

EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at COUNCIL OFFICES SAFFRON WALDEN at 2.30pm on 20 MARCH 2014

Present: Councillor D Perry (Chairman)
Councillors E Hicks, V Ranger and A Walters

Officers Present: M Hardy (Licensing Officer), M Perry (Assistant Chief Executive – Legal) and A Rees (Democratic Services Support Officer)

Also Present: The applicants and Mrs Pratt, the Chairman of Takeley Parish Council in relation to Item 2

LIC73 **APOLOGIES FOR ABSENCE**

No apologies for absence were received.

LIC74 **ITEM 2 – APPLICATION FOR THE GRANT OF A PREMISES LICENCE – SUGARS CAFÉ BAR, UNIT 6 PRIORS GREEN, BENNETT CANFIELD**

The Licensing Officer said that the application had been brought to the Committee because of representations made by Takeley Parish Council. The applicant had to state the licensable activities and how the licensing objectives would be met.

The licensable activities were as follows:

Live Music (Indoors Only)

Thursday to Saturday	7pm to 11.30pm
Sunday	12 noon to 10pm

Recorded Music (Indoors Only)

Monday to Wednesday	7pm to 11pm
Thursday and Friday	7pm to 11.30pm
Saturday	12 noon to 11.30pm
Sunday	12 noon to 11pm

The sale of alcohol by retail for consumption both on and off the premises

Monday to Thursday	7am to 11.45pm
Friday and Saturday	7am to 12 midnight
Sunday	7am to 11pm

The hours the premises are open to the public

Monday to Thursday	7am to 12.15am
Friday and Saturday	7am to 12.30am
Sunday	7am to 11.30pm

To meet the licensing objectives the applicants would use CCTV, take a zero tolerance approach to drugs, refuse service to those already intoxicated, operate a Challenge 25 policy, remind customers to be quiet

upon leaving the premises and provide training for new staff. Copies of the application had been served to all nine statutory bodies and no representations had been made. The Council's policy and the Secretary of State's guidance state the applicant had to demonstrate that their operating schedule was sustainable. The Committee could only impose restrictions that would help to meet the licensing objectives.

Mrs Pratt asked if the Committee had visited the site.

The Assistant Chief Executive – Legal said that it was Council policy to not visit the sites of applications for licences.

Mrs Pratt said that the site was part of a new estate which would contain around 800 new houses. Approximately 2/3rds had been built. There was a new school, a licenced convenience shop and a community centre near to the site that shared a car park. This car park was frequently full when parents were taking their children to or collecting them from school as the school had no drop-off/collection point. The site had no noise insulation and was near to housing. This would cause undue noise, exacerbated by late closing times.

In response to questions by the Panel, Mrs Pratt said that activity around the site was likely to be significant. She had received a number of verbal complaints about the proposal, but no written ones.

Mr Hall spoke on behalf of his wife, who was the applicant. He said that currently people had to drive to public houses and bars away from the estate. The aim was to create a bistro styled premises with strong community ties. Both he and his wife had gained personal licenses. New staff would be given assistance in gaining personal licenses. CCTV would be in operation around the premises. On the advice of the police hours late at night had been applied for, but these hours would be used infrequently. When they were used, it would mainly be for private functions.

In response to questions from the panel, Mr Hall said that the premise should be allowed to operate with the applied for schedule and if issues were to arise, the operating schedule should then be altered. The speakers on the premise would be used for background noise. Karaoke nights would only take place when the premise was used for private functions.

The Assistant Chief Executive – Legal drew attention to the case of R. (on the application of Daniel Thwaites Plc) v Wirral Borough Magistrates' Court and others. Licensing decisions had to be based on evidence, not conjecture. The Licensing Act contained a mechanism whereby licenses could be reviewed if there were concerns that the licensing objectives were not being met.

RESOLVED that under section 100I of the Local Government Act 1972, the public be excluded for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1 and 2 part 1 of Schedule 12A of the Act.

The applicant, interested parties and the Licensing Officer left the room at 3.05pm so that the Panel could consider their decision. They were invited back into the room at 4pm so that the Panel could give their decision.

DECISION

The Chairman read the following statement. "The Committee has today considered an application for a premises licence in respect of the proposed Sugar Café and Bar at Unit 6 Priors Green Local Centre. The requirement for a hearing arose from objections to the grant of the licence made by Takeley Parish Council. The premises are situated within the parish of Takeley but under the legislation the Parish Council is not a responsible authority. Its representations are therefore made in the capacity of another party.

The premises are on the Priors Green Estate. This is a development in the course of construction which will have approximately 800 dwellings when complete. The chairman of the Parish Council informed the Committee that about 2/3rds of the estate is now constructed. In the middle of the estate is a community area comprising retail units of which Unit 6 is one, a school and a community centre. There is a car park serving this area which has 68 spaces. Apparently, the car park is heavily used by parents taking their children to and collecting them from the school as the school has no drop-off facilities.

In its written representations, the Parish Council opposed the grant of the licence. Its objections were based on all 4 of the licensing objectives. With regard to public safety the Parish Council submitted that any function promoting more than very short stay parking would overburden the already pressurised facilities, which would risk public safety in general. It would also place children at risk from harm which impacts upon the 4th licensing objective. On the issue of the prevention of public nuisance the Parish Council submits that the proposed extended opening hours and resultant late night use of the car park would create a level of noise inappropriate in a densely populated residential area. Today the chairman of the Parish Council also said that the premises had no soundproofing, that noise would emanate from windows and doors causing a nuisance to local residents and that there would be further noise and disturbance caused by patrons smoking outside. With regard to the licensing objective of the prevention of crime and disorder the Parish Council's only submission was that granting an alcohol licence was not appropriate in a densely populated residential area which includes a school.

The applicant's husband explained their business plan. The premises will be run as a bistro. Music will be low key. It is not the intention to make full use of the permitted hours but these had been applied for at the suggestion of the police licensing officer to build in a degree of flexibility. It is anticipated that most of the custom will come from the estate and that patrons will chose to walk to and from the premises rather than use cars. In any event the school had no user rights in respect of the car park. When asked if he could propose any conditions to help allay the Parish Council's concerns he suggested that the licence should be granted as applied for to give everyone a chance to see how it worked.

The Committee's difficulty today is the absence of any evidence that problems would arise if a licence were to be granted. The Parish Council's objections are based upon it's perception of what may occur, not evidence. The Committee's legal adviser drew members' attention to the Thwaites case which underlined that decisions on licensing applications must be based on evidence and not conjecture. The 2003 Act is designed to give a light touch approach to the grant of licences. This is justified because the Act contains a mechanism whereby licences can be reviewed on the application of anyone if there are concerns that any of the licensing objectives are being infringed. The case also suggests that greater weight should be given to representations made by responsible authorities than to those made by others.

The Committee note that none of the responsible authorities have made representations. Indeed local residents who would have been expected to know of the application by virtue of the notice on site and the advertisement in the local paper have not objected the only representations being from the Parish Council.

In the absence of any evidence that granting a licence is likely to adversely impact upon any of the licensing objectives, on the basis of the decision in Thwaites, the Committee has no alternative other than to grant the licence in the terms applied for including the conditions set out by the applicant in the operating schedule. In the event that once the business starts trading evidence arises showing that the any of the licensing objectives is being impinged then a review may be applied for."

The meeting ended at 4.10pm