

Statutory Licensing Sub-Committee A

Thursday, 25 May 2006

Present: Councillor Mrs Iris Smith (Chair), Councillors Anthony Gee and Ralph Snape

06.SLA.01 DECLARATIONS OF ANY INTERESTS

None of the Members present declared an interest in respect of the item on the agenda.

06.SLA.02 LICENSING ACT 2003 (PREMISES AND PREMISES CERTIFICATE) REGULATIONS 2003 - APPLICATION TO VARY PREMISES LICENSE IN RESPECT OF THE MITRE, WELDBANK LANE, CHORLEY

The Chief Executive submitted a report requesting the Sub-Committee to determine an application to vary a premises licence in respect of The Mitre, Weldbank Lane, Chorley.

A copy of the application to vary was attached to the report and in summary the application was to conduct the following licensable activities.

- (a) To remove the condition number 7 attached to the premises licence in annex 3 by the licensing authority namely -
'The front area of the premises should not be used for the consumption of alcohol at all times'.
- (b) In light of anticipated legislation with regard to no smoking on licensed premises the applicant seeks to licence a small external area to the front of the premises for the use and benefit of their customers.
- (c) It is proposed that the area can be cordoned off at considerable expense to the applicants by way of decorative wrought iron railings supplemented by appropriate landscaping/planting and the provision of a limited seating area.

As a result of the proposed variation the applicant submitted additional steps to be taken to promote the licensing objectives.

Representations had been received from the Police, Environmental Services and 23 representatives from interested parties objecting relevant to the Licensing Objectives of Prevention of Public Nuisance, Prevention of crime and disorder and protection of children from harm.

The Police expressed concern that the lifting of the condition would allow customers to drink outside the premises and therefore cause noise, disturbance and intimidation to local residents and passers by. The area was not sufficiently large enough to allow consumption outside and certainly in the summer months this would cause problems for local residents.

The condition was imposed to prevent noise and disturbance to residents and as far as the Police were aware nothing had changed in this regard.

The need for people to smoke could be addressed by the smoking at the rear of the premises.

The Environmental Services expressed concern as the public house was located in a residential area and the presence of people outside the premises up to 22.00 hours would inevitably result in disturbance to residents of nearby properties.

The Sub-Committee raised a number of pertinent issues with the applicant and the applicant's legal representatives and considered all the written and verbal evidence in the interest of the provision of the Council's adopted Statement of Licensing Policy and Government guidelines. After taking account of all representations and relevant factors, the Sub-Committee arrived at the following unanimous DECISION:

"The Licensing Sub-Committee have considered carefully the applicant's representations and the interested parties representations.

We have considered the guidance issued under Section 182 of the Act together with Council's Statement of Licensing Policy in particular those paragraphs referred to in the report.

Whilst the Committee took account of the interested parties representations on potential disturbance they may suffer, the Committee also took account that there have been written representations from Environmental Health and verbal representation from the Lancashire Police.

The Committee accepts the difficulty that a licence holder has in preventing anti-social behaviour by individuals once they are beyond the direct control of the licence holder. However, the Committee are of the view that the licensing objective of preventing public nuisance will not be achieved if customers from a premises regularly conduct themselves in an anti-social manner to the detriment of local residents.

The Committee recognised that the applicant has offered up conditions in his operating schedule to minimise the impact on licensing activities. The Committee is also mindful of the interested parties residential amenity and has to achieve a balanced approach to these difficult issues.

The Committee also considered human rights implications in particular Article 8 and Article 1 of the 1st protocol and the proportionality principle.

In considering all the above factors the Committee balancing the interests of the interested parties and the applicant has resolved to refuse the variation of Condition 7 ie "The front area of the premises shall not be used for the consumption of alcohol at all times". This Committee are concerned that the lifting of Condition 7 allows customers to drink outside the premises and therefore cause potential noise, disturbance and intimidation to local residents and passers by.

We do not feel there has been any further evidence produced to materially alter the previous decision of this Committee.

The Condition was imposed to prevent noise and disturbance to residents and as far as the Committee are aware nothing has changed in this regard".

Chair