

LICENSING SUB-COMMITTEE
22nd June, 2018

Present:- Councillor Jones (in the Chair); Councillors Taylor and Vjestica.

LICENSING ACT 2003 - PREMISES' LICENCE - CAR PARK OF THE THREE HORSESHOES, BAWTRY ROAD, WICKERSLEY

The Sub-Committee considered an application for the grant of a premises licence, in accordance with the provisions of the Licensing Act 2003, in respect of a mobile trailer for the sale of food ("the premises") to be sited for temporary periods within the car park of the Three Horseshoes public house, 133 Bawtry Road, Wickersley. The two joint applicants operated a business known as Spud Buddies from the mobile trailer and were applying for the grant of a premises licence for the one licensable activity of the provision of late night refreshment.

The Licensing Authority had received representations from the local Borough Councillors for the electoral Ward and from the Wickersley Parish Council which were not withdrawn and the Sub-Committee considered those representations. It was noted that one other representation, submitted by a resident living within the local area, had been withdrawn.

This application was for the grant of a premises licence for the provision of late night refreshment, as follows:-

- i) For the sale from the mobile unit of hot jacket potatoes and seasonal fillings, hot drinks and cold drinks in cans (nb: there was no application for a licence for the retail sale of alcohol);
- ii) The provision of late night refreshment between the hours of 23:00 hours and 02:00 hours on Fridays, Saturdays, Sundays and Bank Holidays.

The applicants informed the Sub-Committee of the nature of this small business and the quality of food provided and explained that the business had operated in this area for the past four weeks (at times in the evening when a premises licence had not been required to be in place). There had been compliments expressed about the business and about the food and a base of customers had already been established. The mobile unit was powered by electricity and therefore did not cause excessive noise. Such noise as may be caused late at night would be limited to a period of approximately twenty minutes when the trailer unit was being hitched to the car of one of the applicants. The trailer unit would be parked on site only at the times the business was operating and would be driven away each night. One or other of the two joint applicants would always be present on site during the operation of the business and other family relatives would assist them at some times. The applicants also explained the regular litter picking and clearing they would undertake in the areas of

car park and highway around the location of the trailer unit. The landlord of the public house would allow the litter and any waste from the trailer unit to be placed in the waste bins at the public house. There had been no complaints addressed directly to the applicants during the previous four weeks' of operation of the business.

The representation from the local Ward Councillor referred to concerns about anti-social behaviour in the area, which may be exacerbated by persons remaining in the area outside the Three Horse Shoes public house and purchasing food from the premises/trailer unit during the night. The night time economy in this area of Wickersley was already well-served by licensed premises and was popular and successful, attracting visitors from places beyond the immediate area and the wider village. This popularity was inevitably accompanied by anti-social behaviour including noise, boisterous and rowdy behaviour and sometimes other, more obscene behaviour. The South Yorkshire Police were usually present in the area on Friday and Saturday nights in order to ensure public order. The increase in crime and disorder in this locality had previously been acknowledged by the South Yorkshire Police. The Three Horse Shoes public house was situated adjacent to a very busy dual carriageway road and there were many residential properties adjacent to and in the vicinity of these premises. The area of highway outside the public house provided a convenient space for taxis to arrive, collect passengers and clear the area of people as the evening ended. The presence of this food vending business was likely to cause people to gather outside the public house and wait in the highway to be served. This factor would cause congestion, restrict the movement of the taxis and other motor vehicles and inevitably be the cause of excessive noise which would disturb the occupants of the residential premises.

The representation from the Member of the Wickersley Parish Council mentioned the number of complaints which the Parish Council had received from parishioners about anti-social behaviour and noise nuisance in this area of Wickersley near to the Three Horse Shoes public house. None of the people who had raised these issues with the Parish Council had stated any support for this premises licence application. Reference was made to the number of events taking place throughout the year in Wickersley, for which licences were required. In the past there had been complaints about noise nuisance from some of these events, requiring the attention of the Borough Council's Environmental Health service. The area was well served by licensed premises and many would provide late night refreshment served indoors and consequently there was no need for this type of food vending facility situated outdoors. The Parish Council sought to protect the character of the village and the presence of this type of licensed premises was contrary to that aim. It was known that there were likely to be other applications for licensed premises to be situated in this area and a surfeit of this type of premises would spoil the character of this part of the village. There were also doubts as to whether the applicants would fulfil their stated aim of litter clearing and picking, as the village has experience of other businesses not fulfilling similar stated

aims. The clearing of litter from the streets was a specific burden upon the finances of the Parish Council and upon the Parish residents as taxpayers.

