

MINUTES OF A MEETING OF A LICENSING SUB-COMMITTEE
16 December 2005 (10.38am – 11.30am)

Present:

COUNCILLORS:

Conservative Group Joe Webster (Chairman)

Residents' Group Owen Ware

Mr Guy Bishop of Howard Kennedy (Solicitors) representing Next Generation Clubs Ltd (the applicant), Paul Campbell (Havering Licensing), Derron Jarell (legal advisor to the Sub-Committee), PC Dave Leonard (Police representative), Victor Long (Planning Enforcement Officer) and Grant Söderberg (Clerk) were present.

APPLICATION FOR A PREMISES LICENCE IN RESPECT OF NEXT GENERATION CLUB, HELEN ROAD SPORTS GROUND, SQUIRRELS HEATH LANE, GIDEA PARK, ROMFORD RM2 6DP

The Chairman advised Members and the public of action to be taken in the event of emergency evacuation of the Town Hall becoming necessary.

At the outset, the Council's legal representative asked for clarification as to the status of the proposed Designated Premises Supervisor's (DPS) personal licence. On behalf of the applicants, their legal representative stated that although he could not verify whether the DPS now possessed a personal licence (which was applied for in Dartford where he resided), he knew that he had undertaken the prescribed course and saw no reason why his application should be refused. He therefore asked for the hearing to proceed as if the DPS was properly licensed as a personal licence had no bearing on an application for a premises licence.

The Chairman responded that it was not the Licensing Authority's practice to hear applications for a premises licence without assurance that a properly licensed DPS was in place. However, on advice from the Council's legal representative, he permitted the hearing to continue on the understanding that a condition would be imposed that any permission granted would be subject to the DPS providing evidence that he was properly licensed.

The Chairman accepted that, in the circumstances, the Sub-Committee was prepared to hear the application. The Licensing Officer then presented his report and drew the Sub-Committee's attention to the following:

- This was a new application for a premises licence.
- Soft drinks only were to be served at the pool-side bar in non glass drinking vessels.
- The police had withdrawn their representations to the application, but Planning Enforcement maintained their objections on the grounds of public nuisance.

At the conclusion of the report, the Council's legal representative asked the police representative why the police had withdrawn their objections whilst the Planning Inspector's ruling on the opening hours appeared to be less than those negotiated by the applicant and agreed by the police as being acceptable.

In reply, the police representative stated that he had not been aware of the continuing objection by Planning Enforcement at the time he had agreed timings with the applicant's legal representative. He added that he understood that the applicant had been content to modify the application in line with his proposals from the perspective of the police in their concerns with dealing with public nuisance. He further stated that there had been no crime statistics available for the police to insist on any further restrictions other than those agreed by the applicant's legal advisor on behalf of his client.

The Council's legal representative then drew the police representative's attention to the application where a request for 14 special events giving the police 48 hours notice was made. The police representative replied that this would not be acceptable. He added that 12 Temporary Event Notices (TENs) and 12 extensions, with notification to the police of at least 10 working days prior to the event and the police having an absolute right of veto in accordance with ACPO guidelines, would be acceptable.

The Planning Enforcement Officer then presented his report. He drew the Sub-Committee's attention to the Planning Inspector's decisions in 1999 and in 2001 (and the conditions imposed in that year). The Sub-Committee learned that during the course of the planning appeals, members of the public had made representation complaining about nuisance and inconvenience. The argument of the Planning Authority was that the applicant should have (but had not) approached the Authority to request a change of use prior to applying for a premises licence. The Planning Authority believed the applicant was attempting to obtain his ends by having a premises licence granted that had longer hours, in order to justify and underpin a case for the relaxing, or over-turning of, the Planning Inspector's conditions.

By way of reply, the applicant's representative argued that the incidents referred to by planning involved a period of development that was in the past. He added that the current application had been properly advertised and had elicited no public objection. He asserted that many residents in the immediate vicinity of the club were actually members and would therefore benefit from the changes.

The Chairman drew attention to conflict of restrictions as they existed at the present time and asked the applicant's representative why the applicant had not approached the Planning Service with a view to change.

The Council's legal representative then asked whether the applicant understood that a restriction existed relating to condition 8 of the Planning Inspector's Appeal decision of 14 September 2001, concerning a limit of 250 spectators to an event being the maximum unless permission had been granted by the Planning Authority in advance. The applicant's representative replied that they understood this. The Council's legal representative then asked whether the applicant understood that in condition 5 of the same decision, the term "use" (of the facilities) meant the presence of any member on any part of the applicant's grounds, and that if anyone was anywhere on the property after 11.00pm (or 10.30pm on Sundays), they were in breach of the Planning restriction. The applicant's representative replied that his client understood this.

