

MINUTES of the meeting of Regulatory Sub Committee held at The Council Chamber, Town Hall, St Owens Street, Hereford on Friday, 4 July 2008 at 10.00 a.m.

Present: Councillor JW Hope MBE (Chairman)

Councillors: CM Bartrum and A Seldon

12. ELECTION OF CHAIRMAN

Councillor JW Hope MBE was elected as Chairman for the Regulatory Sub-Committee hearing.

13. APOLOGIES FOR ABSENCE

No apologies for absence were received.

14. NAMED SUBSTITUTES (IF ANY)

Councillor JHR Goodwin attended the meeting as a substitute for Councillor CM Bartrum who had declared a prejudicial interest in respect of agenda item 5.

15. DECLARATIONS OF INTEREST

5. APPLICATION FOR A REVIEW OF A PREMISE LICENCE 'THE HORSE & JOCKEY, 9-10 NEW STREET, ROSS-ON-WYE, HR9 7DA.'

Councillor CM Bartrum; Personal and Prejudicial; lives in the locality of the premises.

16. APPLICATION FOR A REVIEW OF A PREMISE LICENCE 'THE HORSE & JOCKEY, 9-10 NEW STREET, ROSS-ON-WYE, HR9 7DA.' (Pages 1 - 2)

The Regulatory Sub-Committee was convened in order to determine an application for a review of a premise licence in accordance with Section 51 of the Licensing Act 2003. The Review was in respect of the Horse and Jockey, New Street, Ross-on-Wye and had been applied for by Mrs Janet Roberts, an interested party living in the vicinity of the premises. The review related to the following licensing objectives:

1. The prevention of crime and disorder
2. The prevention of public nuisance

The Chairman introduced the Members and Officers and asked any interested parties to introduce themselves. The following attendees were noted:

- Mr Phipps (Representing Punch Taverns)
- Mr Rowley (Punch Taverns Area Manager)
- Mr Callow (Representing the Designated Premises Supervisor)
- Mrs Harmer (Designated Premises Supervisor)
- Mr and Mrs Nelson (Interested Parties, supporting the DPS)
- Mrs Roberts (Applicant)

- Mr Delpinto (Interested Party, supporting the Applicant)

He Chairman advised all of the interested parties of the hearing procedures and asked if any person required an extension to the 10 minutes allocated for public speaking, all parties felt that they may require more time therefore the Chairman agreed to allow 20 minutes per party. He then asked the Licensing Officer to present his report.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mrs Roberts, the applicant for the review, addressed the sub-committee. She advised Members of her reasons for applying for the review and gave details of a number of incidents of public nuisance and disorder relating to the premises. She felt that the measures put in place by the environmental health department and Punch Taverns had failed to address the issue and therefore requested that the licence be revoked. Mr Delpinto supported the comments of the applicant as well as adding his concerns regarding noise and smoke in the rear garden of the premises. In response to a question from Mr Callow, Mr Del Pinto confirmed that there had been an ongoing right of way dispute between himself and the Designated Premises Supervisor, he also confirmed that there had been a confrontation between himself and the DPS's partner.

Mrs Roberts requested members view a DVD highlighting CCTV footage of a number of incidents at the front of the premises. The footage had been forwarded to all parties prior to the committee and was viewed by the Sub-Committee. Mrs Roberts confirmed that the DVD contained edited footage taken from a fixed camera attached to the property of Mr Mainey who could not be present at the meeting due to a prior engagement.

Following a question from Mrs Roberts, the Environmental Health Officer Confirmed that there had been no noise complaints received by the Environmental Health Department prior to the current DPS taking over the management of the premises. She also stated that in her opinion Mrs Roberts' complaints were not vexatious. She confirmed that she had attended the premise on three occasions since January 2007. She confirmed that on two out of the three occasions she had not deemed there to be a statutory noise nuisance and that the applicant had complied with all requests by the Environmental Health Department.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Phipps, representing the Premise Licence Holder, addressed the Sub-Committee. He presented Members with a brief background of the management structure and operational procedures of Punch Taverns. He advised Members that in his opinion the matter was primarily a neighbour dispute and conditions could be added to the licence in order to alleviate the concerns raised by the local residents.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mrs Harmer, the Designated Premises Supervisor, addressed the Sub-Committee. She gave thorough details of her experience and qualifications in the licensing trade as well as the history of her relationship with the neighbouring residents.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Nelson, a local resident, addressed the Sub-Committee. Mr Nelson stated that he had lived

opposite the premises for 30 years and that he had found the current licensee to be professional and amicable. He felt that the current issues had been caused by a neighbour dispute and was disappointed that it could not be resolved between the parties concerned.

Finally Mr Callow, the Designated Premises Supervisor's legal advisor, addressed the Sub-Committee. He felt that the matter was nothing more than a neighbour dispute which had been allowed to escalate. He felt that the matter could be addressed through the use of conditions and recommendations which could be added to the premise licence. He added that there was no evidence of Mrs Harmer being an unacceptable DPS and felt that the applicants request for her to be removed as the DPS for the premises was without merit.

