

Licensing Sub-Committee – 13 December 2005

Minutes of the meeting of the **Licensing Sub-Committee** held on **13 December 2005** when there were present:-

Cllr R A Oatham
Cllr D G Stansby

Cllr Mrs M A Starke

OFFICERS PRESENT

K Khan	- Solicitor
K Doyland	- Licensing Manager
P Nellies	- Licensing Officer
S Worthington	- Committee Administrator

43 APPOINTMENT OF CHAIRMAN

Cllr D G Stansby was appointed Chairman of the Sub-Committee.

44 PROCEDURE FOR LICENSING HEARING

The Sub-Committee noted the procedure to be followed in hearing the review.

45 LICENSING APPLICATION

The Sub-Committee considered an application for a premises licence made under section 17 of the Licensing Act 2003. The application related to premises known as Rayleigh Kebab House Ltd, 26 High Street, Rayleigh, Essex. Members had before them the report of the Head of Housing, Health and Community Care setting out the details of the application and the representations received.

In support of the application for extended opening hours until midnight, Sunday to Thursday, and until 0200 hours on Friday and Saturday, the applicants' representative stressed that the applicants had been trading at the premises since 2000, and that there had been no trouble in that time, with no complaints from residents or local businesses. The premises were well and responsibly managed. The applicants had, however, received two letters of support for their application, from local businesses.

The representative further stressed that no representations had been made with respect to the application by the Police, the Environmental Health Department or by local residents, which indicated that there were no concerns relating to crime and disorder, public nuisance or noise.

The representative emphasised that, within the operating schedule of the application, the utmost had been done to promote the four licensing objectives, and particularly those relating to public safety and the prevention of public nuisance.

The applicants were working in partnership with the next door off licence to

install a CCTV camera outside both premises. They were, in addition, willing to put up notices reminding their customers to leave the premises quietly and to report any instances of anti social behaviour to the local Police. They had removed a fruit machine from the premises about a month ago, which had resulted in less crime and disorder.

The representative referred to the Pink Toothbrush nightclub being licensed to open until 3.00 am. They considered that there were likely to be more public nuisance problems arising from those premises being open until 3.am than for a well managed premises like their own.

The representative believed that the Planning Department had an inconsistent approach with respect to the opening hours of similar premises. Furthermore, they did not believe that the Planning Department had any firm evidence to suggest that extended opening hours would lead to any increase in public nuisance and disturbance. In conclusion, they did not believe that any perceived loss of residential amenity was a material consideration with respect to the Licensing 2003 Act.

In response to a Member enquiry relating to what means would be employed to prevent customers from bringing alcohol onto the premises, the applicants advised that they would not allow people to enter the premises with alcohol in open vessels, bottles or cans.

Responding to a supplementary question relating to how the applicants intended to ensure that customers left the premises in a peaceful manner, the applicants confirmed that notices would be displayed, but that customers could not be forced to leave quietly.

The applicants confirmed, in response to a further query relating to planning permission for opening hours, that they would be making a further planning application for an extension to the premises' opening hours.

The Planning Authority was particularly concerned that increasing the opening hours to 0200 hours on Friday and Saturday would lead to increased public nuisance, given that there were a number of residential premises in that vicinity.

It was noted that in paragraphs 5.1 and 5.2 of the Council's Statement of Licensing Policy, the amenity of local residents was clearly a main consideration with respect to the licensing objective of the prevention of public nuisance and was, as such, a material consideration.

The Planning officer advised that there had been a planning appeal in 1999 with respect to the Planning Authority's refusal to extend the opening hours of the premises later than 11.30 pm Monday to Saturday and later than 10.30 pm on Sunday. The independent Planning Inspector had determined that these hours should not be extended. At a further appeal in 2002 the independent Planning Inspector had also agreed that the opening hours

should not be increased. The reasons given at both appeals related to residential amenity and the prevention of crime and disorder.

In 1999 the Planning Inspector concluded that crime prevention would be best served by encouraging a rapid dispersal of people departing from the Pink Toothbrush nightclub, rather than having them congregate around Rayleigh High Street. At the appeal, the Police had similarly objected to any extended opening hours for the premises and the Council's Community Safety Officer had confirmed that any extension to the opening hours would be in breach of the objectives of the Council's Community Safety policy. The premises had applied to extend their opening hours to 2.30 am, in line with the opening hours of the nightclub at that time. However, an offer by the owners of the premises at that time to reduce the opening hours they were applying for to 1.45 am, before the nightclub closed, was rejected by the Inspector. This was a similar situation to that of today, given that the nightclub is now licensed to stay open until 3.00 am and the applicants are applying for a licence to remain open until 2.00 am.

The appeal in 2002 was for an extension of the opening hours to 2.30 am. The Inspector considered that such hours would exacerbate public disturbance at unsocial hours as people lingering in the town centre in the early hours would be detrimental in terms of noise and disturbance to those living in the area. The Police and the Council's Community Safety Officer supported this view. The Inspector refused the applicants' offer to decrease the opening hours applied for to 0145 hours on the basis that this would not overcome the problem of public nuisance in the High Street.

