

LICENSING SUB-COMMITTEE

**Thursday, 1st September, 2011 at 10.30 a.m.
In a Conference Room at the Council House**

Present

Councillor Sears (Chairman)
Councillor Sarohi
Councillor Wilkes

In attendance

Steve Knapper – Principal Licensing Officer, Walsall MBC
Dominic Patouchas – Legal Services
Mr. M. Banahan – Solicitor
Mr. Sorinder Singh - Applicant
Mr. L. Beeley – Objector
Mrs. Michelle Kettles - Objector
Mr. R. Lally - Objector

Appointment of Chairman

Resolved

That Councillor Sears be appointed Chairman of the Sub-Committee for this meeting only.

Councillor Sears in the Chair

Welcome

The Chairman extended a welcome to all persons present at the Sub-Committee which had been established under the Licensing Act, 2003.

Apologies

Apologies for non-attendance were submitted on behalf of Councillor Cook.

Declarations of Interest

There were no declarations of interest

Licensing Hearing

Application for a Premises Licence Under Section 17 of the Licensing Act 2003 – Booze Corner, 3 Blakenall Heath, Walsall, WS3 1HL

The report of the Interim Regulatory Manager was submitted:-

(see annexed)

The Principal Licensing Officer (Mr Knapper) enlarged upon the report and indicated that the application had been made under section 17 of the Licensing Act, 2003 and could not be granted or refused under officer's delegated authority as there had been a number of representations received from interested parties together with a petition containing 1,850 signatures. Mr Knapper confirmed that an application for a premises licence had been received on 30th June, 2011 and drew attention to sections M, O and P of the application form. He reported that the blue site notice had not been correctly displayed at the premises when checked on 8th July, so the date for representation had been extended to 5th August, 2011.

Mr Knapper drew the Sub-Committee's attention to paragraph 3.9 of the report which contained mediated conditions from West Midlands Police which had been agreed with the applicant and would become conditions attached to the licence if the application was granted. He added that no further representations had been received from other responsible authorities. Finally, Mr Knapper referred to the five representations received from interested parties and to the petition, he reported that not all the persons lived in the vicinity of the premises; some details had been omitted such as full postal address or signature and some names were illegible. He suggested that the Sub – Committee should determine what weight should be given to the submitted petition.

Councillor Wilkes asked if the fire service had submitted any objections to the proposals.

Mr Knapper confirmed that they had not.

The objectors present were invited to make their representations and Mr. Beeley, a former Councillor for the area, referred to the petition signed by 1,850 people who lived, worked or had an interest in the area.

Mr Banaham, Solicitor to the applicant, asked whether Mr. Beeley could address the Sub-Committee as he did not live within the vicinity of the premises. The Council's Legal representative (Mr Patouchas) indicated that Mr. Beeley had been responsible for drawing up the petition and was there representing those objectors who had signed it.

Mr Beeley continued that residents of Blakenall Heath and the surrounding area wanted to see shops in the area occupied rather than remaining empty but they did not want another premises selling alcohol as there were already several public houses and convenience stores selling alcohol in the area. He added that there was considerable drink related anti-social behaviour in the Blakenall area and he felt that another outlet selling alcohol would only exacerbate the problem.

Mr Patouchas reminded the meeting that the deliberations should be based upon the Council's Licensing Policy and the guidance produced under Section 182 of the Licensing Act. Objections had to relate to the Licensing objectives and need and competition were not grounds for opposing the applications.

Mrs. Kettles, a resident of Blakenall Lane reported that she lived opposite the shop premises and her children's bedroom faced the building. She has suffered from anti-social behaviour in the form of litter in her garden, broken windows, damage to her car and inebriated individuals urinating in her garden. Her children, who were ten and fourteen years old felt intimidated by the youths who congregated outside the premises drinking in the evening. She was concerned that if the premises were open until 10.30pm then her children's sleep would be affected by the noise from the youths congregating there.

Mr Lally, speaking on behalf of his father, Mr.J.Singh, who owned Superfood stores in Blakenall Lane, stated that he did not want to see more drunken people in the area. He felt that it would be wrong to encourage further drinking in Blakenall. Residents and Businesses already suffered abuse, litter and anti-social behaviour. He added that his father's property had been subject to graffiti attacks and newspapers in racks outside the store had been thrown about. Youths had congregated outside the store, kicking footballs against the building and intimidating local residents using the premises.

Mr Banahan asked Mr. Beeley if he lived or worked in the vicinity of the application site. Mr Beeley replied that he did not but he was representing residents who did live locally.

Mr Banahan asked if Mr Beeley had drawn up the petition. Mr Beeley confirmed that he had and that it had been placed in Blakenall Information Centre so that local residents could sign it.

Mr Banahan referred to the heading on the petition and to the two reasons given for objections; anti-social behaviour and the fact that there were already 4 outlets selling alcohol within 200 yards. He stated that there was no where on the petition for those signing it to indicate why they were objecting to the proposed licence. He added that no ages were shown on the petition so children could have signed it and some of the signatures were illegible. Mr Beeley admitted that he had not read every signature included on the petition. Mr Banahan stated that he had no further questions for Mr Beeley. Councillor Wilkes asked how the granting of an off licence would affect schools in the area when they had not objected to the proposals. Mr Beeley stated that parents of children attending local schools were concerned about another shop selling alcohol in the area.

