

MINUTES of the meeting of Regulatory Sub Committee held at Meeting Room 18a, Brockington, 35 Hafod Road, Hereford on Friday 26 November 2010 at 10.00 am

Present: Councillor JW Hope MBE (Chairman)

Councillors: RC Hunt and PJ McCaull

38. ELECTION OF CHAIRMAN

Councillor JW Hope MBE 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 VARIATION TO A PREMISES LICENCE 'TJ'S BAR & BISTRO, 62 COMMERCIAL ROAD, HEREFORD, HR1 2BP.' (Pages 1 - 2)

The Regulatory Sub-Committee was convened in order to determine an application for a variation to a premises licence in respect of TJ's Bar & Bistro, Commercial Road, Hereford. 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, no extensions to the time limit were required.

The Licensing Officer introduced the report and advised Members that the advertisement had been seen and was accepted. He advised Members that the premises fell within a cumulative impact area as designated in the council's special policy.

Mr Mooney, representing West Mercia Police, addressed the sub-committee and raised the following points:

- There had been 325 incidents of crime on Commercial Road during 2009.
- There had been 263 crime incidents on Commercial road so far during 2010.
- 16 of the 2010 incidents to date had been in or around the premise.
- There were 13 licensed premises in the vicinity.
- The applicant had not attended a HAND meeting since 2008 but had started attending since the application was submitted.
- There were only 13 Officers available throughout the county on weekday nights.

- Due to shift patterns 28 officers were available between 2200 – 0400 on weekends.

Mr Firth, a local resident who had made a representation in respect of the application, addressed the sub-committee. He addressed a number of issues, including:

- The Commercial Road area was intolerable over the weekend.
- Hours for licensing should be reduced rather than increased.

Mr Gwatkins, representing Mr Firth, reiterated the concerns raised.

Mr Tomkins, the applicant's legal advisor, addressed the sub-committee in support of the application. He addressed a number of issues, including:

- PC Thomas had raised a number of issues in a letter 12 months ago, these included the provision of CCTV and the presence of an incident book. Both of these matters had been addressed.
- There had been a lack of attention to the HAND scheme but this had now been addressed.
- A number of premises in the vicinity were permitted to open until 0100, the Litten Tree was also permitted to open later than this.
- The applicant would like to have the same licensing hours as neighbouring premises.
- There were 13 licenced premises in the area so 16 out of 263 incidents was not disproportionate.
- Would be happy to reduce the hours applied for to 0100 instead of 0130.

The Licensing Officer advised Members that no new conditions had been offered by the applicant under the operating schedule, all conditions referred to in the application were already on the licence.

The Sub-Committee retired to make their decision, the Democratic Services Officer and the Senior Litigator retired with them to offer procedural and legal advice.

RESOLVED

That the application for a variation to a premises licence in respect of TJ's Bar & Bistro, Commercial Road, Hereford, be rejected for the following reasons.

- 1 Herefordshire Council has a Special Policy in force covering the area in which the applicant's premise is located.**
- 2 The Special Policy creates a rebuttable presumption that applications for material variations of licensable activity will add to the cumulative impact in the area.**
- 3 The applicant has not presented sufficient evidence or proposals, in the reasonable opinion of the sub-committee, to rebut this presumption therefore in accordance with paragraph 5 of the Special Policy this application is rejected.**



HEREFORDSHIRE COUNCIL

REGULATORY COMMITTEE DECISION NOTICE
(THE LICENSING ACT 2003)

PREMISES	TJ's Bar & Bistro
APPLICANT'S NAME	Mr Harjinder Singh
APPLICATION TYPE	Variation
PANEL MEMBERS	Councillor JW Hope (Chairman) Councillor RC Hunt Councillor PJ McCaull
DATE OF MEETING	26 November 2010

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 Firth and Mr Gwatkins, a local resident who had made a representation in respect of the application and his representative, and Mr Tomkins, the applicant's legal advisor.

Having heard the representations and considered all of those matters brought before them, the Panel decided to **REJECT** the said application on the following basis:-

The Committee finds that the premises are within the Hereford Cumulative Impact Zone and as such are affected by the Special Policy set out in the Council's Licensing Policy 2008 - 2011. In particular the Committee considered paragraph 5 and had decided that the applicant has not rebutted the presumption that a variation of the license should be refused.

The Committee noted carefully the arguments raised by the police concerning the cumulative impact of ongoing incidents within Commercial Road and referred itself to 13.26 to 13.28 of the current Home Office Guidance issued under S. 182 of the Licensing Act 2003 accordingly.

The Committee noted the comments of the Council's Licensing Officer made in connection with JD Witherspoon v Guildford BC (see paragraphs 18/20 of Committee Report) and found them persuasive.

In general the Committee has made its decision to further encourage the promotion of the following relevant licensing objectives, namely:

- (a) the prevention of crime & disorder
- (b) the prevention of public nuisance

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.

