

Licensing Sub-Committee – 14 February 2006

Minutes of the meeting of the **Licensing Sub-Committee** held on **14 February 2006** when there were present:-

Cllr K A Gibbs
Cllr Mrs M A Starke

Cllr Mrs C A Weston

OFFICERS PRESENT

N Khan	-	Solicitor
A Law	-	Solicitor
K Doyland	-	Licensing Manager
P Nellies	-	Licensing Officer
J Bostock	-	Principal Committee Administrator

50 APPOINTMENT OF CHAIRMAN

Councillor K A Gibbs was appointed Chairman of the Sub-Committee.

51 PROCEDURE FOR LICENSING HEARING

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

52 LICENSING APPLICATION

The Sub-Committee considered an application for the granting of a Premises Licence made under Section 17 of the Licensing Act 2003. The application related to premises known as Daryl's Grill at land rear of 59 High Street, Webster Way, Rayleigh.

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 from the Planning Authority and three interested parties.

Responding to questions from Members of the Sub-Committee, the applicant advised that:-

- He had been trading at the Websters Way location for eleven years and had experienced no problems or complaints. Whilst there had been previous work at Southend-on-Sea, this was the sole work activity at the current time.
- He believed that, over eleven years, there had been three assaults in the trading area. No official had ever visited to remove any music playing equipment.

- The mobile burger trailer is operated from private property. Permission had originally been granted from the Woolwich Building Society to trade from an adjacent location, but that had been taken away. He had been fined for trading in a car park.
- Business presence on a site can prevent issues of graffiti and vandalism.
- He personally cleared up litter at the site every night and would not leave any rubbish. Whilst there had been suggestions that cooking oil is left at the site, such oil is not used in food production.

A Planning Authority representative indicated that, as part of the presentation of objections, it was proposed to show a night time video log of the view of the trailer and surrounding area taken from the Council's car park in Websters Way. The applicant indicated that he had no objection to this, so the video log was shown.

Responding to questions from the applicant, the Planning Authority representative advised that:-

- The video log showed that a large number of individuals congregated at the trailer specifically because it was trading.
- Whilst the Authority was more than happy to assist business, there is a need to have regard to the amenity of all businesses in the areas from which they operate.
- Services such as those offered by the applicant are restricted to particular times.

Responding to questions from Members of the Sub-Committee, the Planning Authority representative advised that:-

- Some shops in the vicinity were likely to work late at night for stock-taking purposes.
- A food facility in a location is more likely to attract a congregation of people than the same location without a facility.
- The video log presented was the only one that had been taken. Filming equipment had not been available prior to the 5 February.
- He had seen the applicant picking up rubbish on a number of occasions.

The representatives of the land owner indicated that their client objected to the use of this area of land, which was private property, for the purposes of a

mobile burger van. The representative of Birthdays referred to broken glass and excrement that had to be cleared up on arrival at the rear entrance of the property in the mornings and to how the applicant objected to any requirement to move vehicles associated with the burger bar business. Reference was made to the presence of a high number of rats at the location.

Responding to questions from Members of the Sub-Committee, the landowner's representatives advised that:-

- To their knowledge, this was the first time that their client had formally objected to usage of the land for the purposes of a burger trailer. Their client's policy was not to encourage such trailers.
- The last eighteen months had seen complaints about mess to the rear of the client's properties (including an alleyway being used as a toilet) that could be attributed to the burger trailer.
- Their client had a responsibility for ensuring tenants could have quiet enjoyment.
- There are three wheelie-bins at the location used by the burger trailer that do, at times, become over-filled to the extent that rubbish can blow around. There is no direct evidence that it is burger bar customers that use an alley as a toilet.

By way of closing statement the Planning Authority representative confirmed that the Authority took the view that this was an inappropriate location for a burger trailer. Even if some rubbish is picked up in the immediate vicinity of the trailer, it occurs in this and other locations around the site. There are also noise disturbance and crime and disorder problems. The views of the Authority have been endorsed by Government Inspectors at the Planning Appeal stage, and the Authority needs to take a consistent approach to such matters.

The representatives of the landowner reiterated that their client did not want to see the burger trailer at this location, which was considered trespass, and that the provisions of the leases relating to affected properties included an obligation that tenants should be afforded quiet enjoyment.

The representative of Birthdays wished to emphasise that broken glass and excrement was regularly found at the site. The burger trailer could be seen as a nuisance to others and as an environmental and health hazard.

The Sub-Committee, having given careful consideration to the application and all of the representations made, was of the view that the application should be refused. The Sub-Committee felt that sufficient evidence had been heard from various parties to suggest that the applicant would not be able to promote the licensing objectives and that there had, and will be,

incidents of public nuisance by way of noise disturbance, litter, fat deposits and human waste. The congregation of large numbers of people, mainly youngsters, was also likely to lead to crime and disorder. Furthermore, there were public safety considerations due to the area being used as a public toilet and fat deposits causing a slipping hazard. It was also felt that the steps offered by the applicant in his operating schedule to promote the four licensing objectives did not go far enough to address the problems associated with the application.

Resolved that the application be refused for the following reasons:-

- The evidence from various parties suggests that the applicant will not be able to promote the four licensing objectives. The steps offered by the applicant in the operating schedule to promote the four licensing objectives do not go far enough to address the problems associated with the application.
- It is felt that there has, and will be, incidents of public nuisance by way of noise disturbance, litter, fat deposits and human waste. The congregation of large numbers of people, mainly youngsters, is also likely to lead to crime and disorder.
- There are public safety considerations due to the area being used as a public toilet and fat deposits causing a slipping hazard. (HHHCC)

The meeting commenced at 2.00 pm and closed at 3.40 pm.

Chairman

Date