The local Ward Councillor made reference to cumulative impact policies, which were not included in the Licensing Act 2003 but have been mentioned in Home Office guidance (March 2015) issued in accordance with Section 182 of the Act. The cumulative impact means the potential impact on the promotion of the Licensing objectives of a significant number of licensed premises concentrated in one area.

The Sub-Committee was satisfied that the measures to be put in place by the applicants to minimise the possibility of any anti-social behaviour at or near the premises were sufficient. In particular, the Sub-Committee noted that there would be signs on display encouraging people to leave the area quietly and with respect for local residents, litter bins would be provided on site and there would be no seating so that, ordinarily, people would purchase their food and leave the area. The Sub-Committee also heard from the applicants that they would be prepared to reduce the hours of opening of their business to coincide with the hours of other licensed premises in this neighbourhood.

In conclusion, the Sub-Committee took due note of all of the written representations made and also of the fact that there had been no representations made by the South Yorkshire Police in respect of this application. The Sub-Committee did consider, in response to the concerns expressed about the anti-social behaviour in the local area of some persons leaving licensed premises late at night, that it would be appropriate for the hours of operation of this premises licence to accord with those of other licensed premises in the vicinity. During the meeting, Members of the Sub-Committee had been informed of the hours of operation of these other licensed premises, some of which were situated very near to the Three Horse Shoes public house.

The Sub-Committee considered the application for this premises licence and the representations made specifically in the light of the following Licensing objectives (as defined in the 2003 Act):-

- The prevention of public nuisance;
- Public safety.

At the beginning of the meeting, the Sub-Committee heard concerns about the employment of one of the applicants with the Borough Council and whether the knowledge gained from that employment had been advantageous in the process of submission of the application. There was also a question as to whether the applicant had obtained the permission of his employer to undertake a business operation in addition to his employment with the Borough Council. A further concern was expressed about the applicants having entered into a verbal agreement with the landlord of the public house for the siting of the mobile trailer within the

car park of the public house, whereas the permission of the owner of the public house premises had neither been sought nor obtained. The Sub-Committee acknowledged these concerns but as they were outside the ambit of the Licensing Act 2003 they could not be taken into consideration in determining this application for the grant of the premises licence.

Resolved:- (1) That, subject to (2) below, the application for the grant of a premises licence, in accordance with the provisions of the Licensing Act 2003 in respect of the premises known as the Spud Buddies (mobile trailer), to be sited within the car park of the Three Horse Shoes public house, 133 Bawtry Road, Wickersley shall be approved and the licence granted.

(2) That the premises licence shall be for the provision of late night refreshment only and the permitted hours of operation of the premises licence shall be as follows:-

Fridays and Saturdays : 2300 hours until 0100 hours

Sundays and Bank Holidays : 2300 hours until 0030 hours.

(Before the meeting began, the Sub-Committee had been informed of issues concerning possible conflicts of interest, as follows:-

(a) The Borough Council solicitor advising the Sub-Committee on matters of the law had, in the ordinary course of her duties, provided legal advice on other unrelated matters to one of the applicants who was also an employee of the Borough Council; the solicitor assured the Sub-Committee that neither those duties nor her knowledge of the applicant would influence the way in which she would advise the Sub-Committee; the applicant accepted the solicitor's explanation and raised no objection to the solicitor advising the Sub-Committee;

(b) In similar vein, the Borough Council solicitor stated that she would also advise the Licensing Board and the Licensing Committee (and their associated Sub-Committees) on matters of law and one of the people making representations at this meeting was Councillor S. Ellis, who is Chair of both the Board and of the Committee (and of the Sub-Committees); Councillor Ellis stated that she understood the circumstances and would raise no objection to the solicitor advising the Sub-Committee;

(c) Councillor S. Ellis informed the meeting of her special responsibility and role within the Borough Council as Chair of both the Licensing Board and of the Licensing Committee; Councillor Ellis explained that her involvement in this Sub-Committee meeting was in her role as a Borough Councillor for the electoral Ward and that she would make representations to the Sub-Committee accordingly; it was confirmed that Councillor Ellis was consequently not a member of the Sub-Committee which would determine this application for the grant of a premises licence and that she would take no part in the Sub-Committee's decision)