

NORTHAMPTON BOROUGH COUNCIL

ALCOHOL & GAMBLING LICENSING SUB-COMMITTEE

Wednesday, 31 October 2018

PRESENT: Councillor Sargeant (Chair); Councillors Beardsworth, Sargeant and Walker

OFFICERS: Ian Ellis (Senior Licensing Enforcement Officer)
Clive Tobin (Litigation & Licensing Solicitor)
Ed Bostock (Democratic Services Officer)

1. WELCOMES

The Chair welcomed everyone to the meeting.

2. DECLARATIONS OF INTEREST

There were none.

3. REVIEW OF PREMISES LICENCE - TURKISH SOCIAL CLUB, HENRY STREET

The Senior Licensing Enforcement Officer reported that Charlotte Ryan, the applicant, would not be in attendance; in her place were her partner, Mark Atkinson, who had also made a representation, and her father.

Representations by the applicant:

Mr Atkinson explained that he and his partner requested a review of the Premises Licence due to problems surrounding noise, the opening hours of the premises, lighting and customers smoking.

He stated that he and his partner had posted notices to the address on several occasions, asking to keep the noise down; these had all been ignored. He further stated that the noise emanating from the premises increased from 8pm most days and persisted until around 2am. Mr Atkinson referred to comments made at the meeting held on 15th August when the solicitor representing the Licence Holder commented that the premises rarely, if ever, stayed open until 2am and sold more Turkish tea than alcohol. Mr Atkinson argued that if this was the case then there was no need for the late opening hours. He explained that he and his partner were looking to start a family in the near future; the noise and other issues would not make for an ideal family home.

Mr Atkinson stated that he had to keep the windows to his property closed due to customers of the premises smoking, as well as having to regularly sweep outside of his home to clear the litter left by customers.

Regarding the proposed extension to the rear of the premises, Mr Atkinson stated that this would flood his property with light late at night.

In response to questions, Mr Atkinson explained that loud noise was generally worse during the week than on weekends, with the exception of every Sunday. He stated that any soundproofing that had been installed was insufficient. He further stated that the proposed relocation of the smoking area would still cause him and his partner problems as it would remain close to his property.

Miss Ryan's father explained that when football matches were played on the TV at the premises the noise increased, noting that the TV was hung on a wall shared between the 2 properties.

Representations by the Licence Holder

John Birch, representing the Licence Holder, addressed the Committee. He advised that should planning permission for the extension be approved, lighting should no longer be a problem for Miss Ryan and Mr Atkinson, and a new smoking area would also be considered following approval of the application. He acknowledged that the Licence Holder could be better in terms of housekeeping, however stated that he had not heard of issues relating to the TV before but that it could be moved and soundproofing improved. Mr Birch explained that there had been no "coming together" of the Licence Holder and local residents but would look to change this, should the planning application be approved.

In response to questions, Mr Birch stated that nobody at the premises had seen any letters or notices that Mr Atkinson maintained had been posted to the address, but that they were open to discussions. He further stated that the premises had been closed since the summer in anticipation of the planning application being approved so building works could commence

The Solicitor explained that notwithstanding a planning decision, there was nothing stopping the Sub-Committee from imposing additional conditions on the Premises Licence, stating that it could not be assumed there was no issue in relation to noise simply because Environmental Health had made no representations.

Members retired at 10:44 to make a decision.

The meeting reconvened at 11:22.

RESOLVED:

The Licensing Sub-committee carefully considered the following:

- The application for review received from Miss Ryan and Mr Atkinson ("the Applicants");
- The oral representations received from Mr Atkinson;
- The report prepared for the hearing;
- Oral representations by Mr. Birch on behalf of Mr Cahit Meneske the premises licence holder;

Mr Meneske was not present at the hearing since he had to travel to Turkey due to a family illness however, the manager of the premises was present.

The Sub-committee received **legal advice** as follows:

1. the options available to them under section 52(4) of the Licensing Act 2003 and as set out in the report;
2. that although the application relates to similar matters to those raised in representations in relation to the application to vary the premises licence, the Sub-committee must now look to the problems currently said to be occurring at the premises and not what might happen in the future if the development covered by the

earlier application to vary and the extent planning application;

3. that, if they saw fit they could attach conditions to address the problems said to be occurring at the premises and that case law allowed such conditions can apply to opening hours if there was evidence to show it was appropriate;
4. that the fact that the applicants for the review have also objected to the planning application was irrelevant and the Sub-committee must consider only what was relevant to the premises licence;
5. that if the lighting which is proposed to be installed at the premises is not yet there, this must be ignored for the purpose of the review; and,
6. that there was no requirement for a log of incidents in relation to noise or for Environmental Health to have made a representation in order for the Sub-committee to consider the issues about noise raised by the Applicants.

The Sub-committee made the following **findings** of fact:

- a. they are satisfied that there has been a noise nuisance as a result of the use of the premises for licensable activities;
- b. they are satisfied that this noise nuisance impacts on neighbouring occupiers and the vicinity as a whole which is predominantly residential; and,
- c. as a result, they are satisfied that it is appropriate for the promotion of the licensing objectives to take action to reduce that impact.

The Sub-committee therefore **resolved** to:

- Reduce the hours during which the premises are able to offer licensable activities as follows:
 - 2300 hours Sunday to Friday;
 - 0000 hours (midnight) on Saturday; and,
 - 0100 hours on New Year's Eve;
- Add a condition which will allow 30 minutes additional 'drinking up time' after those hours after which the premises must close, i.e. the premises shall close at:
 - 2330 hours Sunday to Friday;
 - 0030 hours on Saturday; and,
 - 0130 hours on New Year's Eve;
- Add a condition to require the television to be removed from the party wall of the premises with number 6 Henry Street; and,
- Add a condition to require the party wall between the premises and number 6 Henry Street to be sound proofed to comply with the appropriate building regulations within 26 weeks of the date of the Sub-committee meeting.

The reason for the Sub-committee's decision is to prevent further noise nuisance being caused to the occupier of nearby premises.

The Applicant or the premises licence holder may appeal against this decision to a magistrates' court within 21 days of the date this decision is served on them. A fee may be payable to commence an appeal and the Court may make an order in relation to costs at the conclusion of any proceedings.

The meeting concluded at 11:25 am