

MINUTES of the meeting of Regulatory Sub Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Monday 16 November 2009 at 2.00 pm

Present: Councillor A Seldon (Chairman)

Councillors: SPA Daniels and PJ McCaull

38. ELECTION OF CHAIRMAN

Councillor A Seldon was elected as Chairman for the Regulatory Sub-Committee hearing.

39. APOLOGIES FOR ABSENCE

No apologies for absence were received.

40. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the hearing.

41. DECLARATIONS OF INTEREST

There were no declarations of interest made.

42. APPLICATION FOR A NEW PREMISES LICENCE 'CATS, LEYS HILL, ROSS ON WYE, HR9 5QU.' (Pages 1 - 2)

The Regulatory Sub-Committee was convened in order to determine an application for a new premises licence in respect of CATS, Leys Hills. The application was submitted in accordance with Section 51 of the Licensing Act 2003.

The Chairman introduced the Members and Officers and asked any interested parties to introduce themselves. He advised them of the hearing procedures and asked if any party required an extension to the 10 minute time limit for public speaking, Mr Cransdale advised the Chairman that he may require slightly longer than 10 minutes. The Chairman advised all parties that an application had been determined by the Council's planning committee in respect of CATS and that the Regulatory Sub-Committee would not hear any evidence regarding planning issues on the site.

The Licensing Officer introduced the report and advised Members that the advertisement had been seen and was accepted.

Mr Cransdale, one of the local residents who had made a representation in respect of the application, addressed the sub-committee. He advised members that he lived near the CATS premises in the village of Bishopswood, winner of the 2007 Herefordshire Village of the Year. He stated that Bishopswood had a good community spirit with a lot of events held in the village hall. He added that the village was in an area of outstanding natural beauty and was well served by local amenities. He felt that Mr and Mrs Mitchell had not made themselves an active part of the community and had distanced themselves from local residents. He added that this relationship had not been helped with the submission of a retrospective licensing application after the applicants had been serving alcohol unlicensed for 2 years. Mr

Cransdale was concerned that the premises was going to be used for parties as there could be noise issues for residents of the nearby nursing home.

In response to a point made by Mr Cransdale in respect of the Council's Unitary Development Plan, the Chairman advised him that the sub-committee could only discuss licensing issues and not issues relating to planning.

Mr Cransdale felt that the building had not been designed for entertainment usage and that therefore noise and light would emanate from the building and cause a nuisance to the neighbouring residents.

Mr Cransdale wished to submit issues relating to the road access to the premises and expressed concern when the Chairman advised him that the committee could not hear matters which formed part of the planning process. Mr Jones, the legal advisor, advised him that if he could link his arguments to one of the licensing objectives, including public safety, then this was something the committee could consider, otherwise not. Mr Cransdale did not press this line of argument

Ms Saxon addressed the sub-committee in respect of the issue of the appropriateness of a nursery operating on the same site as a licensed premise. She advised members that both OFSTED and the EYDCP had concerns in respect of the spa and nursery operating on the same site. She also noted that the spa had been operating unlicensed for 2 years. She added that children needed access to the outdoor areas of the site and that this would not be possible if patrons of the spa were drinking on site during the day. She felt that the location of the site was unsuitable for a party venue as it was 4 miles outside of Ross-on-Wye and accessed by an unlit road.

Mr Duffield addressed the sub-committee. He advised members that he was also representing Mr and Mrs Sheldon, Mr and Mrs Flynn, Mr and Mrs Johnston and Mr and Mrs Millhurst, all local residents who had made representations in respect of the application. Mr Duffield advised members of the location of the Millhurst's property and the proximity of it to the application site. He advised that they were an elderly couple who received care from the nursing home and that they had suffered from the noise caused by CATS for a number of years.

In response to a question from Mr Duffield, the Licensing Officer advised that a full copy of the application had to be served on all of the responsible authorities. He confirmed that the fire Authority, Police and Environmental Health had all written to say that they did not wish to make a representation.

The Chairman advised Mr Duffield that any issues relating to highway safety were a planning matter and not a licensing consideration.

Mr Duffield felt that granting the licence would result in an increase in activity on the site. He felt that this increase in activity would result in a greater risk to public safety due to the poor access to the site.

The Chairman reminded Mr Duffield that the application being determined was for alcohol and music and was not for the site access and that any concerns regarding the site access would have to be addressed through the planning process.

Mr Duffield noted that the spa had been selling alcohol unlicensed for 2 years and that this could be evidenced through advertisements on their own website. He felt that there had been disorder and disruptions to the elderly local residents and that the granting of the licence would make this disorder considerably worse.

Mr Morgan addressed the sub-committee in respect of the licensing objective of the prevention of crime and disorder. He felt that granting the licence could result in underage drinking on the premise, and that this could be difficult to control as alcohol may be bought for underage drinkers by other people. He noted that the police authority had not objected to the application but advised members that local police had wished to be kept informed of the progress of the application. He felt that granting the licence would condone the unlicensed manner in which CATS had operated under previously and he felt that this was not acceptable.

