

WEST LINDSEY DISTRICT COUNCIL

MINUTES of a Meeting of the Licensing Sub-Committee held in the Ancholme Meeting Room at The Guildhall, Gainsborough on Tuesday 4 September 2012 at 10.00 am

Present:
Councillor David Cotton
Councillor Irmgard Parrott
Councillor Judy Rainsforth

In Attendance :
Kim Newbould-Robinson Legal Adviser
Phil Hinch Licensing and Support Team Leader
Katie Coughlan Governance and Civic Officer

Also in Attendance :
In support of the Application:
Mr Ray Hitch Applicant's Representative
Mr Richard Trusler Applicant

Objectors:
Inspector Rob Rose Lincolnshire Police
PC Rachel Ward Lincolnshire Police
PC John Mayall Lincolnshire Police

1 ELECTION OF CHAIRMAN

RESOLVED that Councillor David Cotton be elected Chairman of the Licensing Sub-Committee for this meeting.

Councillor David Cotton took the Chair for the remainder of the meeting and round the table introductions were made.

2 MEMBERS' DECLARATIONS OF INTEREST

Councillor David Cotton declared a personal interest in the application as a serving Magistrate and added for clarity that he would not be permitted to take part in any subsequent appeal, were one to be made to the Magistrates' Court.

**3 LICENCE HEARING RE:
APPLICATION FOR A PREMISES LICENCE (s17) AT BROOKENBY
COMMUNITY CENTRE (LIGHTNING BAR AND LANCASTER ROOM)
APPLICANT – MR RICHARD TRUSLER
REF NO: 32UHB12007**

The procedure circulated with the agenda was followed and the Licensing and Support Team Leader presented the report and summarised the purpose of the Hearing, this being an application for a premises licence at the Brookenby Community Centre (Lightning Bar and Lancaster Room), in light of objections having been raised.

Members noted the nature of the objection received from Lincolnshire Police, the licensing objectives to which it related and the options available to the Sub-Committee in determining this matter.

In responding to a query raised by Lincolnshire Police during the presentation of the report, the Legal Adviser confirmed that the word “essential” in paragraph 6.3.1 should be “appropriate”, ie for conditions to be imposed they needed to be appropriate to the promotion of the licensing objectives, rather than essential.

Mr Hitchcock presented the Applicant’s Case, and in opening provided details of the nature of both his business and personal relationship with the Applicant. Making reference to the notice of objection, Mr Hitchcock clarified and commented on a number of issues raised therein during which it was noted: -

- * the venue would serve as a licensed arm of the Community Centre and not as a pub, and it would be primarily for local families to use and community events.
- * Lincolnshire Police’s advice has been borne in mind in making the application and not ignored, however some of their requests would have significant financial implications, with little reason for doing so.
- * it was disputed that the proposed operating schedule was below the standard usually expected for such a venue.
- * the Parish Council fully supported the licence application and whilst it would be run as a profitable enterprise, the parish council would remain in full control of the premise and were fully aware of the potential risks and thus the terms of the lease to Mr Trusler had been worded accordingly.
- * Mr Trusler had previous experience of running similar premises and no issues had arisen.
- * regarding CCTV and funding, it was confirmed that WLDC would be funding CCTV and security for the Community Centre (in which the bar was located). Further cameras would be installed once Broadband had

been enabled and these would be broad spectrum cameras capable of storing 75 days of images.

In concluding Mr Hitchcock indicated that all of the stipulations by the Police, as set out in Appendix 3 of the Hearing Papers, were agreeable to him and the applicant with the exception of that which related to the time at which under 16s would need to leave the premise. Full and lengthy explanation was offered as to why such a condition would make it difficult for the premise to function in the way in which was intended and examples of recent events and how they would have been affected were provided.

The Objector's representatives were then invited to question the Applicant and his Representative, after which Members were afforded the same opportunity.

No questions were forthcoming from the former; however, in responding to Members' questions the Legal Adviser confirmed that profitability was not a relevant consideration in determining this matter.

In presenting the Objector's Case, in opening, Inspector Rose, confirmed that the Police had no objections to the licence if granted with their suggested conditions, which, with the exception of one, had been accepted by the Applicant, which was welcomed. Inspector Rose explained at length how the Police's concerns regarding the application had been borne out of their experience of similar types of "mixed" venues and the problems which could arise as a result. Lengthy reasoning was offered regarding the condition which related to under 16s within the premise all of which related to safeguarding. Inspector Rose, having acknowledged the applicant's representative's comments regarding the difficulties which would be experienced when holding family events, went on to suggest a variety of ways in which this could be overcome, including re-wording the condition to accommodate such events, or making use of the TENS process, however amending the time specified, on a "normal day to day basis" was in the Police's view not appropriate and would not meet the licensing objectives of safeguarding.