Prior to the Sub-Committee retiring to make their decision all parties present were given the opportunity to make a brief closing statement in order to sum up their comments.

The Sub-Committee retired to make their decision, the Legal Practice Manager and the Democratic Services Officer also retired to assist them with procedural matters.

RESOLVED

THAT:

A condition is hereby imposed that a notice shall be displayed reading 'Customers must not smoke on the street outside these premises. Any person failing to observe this condition will be refused further service at the bar upon re-entry'. This notice, measuring not less than A4 size, shall be displayed on both entrance doors to the premises and also on the ground floor, street facing windows in such a manner that it is clearly visible to customers. Enforcement by the DPS of this policy shall be a condition of the licence.

A further condition stating that there be no use of a television or amplified music in any external area of the premises after 2100 is also added to the licence.

A suitable liaison group be set up between the parties involved with mediation offered by Council Officers when reasonable.

Please see attached decision notice

17. APPLICATION FOR A VARIATION OF A PREMISES LICENCE 'THE MARCHES RESTAURANT, GROUND FLOOR AND BASEMENT, 26-29 UNION STREET, HEREFORD'

The Licensing Officer advised Members that the application had been resolved and would therefore not be heard by the sub-committee.

18. APPLICATION FOR A VARIATION OF A PREMISE LICENCE 'GOLDEN GALLEON FISH & CHIPS, 61 COMMERCIAL ROAD, HEREFORD.'

Prior to hearing the application, Members were required to deal with a preliminary point in respect of the advertisement for the application, covered under Section 18 of the Licensing act 2003.

The Licensing Officer advised the sub-committee that the application could only be determined if the notice had been served on the Licensing Department in accordance with the regulations of Section 18 of the Licensing Act. He confirmed that the advertisement had been placed on 2 May but the Council had not received the notice until 6 May 2008.

The Legal Practice manager advised the sub-committee that the letter had been correctly addressed to the Licensing Department. He added that members were now required to determine if the letter had been delivered in the correct timescale.

Mr Ready, the applicant's legal adviser, felt that the notice had been served on the Licensing Department within the correct timescale. He confirmed that the letter had been signed by himself on 29 April 2008 and had been posted on the same day.

The Regulatory Sub-Committee withdrew from the meeting to make their decision. They requested that the Legal Advisor and Democratic Services Officer accompany them to offer legal and procedural advice.

RESOLVED

That the application can not be determined by the sub-committee due to the failure of the applicant to comply with the notice period detailed under Section 18 of the Licensing Act 2003.

19. APPLICATION FOR A NEW PREMISES LICENCE AND VARIATION OF EXISTING PREMISES LICENCE 'SHIPLEYS, 38 EIGN GATE, HEREFORD, HR4 0AB.' (Pages 3 - 4)

The Sub-Committee were required to hear and determine an application for a new premises licence and a variation to a premises licence for Shipley's. The Chairman introduced the Sub-Committee and Officers and confirmed that all Members had received the background papers. He then asked any interested parties attending the hearing to make themselves known. Mr Etchells, the applicant's legal representative, and Mr Spriggs, the Licensing Officer, advised the Chairman of their wish to address the Sub-Committee regarding the application. The Chairman asked the parties present if they required an extension to the 10 minute allocated time allowed for public speaking. Mr Etchells felt that additional time might be required due to the complex issues being discussed in respect of the application.

The Licensing Manager advised the sub-committee that determination of the application had been deferred at a previous meeting in order for the advertisement to be re-advertised in order to comply with requirements. He confirmed that the premises currently held an Adult Gaming Centre licence which had been granted under grandfather rights on 1 September 2007. He advised Members that the current application aimed to split the premises into two sections in order to allow two adult gaming centres within the premise and that this had resulted in a representation being received from the licensing authority.

In accordance with Section 9 (3) of the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees), Mr Etchells addressed the sub-committee in support of the application. He gave details of the background to the application and gave details of similar applications that had been granted by other licensing authorities. He confirmed that the two premises would be accessed through separate entrances from Eign Gate and Bewell Street and that there would be no direct access between the two premises. Members requested further details in respect of the division between the two premises, Mr Etchells confirmed that 6 foot

high partitions had been proposed and that there would be no solid doors between the areas. In response to a question, Mr Etchells confirmed that the Gambling Commission were currently consulting interested parties in order to obtain a clearer definition of the term 'premises' in the Gambling Act, and that this would be clarified towards the end of the year.

In accordance with Section 9 (3) of the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees), Mr Sprigs, the Licensing Officer, addressed the sub-committee in respect of the application. The Licensing Officer referred to guidance issued by the Gambling Commission in June 2007 which had been included in the background papers. He also referred to a letter received by the gambling commission which stated that a single premise should only have one licence. He felt that the premise was being artificially split in order to allow the applicant to have 8 high pay out machines on the site.

