

LICENSING AND APPEALS SUB-COMMITTEE

9th September 2005

**PRESENT:-**

**Members of the Licensing and Appeals Sub-Committee**

Councillors Shepherd and Whyman, M.B.E. (Labour Group) and Councillor Atkin (Conservative Group).

**District Council Representatives**

J. Tsoi (Legal Advisor to the Committee), P. Spencer (Democratic Services), M. Sunter and J. Salter (Licensing).

**Non-Council Attendees**

N. Jones (Landlord of the Bear Inn), Inspector S. Fairbrother, P.C. S. Bounds and I. Coleman (Derbyshire Constabulary).

LA/20. **APPOINTMENT OF CHAIR**

**RESOLVED:-**

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

**MATTER DELEGATED TO COMMITTEE**

LA/21. **APPLICATION FOR PREMISES LICENCE AT THE BEAR INN, WEST STREET, SWADLINCOTE**

Following introductions, the Licensing Enforcement Officer was invited to present his report, which had been circulated with the Agenda. Questions were invited and the Chair sought clarification on the status of this premises' public entertainment licence. It was confirmed that the licence was currently in abeyance, due to electrical works required at the premises. Accordingly, the consideration of the public entertainment licence was part of the new application. In response to a further question from the Chair, the applicant confirmed that there were two gaming machines at the premises. Clarification was also provided about the removal of the embedded restrictions from former licensing legislation.

On behalf of the Constabulary, P. C. Bounds was invited to present the Police's representation. In addition to the pre-circulated evidence, P. C. Bounds was aware of correspondence received from the applicant in response to the Constabulary's representation.

The Officer gave statistics for beat 620, in which this public house was situated. The Officer referred to Police resource issues and gave examples of the additional hours approved for other licensed premises. The Constabulary would be happy to accept longer opening hours for a limited number of occasions each year. He referred to the impact for the licensees of twenty-four hour opening, whilst paying tribute to the way in which this public house was operated. He referred to requests for Police service, which were

comparable to that of a neighbouring public house and noted the potential impact of twenty-four hour opening. The use of closed circuit television was suggested. The Constabulary felt that the hours of opening should be reduced to close at midnight between Sunday and Thursday and at 2 a.m. on Fridays and Saturdays, with a half hour drinking up time on each day.

P. C. Bounds then asked questions of Inspector Fairbrother about the number of licensed premises within the area covered by this Police division and its geographic size. The Inspector replied and referred to the growth in population of the South Derbyshire area, as compared to the rest of the county. The Inspector replied to further questions from P. C. Bounds about the perceived problems associated with this application and he touched on the staffing issues in particular. In response to a question from Councillor Shepherd, the Inspector confirmed the boundary of beat 620 and there was a discussion about drunken and antisocial behaviour within this area. Councillor Atkin asked about door supervisors and this issue was also discussed.

Mr. Jones, the Licensee, was invited to submit his comments. He explained that this application sought to provide flexibility, so he was able to choose when to close the premises. He appreciated the Police's resource concerns and commented on Police funding and staffing levels. He would wish to ask the local inspector how many 'on' licenses there were within the area of this beat, and spoke about the measures he could put in place with regard to door security and his discretion to refuse to serve certain customers.

In response to a question from the Chair it was confirmed that, if granted, this premises license could be transferred to a new landlord. The applicant replied that if there were any problems, there was the potential for a further hearing and the imposition of conditions. The Chair noted that the applicant had not given a preferred closing time and there was a discussion about this, together with the potential implications for the welfare of the licensee. Other issues discussed were a breakdown of crime statistics, Police staffing levels and the likely number of 'on' and 'off' licenses within this area.

P. C. Bounds reminded Mr. Jones of the requirements for door supervisors to be suitably trained and registered with the S.I.A. (Security Industry Association), but Mr. Jones felt as landlord he had the right to refuse admission and that he had little need to employ a door supervisor. The installation of closed circuit television was also discussed.

The Chair was mindful that many of the issues discussed were outside the licensing objectives, which guided the determination of applications. The Legal Advisor clarified that this application was effectively for the premises to be available to open twenty-four hours each day. She asked whether the applicant would be willing to install closed circuit television and/or use registered door supervisors. The applicant felt that whilst CCTV was feasible, the use of door supervisors was less so.

Note: at 11:25 a.m., the Sub-Committee retired to consider its decision.  
At 12:35 p. m. 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:-

- 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 Representative, the Responsible Authority and the Applicant. The Panel stated that although they had heard evidence from the Responsible Authority relating to the issue of limited Police resources, they did not consider this to fall within the licensing objective of Prevention of crime and disorder.

The Panel 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:-

- Sunday to Thursday : 8.00am until 1.00am; and
- Friday and Saturday : 8.00am until 2.00am

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

- Sunday to Thursday : 8.00am until 12.30am, with an additional 30 minutes drinking-up time; and
- Friday and Saturday : 8.00am until 1.30am, with an additional 30 minutes drinking-up time;

and the Panel determined, no children under the age of 14 would be allowed on the premises after 8.00pm on any day;

and the Panel granted all other aspects of the application in accordance with the above revised opening hours, hence:-

1. Regulated entertainment – Live music with amplified voice, recorded music including juke box and karaoke, with or without DJ's;
2. Comperes with amplified voice for functions and quizzes etc.;
3. Pub games in front of an audience;
4. Video entertainment on TV screens and amusement machines;
5. Removal of embedded restrictions inherent in the Licensing Act 1964, the Cinematograph (Safety) Regulations 1955 and the Children and Young Persons Act 1933.

The Panel stated that in relation to the impact on Crime and Disorder, they had not received evidence that effective monitoring, 24 hours a day, 7 days a week of behaviour, alcohol consumption and substance abuse would be met if a Premises Licence were to be granted in the form requested by the Applicant. Also, the Panel stated that there was no evidence that designated

trained staff would be available to undertake supervisory and regulatory oversight at the premises should the premises be open for the sale and consumption of alcohol 24 hours a day, 7 days a week.

In order to fulfil the licensing objective, Protection of Children from Harm, the Panel imposed the condition restricting the presence of children under 14 years of age after 8.00pm on any day.

**RESOLVED:**

***That the Sub-Committee grants the application for a premises license for the Bear Inn, West Street, Swadlincote as set out above.***

B. WHYMAN, M.B.E.

CHAIR

The Meeting terminated at 12.40 p.m.