Mr Knapper reminded the meeting that West Midlands Police were one of the responsible authorities consulted on Licensing applications and indicated that they had commented on it and agreed a number of conditions with the applicant which would be included in the licence if granted. Mr Lally stated that the Police visited the area daily and were well aware of the problems associated with the consumption of alcohol.

Mr Banahan reported that the conditions proposed by the Police were acceptable to his client. He added that he had approached police regarding incidents of anti-social behaviour in the area and the police had reported that

there were no recorded incidents of anti-social behaviour in Blakenall Heath or Blakenall Lane that could be linked to a particular premises since January, 2011.

Mr Banahan was invited to present his case and, speaking on behalf of his client, reported that the property at 3 Blakenall Heath was a small purpose built shop with no residential development above. The shop had been empty for several years and was in a dilapidated condition. He reminded the meeting that empty premises could attract anti-social behaviour and the Sub-Committee should only entertain objections from local residents living in the vicinity of the building. He reiterated the fact that the petition was poorly drawn up and that the grounds of objection did not relate to the licensing objectives. He added that the Licensing Act, 2003, was not the primary method used to control nuisance and anti-social behaviour and was limited to what a premises could achieve.

Mr Banahan referred to the five written objections and stated that two were from existing licensees and were largely based on competition. The letter from Mr. Gill of Hardy Road expressed concern at the application but there were several other off licences closer to his address than that proposed at 3 Blakenall Heath.

With reference to Mr. Singh's letter, Mr Banahan stated that it partly referred to need which was not a valid reason for refusal. He added that there were no pure off licences in Blakenall Heath as other premises were either Public Houses or convenience stores with off licence facilities.

Referring to his client, Mr Banahan stated that Mr Singh had been running off licences for 21 years. He ran an existing off licence in New Invention, Willenhall which had never experienced any trouble requiring police attendance. He added that there were no reasons for the Sub-Committee to refuse his client's application.

Mr Beeley asked Mr. Singh how long he had run the New Invention premises. Mr Singh replied four years.

Mrs. Kettles asked what Mr Singh would do if a large group of youths congregated outside his shop. Mr Singh replied that shops and off licence's always had youths hanging around outside but they could be controlled. He added that he would ask them to behave before they left his shop and he would not sell alcohol to anyone who already appeared to be inebriated. Mrs. Kettles asked if Mr Singh would move youths on if they were causing trouble outside his premises. Mr Singh replied that if he succeeded in obtaining his licence then he would monitor the situation and act accordingly. Mr Lally referred to the police condition for CCTV at the premises. He indicated that because of the canopy over the shop front the view of the external CCTV would be restricted. Mr Singh replied that the external CCTV camera would be positioned in such a way that the canopy would not restrict its view.

Mr Lally added that the shop had been empty for sometime because it was only recently that the Council had offered it for rent.

Mr Banahan reiterated the fact that the Licensing Act was not the primary mechanism for controlling anti-social behaviour and that while Mr Singh was responsible for the behaviour of youth within the curtilage of his premises, they were not his responsibility once they left that area. He added that as the shop had been empty for a number of years anti-social behaviour in the area could not be attributed to it.

Both parties were invited to sum up and Mr Beeley stated that the benches outside the property, a canopy for shelter and adequate lighting the premises would encourage anti-social behaviour.

Mrs. Kettle reiterated the fact that her family life would be disturbed by the proposal as she lived alone with her children.

Mr Lally expressed concern that there had been no police objections to the proposed off licence. He questioned whether Mr. Singh's experience in New Invention could be used in Blakenall and was still concerned about the external CCTV coverage, litter, and the problem of on street drinking in the area.

Mr Patouchas reminded the meeting that although there might be crime and anti-social behaviour in the Blakenall area there was no evidence linking it to 3 Blakenall Heath.

Mr Banahan summed up by stating that the police should be dealing with any anti-social behaviour problems and the petition should not be given great importance for the reasons explained earlier.

All parties withdrew from meeting at 11.35am

The Sub-Committee considered carefully all the written evidence submitted and the representations made at the hearing, following which it was

Resolved

That the Sub-Committee grants permission for a premises licence in respect of 3 Blakenall Heath, Walsall for the supply of Alcohol (off the premises only) between the hours 8.00am and 22.30pm Monday to Sunday inclusive and that the mediated conditions imposed by West Midlands Police be included as conditions on the licence.

The Sub-Committee is satisfied that these conditions are necessary based on the evidence and are proportionate to promote the Licensing objectives.

All parties were re-admitted to the meeting at 11.50am and advised of the Sub-Committee's decision and right of appeal to the local Magistrates Court within 21 days of receipt of the decision letter.

Mr Patouchas informed the objectors that the Sub-Committee was mindful of the concerns they had raised over anti-social behaviour and under age drinking in the area and advised them that if there were problems arising from the premises at 3 Blakenall Heath in the future then they should supply evidence to the Licensing Unit in order that a review of the premises could be carried out.

Termination of meeting

The meeting terminated at 12.05pm