In response to a question, the applicant stated that he did not feel that there was direct access between the two gambling areas as there was an unlicensed area, constituting a street, between the two areas.

RESOLVED

THAT the application be granted subject to the conditions referred to in the attached decision notice.

The meeting ended at 4.10 p.m.

CHAIRMAN



HEREFORDSHIRE COUNCIL

**REGULATORY COMMITTEE DECISION NOTICE
(THE LICENSING ACT 2003)**

PREMISES	The Horse and Jockey
LICENCE HOLDER	Punch Taverns
APPLICANT'S NAME	Mrs Janet Roberts
APPLICATION TYPE	Review of Premises Licence
PANEL MEMBERS	Councillor JW Hope MBE (Chairman) Councillor A Seldon Councillor JW Goodwin
DATE OF MEETING	4 July 2008

Members of the Licensing Panel of the Council's Regulatory Committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision, the Members heard from:

- Mrs Roberts (The applicant)
- Mr Delpinto (an interested party in support of the review)
- Mr Phipps (The Premises Licence Holder's Legal Advisor)
- Mr Rowley (Representing Punch Taverns, the Premises Licence Holder)
- Mr Callow (The Designated Premises Supervisor's Legal Advisor)
- Mrs Harmer (The Designated Premises Supervisor)
- Mr Nelson (an interested party in support of the DPS)
- Miss Woodland (Herefordshire Council, Environmental Health Officer)

Having carefully considered those matters put before them, the Members of the Committee considered that in order to promote the Licensing Objectives that the application should be, and was determined as follows:-

That the following additional conditions be imposed forthwith* upon the licence:-

- A notice shall be displayed reading 'Customers must not smoke on the street outside these premises. Any person failing to observe this condition will be refused further service at the bar upon re-entry'. This notice, measuring not less than A4 size shall be prominently displayed on both the entrance door to the premises and also on the ground floor, street facing windows in such a manner that it is clearly visible to customers both inside and outside the premises.
- There shall be no use of televisions or amplified music in any external area of the premises after 2100 on any evening.

HEREFORDSHIRE COUNCIL

**REGULATORY COMMITTEE DECISION NOTICE
(THE LICENSING ACT 2003)**

That the following recommendation be added to the licence forthwith*:-

- A liaison group to be set up between all parties involved with mediation offered by Council Officers when reasonable.

** Subject to Section 52(11) which states that a determination under this section does not have effect:*

*(a) until the end of the period given for appealing against the decision, or
(b) if the decision is appealed against, until the appeal is disposed of.*

REASONS

In reaching their decision, the Members had full regard to both the provisions of the Licensing Act 2003 and the Council's Licensing Policy, the Guidance issued pursuant to Section 182 of the Act, together with the matters raised both orally and in the documents presented to the meeting. The Committee were cognisant of the fact that the Licence amounted to 'property' within the meaning of Article 1 to the First Protocol of the European Convention on Human Rights and considered that their decision was proportionate, having regard to all the matters put before them. The Members made their decision in order to promote the four licensing objectives, namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.



HEREFORDSHIRE COUNCIL

REGULATORY COMMITTEE DECISION NOTICE
(THE GAMBLING ACT 2005)

PREMISES	Shipleys
APPLICANT'S NAME	E & J Investments Ltd.
APPLICATION TYPE	New Adult Gaming Centre Licence / Variation Adult Gaming Centre Licence
PANEL MEMBERS	Councillor JW Hope MBE (Chairman) Councillor CM Bartrum Councillor A Seldon
DATE OF MEETING	4 July 2008

Members of the Licensing Panel of the Council's Regulatory Committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision, the Members heard from Mr Etchells, the applicant's legal advisor together with Mr Spriggs, the Licensing Officer who had made a representation in respect of the application.

Having carefully considered those matters brought before them, the Committee were of the opinion that the application should be **granted subject** to the conditions appearing below. In reaching their decision, the Members had full regard to both the provisions of the Gambling Act 2005 and the Herefordshire Council – Statement of Principles – Gambling Act 2005. The Members imposed conditions in order to ensure that the application was reasonably consistent with the three licensing objectives, namely: preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime; ensuring that gambling is conducted in a fair and open way; and protecting children and other vulnerable persons from being harmed or exploited by gambling.

HEREFORDSHIRE COUNCIL

**REGULATORY COMMITTEE DECISION NOTICE
(THE GAMBLING ACT 2005)**

CONDITIONS

The application was granted subject to the following conditions:

- The mandatory and Default conditions of The Gambling Act 2005.
- The partitions described in the floor plan for scheme E between gaming areas 1 and 2, and all other parts of the adjoining areas, shall extend from floor to ceiling and shall comprise a substantial structure of stud partition type construction built in such a manner to comply with building and fire safety regulations.
- The doorway between the said gaming areas and the Bewell Street unlicensed area shall be fitted with self-closing, opaque glazed doors, designed in such a manner to comply with building and fire safety regulations.