

Minutes

Licensing/Appeals Sub-Committee Thursday, 15th September, 2016

Attendance

Cllr Mrs Murphy
Cllr Newberry

Cllr Ms Rowlands

Officers Present

Paul Adams	-	Principal Licensing Officer
Steve Blake	-	Environmental Health Officer
Dave Leonard	-	Licensing Officer
Chris Pickering	-	Principal Solicitor
Adam Rulewski	-	Barrister, BDT Legal
Jean Sharp	-	Governance and Member Support Officer

150. Appointment of Chair

The Sub-committee resolved that Cllr Newberry should chair the meeting.

151. Administrative Function

Members were respectfully reminded that, in determining the matters listed below, they were exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matter would be determined on the facts before the Sub-committee and the rules of natural justice would apply.

152. Declaration of Interests

There were no declarations of interest.

153. Application for Review of Premises License - Licensing Act 2003 - Brentwood Snooker Club T/A The Sports Lounge

The report before the Sub-committee provided information relating to an application for a review of the premises licence held in respect of ***Brentwood Snooker Club, currently trading as the Sports Lounge, 40 High Street, Brentwood, CM14 4AJ.***

Members were requested to determine the application for review submitted under provision of section 51, Licensing Act 2003 (the Act) by the Council's

Environmental Health and Pollution team, having regard to the operating schedule, the representations received, the Council's Statement of Licensing Policy and the four Licensing objectives.

The review had been submitted following concerns over noise and disturbance, failure to comply with licence terms and conditions and perceived inability by the licence holder to adequately promote the licensing objectives.

Members were reminded that an authorisation was required in respect of any premises where it was intended to conduct one or more of the four licensable activities, these being:

- Sale of alcohol
- Supply of alcohol (in respect of a club)
- Regulated Entertainment
- Provision of Late Night Refreshment

An appropriate authorisation was either a premises licence, a club premises certificate or a Temporary Event Notice.

Licence holders were required, when offering any licensable activity, to ensure that they promoted the licensing objectives at all times. The operating schedule of the application contained details of the activities applied for and the control measures that the applicant had in place in order to promote these objectives. Such measures would, where appropriate, be converted into enforceable conditions on any licence issued.

Members noted that the licence for the premises known as the Sports Lounge was transferred to the current licence holders having been initially applied for by and granted to, a Snooker Club. In the absence of any valid application to vary the licence, the Sports Lounge was required by law to operate and conduct all licensable activity in accordance with the terms and conditions of the original (Snooker Club) Licence.

A provision for any Responsible authority or any 'other person' was built into Section 51 of the Act, which permitted them to apply for a review of the premises licence in cases where it was believed or perceived that the licensing objectives were not being adequately promoted.

The four licensing objectives were:

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

No objective carried any more weight than any other and these objectives were the only matters that might be considered relevant in determination of any application, including an application for review.

The existing Premises Licence permitted the following:

- Sales of alcohol Monday to Sunday 11:00AM to 02:30AM
- Indoor Sporting Events Monday to Sunday 11:00AM to 03:00AM

No other licensable activities were permitted under the current authorisation.

The application was received on 2 June 2016 from the Council's Environmental Health and Pollution team following complaints and investigations relating to noise and disturbance from the premises. A copy of the application was before Members.

The grounds for review had been stated on the application and were concerned in the main with public nuisance relating to noise and disturbance from the premises, particularly late at night.

Following submission of the application it was advertised in accordance with regulations for a period of 28 days, during which time any other responsible authority or 'any other person' might submit representation either in support of, or against the review. Such representations were not restricted to only the public nuisance objective; they might be submitted in respect of any of the four licensing objectives.

Following advertising of the application representations were received from Essex Police, the Licensing Authority, a resident living above the premises and a petition from local shop owners and customers of the premises (some in generic letter form) in support of the premises i.e. against the application for review.

The representations were based on the objectives of public nuisance, prevention of crime and disorder and public safety and copies were appended to the agenda.

The Sub-committee was addressed by Mr Rulewski who spoke on behalf of the Environmental Health and Pollution team and he called upon the Council's Environmental Health officer and Licensing officer, also a representative of Essex Police Licensing team and the resident disturbed by the noise emanating from the Sports Lounge to provide evidence in support of the application.

Mr Dadds addressed the Sub-committee on behalf of the premises licence holder against the application.

The Sub-committee considered the written and oral information provided and advised all present of their decision.

Firstly, the Sub-committee found that the review was properly brought. It accepted the evidence of Environmental Health and the Licensing Officer that there had been breaches of the licence in relation to the playing of music, sports other than snooker such as darts and poker being played and evidence of children being on the premises. The Sub-committee read the extensive diarised narrative from the Licensing Officer detailing his dealings with the premises over a number of months. The Sub-committee concluded from this that the engagement from the premises has not been ideal.

In terms of the substance of the review, the Sub-committee accepted the submission on behalf of the premises that crime and disorder was not an issue with this venue. The incidents of crime and disorder relating to this venue were minor in the view of the Sub-committee.

The Sub-committee noted that no formal action had been taken against the premises in respect of statutory nuisance. The sub-committee did not find evidence of a wider noise issue than that relating to the upstairs flats, and therefore could not find a wider public nuisance.

The Sub-committee had sympathy with the tenant in relation to noise emanating from the venue, noise that was not denied. The Sub-committee had to consider the issues on the law however and had considered the submissions in relation to public and private nuisance and had taken advice from the advisor to the Sub-committee. The Sub-committee was taken to the decision of PYA Quarries as quoted in the well known decision of Hope & Glory and in particular the comments of Lord Denning where he said "a public nuisance affects Her Majesty's subjects generally, whereas a private nuisance only affects particular individuals". The Sub-committee found that tenants in the building were individuals rather than a wider definable class capable of being classed as the public. The Sub-committee therefore found that this was a private nuisance and was a matter between the tenant and her landlord. The Sub-committee hoped that a resolution could be reached with the assistance of the premises together with the landlord.

In light of the above findings, the Sub-committee concluded that the current conditions on the licence should remain in place. Some of these appeared to be out of date and might require revision pursuant to the appropriate procedures. The breaches of the current conditions as found by the Sub-committee did not form the basis of the application for review however and the Sub-committee found that there was no scope for imposing new conditions on the basis of the application for review.

Therefore for the reasons given above, the Sub-committee concluded that the current conditions should remain in place and any application for amendment or any further breaches of the licence could be dealt with in the appropriate manner.

The meeting ended at 3.00pm