midnight.
- To extend the provision of musical entertainment from 7.00 p.m. until 11.00 p.m. each day.

The Committee was advised that the Derbyshire Constabulary had submitted representations on the original application which was subsequently withdrawn following the changes made to the original application regarding the sale of alcohol times. No adverse comments had been received from the Fire Service, Social Services, Trading Standards, Environmental Health, the District Council's Planning Authority and the District Council as the Health and Safety representative. Twenty-five letters from interested parties objecting to the application on the grounds of noise nuisance and anti-social behaviour had been received, all were residents in the immediate location, and copies of representations had been circulated accordingly.

The Chair noted that the local residents who had submitted the letters of objection had appointed Mr Lindley of 15 Cauldwell Road as their spokesperson. He stated that he had lived at 15 Cauldwell Road for 31 years. He advised that the premises concerned currently closed at 11.00 p.m. every day with the exceptions of Bank Holidays etc and after closing time the residents were disturbed by traffic noise consisting of revving engines, slamming of car doors and the sounding of horns. The residents also received disturbance from noisy and sometimes unruly behaviour from those leaving the premises. He stated that the amount of disturbance occurring had increased dramatically over recent months. He stated that the residents had had no complaints prior to the new tenant moving in a few months ago. He advised the Sub-Committee that an increase in opening hours for the premises would make the disturbances occur later in the evening and that residents were entitled to a decent night's sleep which they were not currently getting. He accepted that there would be some noise until 11.30 p.m. but felt that such noise at 1.00 a.m. was not acceptable. He stated that the current entertainment was not a problem but that the application for proposed entertainment was excessive for a residential area. Mr. Lindley also advised the Sub-Committee that there had been a big increase in litter and broken glass but that the tenant was currently trying to address this. Broken glass had been found in the location of a school bus stop. Mr Lindley stated that local residents were not asking for the public house to cease all entertainment events but considered that the new proposals could only lead to an increase in disturbance with a subsequent reduction in the quality of life for those living in the vicinity of the premises. Mr. Swift of 19 Cauldwell Road, Linton stated that amplifiers were not necessary to be used for entertainment purposes in such a small establishment. Mr. King of 47 Cauldwell Road, Linton stated that the way in which the public house was run was adversely affecting the quality of life of local residents.

The Chair invited the tenant, Miss J. Eley, to respond to the comments made by local residents. Miss Eley advised the Sub-Committee that she appreciated fully why the residents had concerns but stated that she had always made herself available to discuss these concerns and to date no resident had ever done this in the four months prior to the licensing application being submitted and only Mr. Lindley had done so since. She stated that upon taking the tenancy she had spoken to Mr. and Mrs. Vaughan of 13 Cauldwell Road and Mr. Lindley of 15 Cauldwell Road and advised them that if there were ever any problems to tell residents of Cauldwell Road to speak to her as she would be happy to attempt to resolve them. Miss Eley addressed the objections previously submitted by the local residents in turn. She disputed claims from numerous objectors that the public house was being run as a nightclub and a theme pub. She stated that it had never been marketed in this way - it was a family run pub for local families, which offered live entertainment on Fridays, occasionally on Saturdays and karaoke on Sundays. During midweek the pub operated bingo and lunch clubs for the older residents and had darts, dominoes and pool teams like the majority of village public houses. Miss Eley addressed each allegation of rowdy behaviour associated with the pub in turn, disputing that they were associated with the Square and Compass. With regard to traffic noise, she stated that she had implemented measures to minimise this. She had placed signs asking people to respect the neighbours and leave quietly from all exits and that the front doors were locked at 11.00 p.m. so that people had to leave by the back door and not directly onto Cauldwell Road. She stated that it was a fact that people did drive around Linton at unsociable hours sounding their horns but this was not just on Cauldwell Road and there was nothing to suggest that this was solely patrons from the Square and Compass. She stated that she had no control over people ordering taxis or sounding their horns but that if she personally ordered a taxi for a patron, she requested that they did not sound their horn but this was realistically, an issue out of her control.