In reply, the applicant's representative explained that his client had not appreciated the need to address issues that predated their involvement. The position was now understood and the applicant would be applying to Planning for a change of use.

The applicant's representative then presented his client's case. He reiterated that the earlier planning decisions that had led to the restrictions being imposed by the Planning Inspector, were nothing to do with the applicant, but had arisen through the actions of a contractor and related to noise from lorries during a building programme. He cited, by way of illustrating how responsible the applicant was, how note was taken of casual observations made by club members who were also residents, concerning light pollution from the car park and how steps had been taken to deal with this.

He argued that in this instance it appeared that there had been a breakdown in the exchange between the parties involved and that information exchanged had been unclear. In justification of the request for later hours, he claimed that in Billericay there had been no problems with the departure and dispersal of patrons late at night.

He continued by asking the Sub-Committee if it would take this into consideration when reaching its decision as it could use its discretion to impose conditions that would prevail until his client had the requisite change of use agreement from Planning. Furthermore, he argued that by granting the hours requested, his client would not need to be involved in further expense and delay in having to come back to the Licensing Authority to ask for changes to the licence once the change of use had been granted.

The Council's legal representative then asked a question concerning elements of the emailed negotiation of terms between the applicant and the police dated 8/9 November, the applicant's representative explained that the applicant now accepted that the 06.00am start was not acceptable, but wished for music and films to be available in the gym and other indoor areas – as that time in the day was usually most popular with members – to commence at 6.30am. He also explained the dual start times in part F, stating that the later 10.00am start times related to outdoor activities only.

The Chairman asked for guidance concerning the status of the planning restrictions and was advised that:

1. This was not a planning hearing and the timings set by the Planning Inspector were only a guide for the Sub-Committee. The applicant would still need planning permission, and
2. Planning would have the right to close the premises under planning legislation irrespective of what hours were granted by the Sub-Committee. It was within the discretion of the Sub-Committee to award times that it felt appropriate, whether or not there was conflict with those stated by Planning; but if the club tried to apply those hours, it would be in breach of the planning conditions under which it was trading.

The Chairman summed up by stating that whilst the Licensing Sub-Committee was not bound by Planning restrictions, it might appear, to the casual observer, that the Licensing Authority was being unrealistic in granting hours that were in excess of the planning restrictions as Planning Enforcement had the authority to close the premises if they exceeded the hours stated in the decision.

The Sub-Committee then adjourned to consider its decision. When it reconvened, the Sub-Committee **RESOLVED** to grant the application for a licence as follows:

(a) Films:

Monday to Sunday: 06:30 hours until 22:30 hours

(b) Indoor Sporting Events:

Monday to Sunday: 09:00 hours until 22:30 hours

(c) Live Music:

Monday to Sunday: 19:00 hours until 22:30 hours

(d) Recorded music – Outdoor Pool Area and Outdoor Bar:

Monday to Sunday: 10:00 hours until 22:00 hours

(e) Recorded music –Bar, Restaurant, Function Rooms, Meeting Rooms and Gym:

Monday to Sunday: 06:30 hours until 22:30 hours

(f) Provision of Facilities for Dance:

Monday to Sunday: 10:00 hours until 22:30 hours

(g) Provision of Facilities for Similar Entertainment:

Monday to Sunday: 10:00 hours until 22:30 hours

(h) Late Night Refreshment:

Does not apply as the premises must be vacated by 23.00 hours.

(i) Supply of Alcohol:

Monday to Sunday: 10:00 hours until 22:30 hours

(j) Hours Premises Open to the Public.

Monday to Saturday: 06:30 hours until 23:00 hours

Sunday: 06:30 hours until 22.30 hours

It also imposed the following conditions.

That:

(k) Non-Standard Timings

In addition to the use of Temporary Event Notices allowed under the Licensing Act 2003, the premises may open on 12 non-standard occasions, in line with the Association of Chief Police Officers guidelines; subject to a minimum of 10 working days' notice being given to the licensing authority and the Police for each occasion. The prior written consent of the Police shall be obtained and the police shall have absolute right to refuse any occasion. A register shall be kept at the premises in the manner required by the Police and the Licensing Authority and available for inspection by the police or an Authorised Officer of the Licensing Authority and details of each occasion shall be recorded in it including the written consent of the police.

And in addition:

1. No supply of alcohol is to take place until the Licensing Service and police have seen evidence of the personal licence details of the DPS.
2. Concerning the protection of children from harm: That where a cinema film or other programme includes a film recommended by the Licensing Authority as falling into the 12A, 15 or 18 category, no person appearing to be under the age of 12 or unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the Licence Holder shall display in a conspicuous position, a notice confirming the age requirement.

Chairman

Date