

NORTHAMPTON BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Wednesday, 9 January 2013

COUNCILLORS PRESENT: Councillors Hill (Chair), Duncan and Sargeant.

OFFICERS: Mohammed Rahman (NBC Solicitor)
Phil Baylis (Senior Licensing Officer).

FOR THE APPLICANT: Tim Shield (John Gaunt and partners), Darren Wesley (Designated Premises Supervisor) and Joanne Nelson (business partner).

FOR THE REPRESENTORS: Colum O'Kane, David Sogrowiczuk and Richard Ellson (local residents).

1. THE FIDDLERS, 130 WELLINGBOROUGH ROAD, NORTHAMPTON NN1 4DR

The Chair introduced the Members of the Sub Committee and welcomed everyone to the hearing.

The Senior Licensing Officer outlined the purpose of the hearing, which was to consider a variation to the premises licence to extend the terminal hour for all licensable activities on Friday and Saturday nights from 02.00 until 04.00 hours and the opening hours from 02.30 to 04.30 hours.

The Sub-Committee were informed that a number of objections to the variation application had been received from local residents on the grounds of public nuisance and the Sub-Committee would be addressed by Colum O'Kane, David Sogrowiczuk and Richard Ellson. An objection had also been initially received from the Police but had been withdrawn following discussions with the applicant.

Application for Variation to a Premises License

Mr Shield, on behalf of the applicant, explained that the brewery's Regional Manager had anticipated being present at the meeting to answer any questions which might arise but had been detained and would not be able to attend. He would attempt, along with Mr Wesley and Ms Nelson, to answer any questions which might be asked.

He explained that the premises fell within the managed houses division of Marstons brewery Plc, a reputable brewery company. They were not 100% managed premises but nor were the licensees tenants.

Mr Shield stated that the application would not noticeably change the premises' current activities. There were residential properties nearby but this was an area which already had a number of other licensed premises, restaurants, convenience stores and takeaways which already had late night opening.

The intention of extending the licensing hours was not to attract more customers into the premises but to allow those already using the premises to remain longer.

Mr Shield referred to the three objections contained in the agenda. He stated that comments regarding parking restrictions were planning and not licensing issues and that

some of the other comments, if accurate, were not specific to the premises.

Mr Shield stated that the Police had requested two conditions, which the applicant had been happy to comply with, namely that there should be no new admissions to the premises on Friday and Saturday nights after 3am and that there should be a door supervisor from 11.00pm onwards on those nights. The Police had not objected to the application.

Discussions had taken place with Environmental Health Officers and a condition had been agreed to close the enclosed rear garden from 11.00pm and to direct smokers to outside the front of the premises, where they could be managed and would cause less noise and disturbance to residents.

Mr Shield stated that there were no substantial noise nuisance issues and he considered the conditions would deal with any issues which might arise.

Mr Shield stated that there were no objections from the Police regarding crime and disorder and that case law had determined that the Police were the relevant authority to be considered in such issues. He stated that the premises were in a vibrant area, owned by a reputable company, that the activities would not change, the current management team would remain in charge, and that conditions requested by the Police and Environmental Health had been agreed.

Questions to the Applicant

In response to questions asked by the representors and the Sub-Committee, Mr Shield, Mr Wesley and Ms Nelson stated that:

- There were already door supervisors at the premises on Friday and Saturday nights from 9.00pm to 2.00am.
- There was CCTV inside the premises and plans to have external cameras. The Police had not requested external cameras. Furthermore, there are Council CCTV cameras facing the premises.
- In response to a question regarding the safety of smokers moved to the outside of the front of the premises due to the busy nature of the road there, Mr Shield stated that the condition had been agreed with Environmental Health Officers and could be managed.
- Mr Shield stated that he had not seen a petition in a local convenience store referred to by a representor. The Chair stated that this was not a relevant issue for consideration.
- A representor stated that he had been unaware of the application being made. Mr Shield and the Senior Licensing Officer confirmed that the application had been advertised in compliance with legal requirements.

Representations by the Objectors

Mr O'Kane stated that he had spoken to local residents and that they had expressed concern regarding noise nuisance from the premises, especially in the early hours of the morning. He stated that he had attempted to express his concerns via an independent person and had not approached the premises' management team, although he had approached previous landlords of the premises. He stated that the premises were long and narrow, not soundproofed and that there was residential accommodation above. He also stated that the location of the premises would bring in customers on their way home from town centre establishments. He stated that the variation, if approved, would cause hardship to residents and expressed concern regarding public nuisance, noise pollution and harm to

children.

Mr O’Kane sought to introduce an additional communication, which another representor stated had been attached to his own objection. The Solicitor advised that the communication was out of time and had not been disclosed to the other side with enough time for them to digest the information and it was not accepted by the Sub-Committee.

Mr Sogrowiczuk referred to noise and disturbance to residents occurring now when customers left the premises at 3.30 and 4.00am.