The Planning officer confirmed that there was a history of planning enforcement action with respect to these premises, relating to the premises opening unlawfully beyond the permitted opening hours. It was further noted that enforcement action with respect to the contravention of the permitted opening hours had also been taken against the applicants. The licensing application was clearly in respect of opening hours that went beyond the lawful planning consent for the premises. Government guidance indicated that Licensing Authorities and Planning Authorities should have an integrated approach with respect to the opening hours of premises.

The Planning Authority had received in September 2005 a planning application from the applicants to extend the opening hours of the premises to 0130 hours on Friday and Saturday, which had been refused on the grounds of noise and activity associated with the premises.

The Planning officer stressed that, If this application were granted, the premises would be licensed to stay open later than public houses in the vicinity and it would, contrary to the views of independent Planning Inspectors, the Police and the Council's Community Safety Officer, give people a reason to linger in the High Street in the early hours. This would lead to increased noise and public nuisance and litter in the High Street. It was further noted that none of the other fast food/take away outlets in the area were licensed to

stay open later than 11.30 pm on Friday and Saturday.

In conclusion, the Planning officer stressed that, if extended opening hours were granted, the applicants would not be able to stop people congregating outside the premises in the early hours creating a public nuisance.

In response to a question from the applicants relating to possible planning conditions that might be imposed, the Planning officer advised that there were no planning conditions available that would adequately alleviate the concerns of the Planning Authority with respect to extending the opening hours.

Responding to a further query relating to the Police, officers advised that the Police had originally made a representation with respect to this application, but had subsequently withdrawn it, without reason.

Members, while mindful of the representation made, including the recent written submissions, having given careful consideration to all the evidence, were of the view that particular problems relating to crime and disorder and public nuisance would occur if the longer hours, as stated in the application, were granted. They perceived that particular regard should be given to recent planning decisions, which specifically related to nuisance and disorder grounds. Furthermore, Members considered that the conditions proposed in the operating schedule were inadequate to address these issues. In addition, Members felt that the applicants should give serious consideration to the permanent removal of any fruit machines from the premises.

Resolved

That the application be granted, subject to the terms and conditions set out in the operating schedule and subject to modifications relating to the late night refreshment and opening times, such that late night refreshment shall cease and the closing times should be as follows:-

- Sunday to Thursday until 1200 midnight
- Friday and Saturday until 12.30 am. (HHHCC)

46 LICENSING APPLICATION

The Sub-Committee considered an application for a premises licence made under section 17 of the Licensing Act 2003. The application related to premises known as AUM Station News, Ground Floor, Station House, Station Road, Rayleigh, Essex. Members had before them the report of the Head of Housing, Health and Community Care setting out the details of the application and the representations received.

In support of the licensing application for the supply of alcohol for consumption off the premises between 0600 hours and 1900 hours Monday to Friday and between 0600 hours and 1300 hours on Saturday the applicant's representative stressed that the applicant was an experienced, responsible

retailer who was seeking the same independence as supermarkets to sell alcohol.

It was noted that the applicant also had a store in Wickford, not far from the railway station. The applicant's wife and son also work in the store and both hold a national certificate for personal licence holders.

The representative advised that the Rayleigh store benefited from CCTV and the applicant proposed that any alcohol for sale would be placed in the vicinity of the counter for ease of monitoring.

The representative emphasised that the hours proposed for the sale of alcohol were limited, and the shop was, in addition, closed on Sundays. No representations had been made by the Police with respect to the application. Furthermore, the representative was of the view that many of the instances of vandalism and anti social behaviour happened after 7.00 pm when the shop would be closed.

The representative further stressed that incidences of vandalism and unruly behaviour were clearly inherent at the station and it was the responsibility of the rail operator to put in place adequate management measures to address an already extant problem.

The railway operator, One, in objecting to the application, was particularly concerned that the granting of a licence to sell alcohol would lead to an increase in vandalism and petty crime, anti social behaviour and loitering, together with more train surfing at the station. The station had already suffered from graffiti and broken windows and youths often loitered around the station, were rowdy and clearly under the influence of alcohol. One, while recognising that youths are obviously purchasing the alcohol elsewhere, were concerned that drunken behaviour would escalate, should the applicant be granted a licence to sell alcohol at his station premises.

In response to a Member enquiry relating to specific times of such instances of anti social behaviour, the representative from One confirmed that she could not provide specific times, but that she felt that there had been incidents in the middle of the day, the middle of the afternoon and in the evenings.

Responding to a further query relating to staffing at the station, the One representative confirmed that the booking office closed at 7.30 pm and that the station was staffed until 1.00 am. She further confirmed that the kiosk closed around 2.30 – 3.00 pm and that the café closed in the evening.

In response to a question relating to whether there were similar problems at other One stations, the One representative advised that generally when stations were staffed there tended not to be problems associated with anti social behaviour. Since the installation of CCTV at Hockley station there had been a diminution of such problems.

Responding to a further Member query relating to train surfing, the One representative confirmed that instances of train surfing tended to occur earlier in the day when there was good light.

Members, while mindful of the representation made, having given careful consideration to all the evidence, were of the view that the applicant had addressed any potential crime and disorder issues by not applying for a licence to sell alcohol later than 7.00 pm on Fridays and 1.00 pm on Saturdays.

Resolved

That the application be granted, subject to the conditions set out in the operating schedule. (HHHCC)

The meeting commenced at 10.00 am and closed at 2.10 pm.

Chairman

Date