The Applicant and his Representative were then invited to question the Objectors, after which Members were afforded the same opportunity.

In responding to the questions posed, Inspector Rose confirmed that he would only expect the condition regarding under 16s to apply in the event that alcohol was being sold. Furthermore PC Ward offered explanation as to why the conditions relating to under 18s were worded differently for the two function areas, this being primarily as a result of the two spaces having different uses. There was initially agreement from all parties to amend the condition to include the words "nominated responsible adult", however this was subsequently withdrawn by the Police who were of view that the functions to be held in the Lancaster Room were very different in nature to that of the bar area particularly in terms of defining what was a responsible adult and thus an across the board condition was in their view not appropriate and again would not meet the need to safeguard the under 16s.

Each party confirmed they had no further questions. On being afforded the opportunity to amend the application in light of the objection the following amendment was offered by the Applicant:

“That children under the age of 16 could remain within the premise until closing but only if accompanied by an over 25”.

However this was not accepted by the Police, who re-iterated their previous comments by way of a closing statement.

In closing the Applicant and his representative referred to a similar local premise, operated in a similar manner and commented that such issues as surmised by the Police had not arisen.

The Sub-Committee, the Legal Adviser and the Governance and Civic Officer then withdrew to consider the application at 11.02 am.

They subsequently returned at 11.50 am and at the request of the Chairman, the Legal Adviser confirmed that no advice had been sought / required by the Sub-Committee during their deliberations, following which the decision was announced, as follows:

“We have listened carefully to everything put before us today. The Committee is grateful to all parties in agreeing the main set of conditions and those conditions as agreed will be appended to the licence.

The one area where there is disagreement is the condition sought by the Police that children under 16 years of age be not allowed in the premises after 21:30.

It is clear that all parties are mindful of satisfying the licensing objectives and this we will seek to satisfy.

We have considered carefully the position at which we arrived before retiring. The Committee is mindful that for people to get to Brookenby during the later evening is not particularly easy and this premises we accept will generally only be there to satisfy the local community.

We also accept that the licence holder and members of the Parish Council on whose behalf this is being run will know in large part the members of that community.

We have considered the proposal that was suggested of operating a system of applying for Temporary Event Notices (TENS) but are of the opinion that this is not practical and the numbers of TENS being applied for would restrict the operation of the facility and be

equally restricted by the Licensing Act ability to apply for a number of TENS being restricted in number in any 12 month period.

We are equally of the opinion that it is not always in the planning of an event able to ascertain that an event would over run due to circumstances beyond the control of organisers such as happened with the talent competition when problems with microphones meant the event would have been expected to finish early and didn't, no TEN would likely been applied for and with the 21:30 condition the event would have had to end, this would also not be practical.

The Committee is therefore having considered all these facts ruling that a condition shall be placed on the licence to the effect that:

Children under the age of 16 shall not be in the premises after 23:00.

Children under the age of 16 shall be accompanied at all times by a parent, guardian or nominated responsible adult.

We also will amend the condition on page 7 condition 2 which will now read:

Children under 18 years of age will be supervised at all times whilst on the premises by their parent, guardian or nominated responsible adult.

In coming to this decision we had to be mindful of the full licensing objectives but cannot assume there will be likely crime and disorder at these premises. We cannot make assumptions that any premises will be operated otherwise than in accordance with the licence or impose a condition based on how premises may be operated in the future we are mindful of the Thwaites case in this regard.

The committee consider that the imposition of these full conditions are appropriate and reasonable for the promotion of the Licensing objectives. “

The Chairman advised that all parties would be notified of the decision in writing within five working days of today's hearing and reminded those present of the right to appeal to the magistrates' court within 21 days of receiving such notice.

RESOLVED that the premises licence for the Brookenby Community Centre be granted as applied for, subject to the agreed additional conditions as set out in the Police representation (attached as Appendix 3 to the Hearing report),

with minor changes to the times that children can remain on the premises.

For the avoidance of doubt, the amended condition imposed by the Members of the Licensing Sub-Committee will now read *No one under the age of 16 years to be allowed to remain on the premises after 2300 hours or admitted thereafter and Children under 18 years of age will be supervised at all times whilst on the premises by their parent or guardian or responsible adult.*

The meeting closed at 11.57 am

Chairman