Mr Ellson referred to the communication mentioned by Mr O’Kane above and said that it had been an attachment included with his objection and had been sent in time. The Solicitor advised that if the communication introduced no new material but expanded on the content of the objection it could be accepted. Mr Ellson stated that the communication amplified his objection and it was accepted.

Mr Ellson expressed concerns regarding the nature of the clientele who would use the premises if the licensing hours were extended, that the premises would turn into a night club environment, concerns regarding off sales, broken glass in the rear streets, lack of Policing in the area and parking issues. He stated that there were public nuisance issues in respect of the application.

Mr Ellson was reminded that parking was not a Licensing issue. The Senior Licensing Officer stated that the premises already had a licence to sell alcohol on or off the premises and that this application did not affect that.

Mr Ellson referred to a petition objecting to the application. The Senior Licensing Officer advised that the first signature on the petition was dated two weeks after the closing date for objections to the application and the Solicitor advised that the petition should not therefore be accepted. Mr Ellson referred to residents being unaware of the application during the period it had been advertised and was reminded that it had been advertised in compliance with legal requirements.

Questions to the Objectors

In answer to questions from the applicants the objectors stated that:

- Closing the enclosed rear garden at 11.00pm would help regarding noise and disturbance issues but they did not consider this would be done.
- A representor stated that he had not reported incidents at the premises to the management team there as he had not considered he would be taken seriously but had made calls to the Police and Environmental Health Officers regarding the incidents/issues. Mr Wesley stated that there had been a number of incidents in the vicinity of the premises since the management team had taken over approximately twelve months previously but that none of the incidents related to the premises themselves. There were a number of licensed premises in close proximity in the area. The management team were taking measures, as detailed above, to manage their customers.

Summing up by the Representors

A representor stated that the issue raised regarding harm to children had not been addressed. Also, the petition he had referred to earlier had not been admitted. He stated that if the application was allowed issues with the premises would escalate and would present difficulties for the proper authorities, particularly the Police.

It was noted that the premises would be monitored by Licensing Officers should the application be approved to ensure that there was compliance with the imposed conditions..

Summing up by the Applicant

Mr Shield stated that many of the comments made in the objections were not relevant to the premises and asked that the comments of the relevant authorities be borne in mind. With regard to the comments about disorder, the Police had not made a representation regarding the application. Any calls made to the Police and Environmental Health regarding incidents in the vicinity would have been logged and investigated. The fact that no representations had then been made by these authorities suggested that the incidents were not directly related to the premises. The Police and Environmental Health had only requested that conditions be attached to the premises. He stated that those conditions would address the noise and disturbance issues raised by the representors.

There being no further questions, the Sub Committee adjourned at 4.10.pm to make a decision. The Solicitor was called for advice.

The Determination

The Sub-Committee had considered the application to vary a Premises Licence for the The Fiddlers, 130 Wellingborough Road, Northampton made by Mr Shields on behalf of the Applicants, Marston's PLC.

There were a number of written representations from residents in the local area on various grounds under the licensing objectives. The Sub-Committee read and considered all the written representations received prior the last date of objections, and heard from:

- Mr O'Kane
- Mr Sogrowiczuk
- Mr Ellson

There were some concerns raised by the objectors that they feel there are many others who did not have a fair opportunity to object. However, the law makes it clear that the applicant needs to advertise correctly in a local paper and on the premises. This was confirmed to have been adhered to by the Licensing Enforcement Officer and the Sub-Committee were satisfied that Marstons Plc have complied with the law.

The objections raised were mainly in relation to public nuisance.

The Sub-Committee noted that there had been agreements reached with the Police and Environmental Health. No objections had been raised by the Fire Authority. The Sub-Committee therefore accepted that there are no concerns from these authorities.

The Sub-Committee were informed that the Police and the Applicant had agreed that the following conditions are to be placed on the licence:

- There shall be no new admissions to the Premises after 3am on a Friday or Saturday
- At least one door supervisor shall be present from 11pm on a Friday and Saturday.

The Sub-Committee were also informed that the Environmental Health Department and the Applicant had also agreed a condition to be placed on the licence:

- The Beer Garden at the rear of the premises to be closed at 11pm

In light of the agreed conditions and the lack of actual evidence that any incidents complained of in the local area are attributable to the present licence holders, the Sub-Committee decided to grant the application as requested.

The conditions as mentioned earlier shall be attached to the licence.

The Sub Committee felt that there was a lack of evidence to show that the applicants are not promoting the licencing objectives, therefore could see no reason to refuse the application.

The Sub-Committee reminded everyone that if there are concerns that the conditions on the Licence are not being adhered to and they have actual evidence in relation to this premises, then they have the option to apply for a Review of the Premises Licence.

All parties have the right to appeal the Sub-Committee's decision to the Magistrates Court within 21 days of the date of decision.

The meeting concluded at 4:48 pm