Miss Eley stated that the police had not objected to the application and that she had always had a good working relationship with them. She advised that she was currently talking to the local police constable about starting a pub watch scheme for the area which would benefit everyone in the community. She stated that she had recently attended a Parish Council meeting to address the objections raised about the Square and Compass Public House but that not one single objector had attended the Meeting to discuss their complaints with her.

Mr. Lindley expressed concern at the practice of receiving Miss Eley's statement on the morning of the meeting. Miss Eley advised that she had not received a recently prepared list of objections from Mr. Lindley until Wednesday, 10th August, only giving her time to prepare a statement on Thursday, 11th August, a day prior to the meeting. The Principal Legal Officer had allowed the circulation of Miss Eley's statement on the basis that it was only a copy of what she had stated as her case on the morning of the hearing. Mr. Lindley accepted the fact that he had too submitted a list of particular incidents occurring during July and August 2005 two days prior to the hearing and therefore accepted the practice. Mr. Lindley stated that he had received assurances from Miss Eley that there were no plans to change current entertainment provision but stated that should a change in entertainment provision hours be approved and the tenancy change hands then residents would suffer as a result. He stated that local residents were

loathe to get involved by addressing problems with the tenant of the Square and Compass. He accepted that the licensee had no control over taxis making a noise.

Miss Eley summed up by stating that she had attempted to resolve problems when approached but that she needed residents to come forward and make her more aware of their concerns. She referred to there being no police objections to the application and stated that she was willing to work with the community. Mr. Phizacklea advised that 24 hour CCTV had been installed at the premises and that the windows in the premises were of a greater thickness than usual in an attempt to prevent noise nuisance. He stated that this was a country public house and entertainment was only planned for weekends.

Mr. Lindley stated that when he became a resident of Cauldwell Road some 31 years ago, that the public house closed at 10.30 p.m. He accepted that it was inevitable that some noise nuisance would occur and stated that the objections were not a personal attack on Miss Eley. He suggested that if the tenant was only planning entertainment at the weekend, why not apply for an occasion extension to the licence.

The Chair asked if Mr. Lindley would require any conditions applying to the licence should it be granted. Mr. Lindley stated that his main concerns were during the working week but advised that better double glazing could be installed, the noisy ventilator could be relocated, the use of amplifiers could be prohibited and the establishment could be asked not to remain open until midnight on a week day.

The Principal Legal Officer clarified the Appeals procedure and the Sub-Committee moved to the Chair's suite to determine the application.

Following detailed consideration of both the objectors' statements and the statement submitted by the tenant, the Committee returned to the Council Chamber and advised all of those present of the following decision.

**RESOLVED:-**

**Hours of Operation**

- (1) Monday to Thursday: Sale of alcohol until midnight, premises open until 12.30 a.m.***
- (2) Friday to Saturday: Sale of alcohol until 1.00 a.m., premises open until 1.30 a.m.***
- (3) Sunday: Sale of alcohol until 11.30 p.m., premises open until midnight.***

**Entertainment**

***Thursday, Friday, Saturday and Sunday 7.00 p.m. until 11.00 p.m.***

***Monday, Tuesday, Wednesday application for a variation of hours be refused.***

***The Committee advised those present that they had considered the prevention of crime and disorder and the prevention of public nuisance in determining the application. The Committee suggested that the tenant should give consideration to implementing measures to reduce noise from the ventilator at the premises and to prohibit the use of amplifiers within the premises.***

***The Principal Legal Officer advised those present of the Appeals Procedure available through the Magistrates Court.***

(The Sub-Committee subsequently adjourned at 12 noon to reconvene at 2.00 p.m. to discuss the following matter.)

LA/16. **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.***

**TENANCY REVIEW (Paragraph 7)**

***The Committee gave consideration to this matter in the absence of the tenant and, based on the facts presented agreed to uphold the decision of the Housing Services Department (acting as the Council's Landlord) to terminate the Introductory Tenancy granted to the Appellant.***

W. DUNN

CHAIR