Mr Morgan noted that the nursery business at CATS had been getting quieter but still felt that it was unacceptable for alcohol to be served on the same site. He felt that the application could, and should be, refused on any of the grounds raised by the local residents.

Members noted the concerns regarding noise concerns and requested any evidence to substantiate any noise complaints made in respect of the site. None of the interested parties present had ever had reason to contact the police or the environmental health team regarding noise concerns at CATS.

Mrs Mitchell addressed the sub-committee in support of her application. She advised members that she and her partner were both qualified teachers who had been at the site for 22 years and were promoting education, culture and leisure on the site. She advised members that there were two separate premises for the nursery and the spa and that these two premises would not be combined. She also noted that none of the responsible authorities had objected to the application.

Mrs Mitchell advised the Sub-Committee that the nursery at CATS had been registered with OFSTED for 22 years. She also added that all parents had fully supported their application in writing. She confirmed that children were not onsite at weekends and evening and that there were the times when the spa was most likely to be used, she also wanted it to be made clear that alcohol would definitely not be sold on site at events for under 18's.

In response to concerns regarding the vehicular access she noted that the police had not objected, she also confirmed that a shuttle bus was available from CATS to avoid people having to drive to the site.

In response to a question, Mrs Mitchell confirmed that there would be no further lighting in the car park.

The Licensing Officer noted that the overhead photograph showed a number of children's toys on the tennis courts and that to get to this area the children would have to walk past the spa area.

In response to concerns about children on the site, Mrs Mitchell confirmed that children were always off site by 6pm.

RESOLVED

That the application for a new premises licence in respect of CATS, Leys Hills, be approved subject to the amended hours and the conditions detailed in the attached decision notice.

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

PREMISES	CATS Leys Hills
APPLICANT'S NAME	Graham & Stella Mitchell
APPLICATION TYPE	New Premises Licence
PANEL MEMBERS	Councillor A Seldon (Chairman) Councillor SPA Daniels Councillor PJ McCaull
DATE OF MEETING	16 November 2009

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 Cransdale, Ms Saxon, Mr Duffield, and Mr Morgan, four of the local residents who had submitted a representation in respect of the application together with Mr and Mrs Mitchell, the applicants.

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 Licensing Act 2003 and the Council's Licensing Policy. The Members imposed conditions 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.

HOURS OF LICENSABLE ACTIVITY

	Live/Recorded Music	Performance of Dance	Anything Similar to Music or Dance	Late Night Refreshment	Supply of Alcohol	Open to the Public
Monday	1900 - 2400	1900 - 2400	1900 - 2400	2300 - 2400	1900 - 2400	0900 - 0030
Tuesday	1900 - 2400	1900 - 2400	1900 - 2400	2300 - 2400	1900 - 2400	0900 - 0030
Wednesday	1900 - 2400	1900 - 2400	1900 - 2400	2300 - 2400	1900 - 2400	0900 - 0030
Thursday	1900 - 2400	1900 - 2400	1900 - 2400	2300 - 2400	1900 - 2400	0900 - 0030
Friday	1900 - 2400	1900 - 2400	1900 - 2400	2300 - 2400	1900 - 2400	0900 - 0030
Saturday	0900 - 2400	0900 - 2400	0900 - 2400	2300 - 2400	0900 - 2400	0900 - 0030
Sunday	0900 - 2400	0900 - 2400	0900 - 2400	2300 - 2400	0900 - 2400	0900 - 0030

HEREFORDSHIRE COUNCIL

REGULATORY COMMITTEE DECISION NOTICE (THE LICENSING ACT 2003)

REASONS

The Regulatory Sub-Committee was concerned about the consumption of alcohol within the application site at or around the same time as parts of the site were utilised for nursery purposes not withstanding the careful supervision of the children which the committee was assured was in place. The Sub-Committee was also influenced by the almost total lack of evidence before it concerning complaints as to noise or other nuisance on the application site.

NON STANDARD TIMINGS

The application for non standard timings was rejected.

CONDITIONS

The application was granted in respect of the hours of operation of the licensable activities described in the box above together with the following conditions

- The mandatory conditions of The Licensing Act 2003.
- All conditions proposed by the applicant under section p of the application form.

PREVENTION OF PUBLIC NUISANCE

- All live music to be unamplified.

PROTECTION OF CHILDREN FROM HARM

- Adopt a 'Challenge 25' policy
- No alcohol to be sold within the application site;
 - a) while the nursery facility is in use, and;
 - b) for 1 hour after this use ceases, to ensure that the application site is clear before sale of alcohol commences

APPEAL INFORMATION

Under Schedule 5 Section 2, the applicant or any party making representation may appeal against the decision. Section 9 states that such an appeal must be made to the Magistrates Court within a period of 21 days from the date that the applicant is notified in writing of the decision.

Should you wish to appeal this decision then it is recommended that you obtain your own legal advice or contact the Magistrates Court at Bath Street, Hereford.