

LICENSING SUB-COMMITTEE

A record of proceedings of the Licensing Sub-Committee held at Bodicote House, Bodicote, Banbury on 22 August 2007 at 10.00 am.

Membership of the Sub-Committee (all Members present) – Councillors Heath (Chairman), Gibbard and O’Sullivan.

Officers:	D Holmes (Interim Head of Legal and Democratic Services)	}	Advising the Sub-Committee
	S Lodge (Democratic Services Officer)	}	
	Mrs N Barnes (Senior Licensing Officer)	}	Representing the Local Authority

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. LICENSING HEARING PROCEDURE

The Hearing was undertaken in accordance with the agreed Licensing Hearing Procedure.

3. APPEAL HEARING – GRANTING OF PREMISES LICENCE – 47B BROAD STREET, BANBURY (FORMERLY KNOWN AS THE RIGHT PLAICE), BANBURY

Present at the Hearing:	R Lowther	}	Safer Communities and
	Ms J Wileman	}	Community Development
	R Ahmed	-	Applicant, 47b Broad Street, Banbury
	S Hyatt	-	Representative for the applicant
	Mrs V C Mayo	}	Interested parties making
	Ms J Stych	}	representations

The Head of Urban and Rural Services stated that an application had been received on 3 July 2007 from R Ahmed, the operator of 47b Broad Street, Banbury, to grant a premises licence issued under the Licensing Act 2002.

The report set out:-

- (1) details of the application for a premises licence to be granted under the Licensing Act 2003.

The proposed application was as follows:-

1. to license the premises for provision of Late Night Refreshment.

- from 11.00 to 03.00 (morning following) Sunday to Wednesday inclusive;
- from 11.00 to 05.00 (morning following) Thursday to Saturday inclusive.

2. to open the premises to the public.

- from 11.00 to 03.00 (morning following) Sunday to Wednesday inclusive;
- from 11.00 to 05.00 (morning following) Thursday to Saturday inclusive.

(Note: the provision of late night refreshments under the Licensing Act 2003 commence at 23.00 and terminate at 5.00. Although in this case the applicants had requested the provision to start at 11.00 there was no legal requirement for such permission to be sought until 23.00.)

- (2) details submitted by the applicant which set out support for the promotion of the 4 licensing objectives, ie, (a) the prevention of crime and disorder; (b) public safety; (c) the prevention of public nuisance; and (d) the protection of children from harm.
- (3) the representations received from the Head of Safer Communities and Community Development;
- (4) representations received from C Silman, Mrs V C Mayo, Ms J Stych, E Courtenay, L Drinkwater and E Drinkwater, S Gilbert, Councillor A Bonner, together with a list of addresses of those persons represented by Councillor Bonner;
- (5) relevant guidance of the Local Authority Policy issued under the Licensing Act 2003;
- (6) the options available to the Sub-Committee; and
- (7) an additional e-mail submitted by Councillor A Bonner as a local Member for the Grimsbury and Castle Ward.

Mr Hyatt, on behalf of Mr Ahmed, stated that it was proposed to convert the fish and chip shop at 47b Broad Street, Banbury, to a fast food outlet/takeaway/Indian restaurant and he considered as a result there would be a reduction in the amount of paper rubbish which would normally accumulate around the takeaway.

Mr Ahmed proposed to introduce CCTV and liaise with Cherwell District Council and the police to ensure the any unruly behaviour was dealt with and it was proposed that a doorman would be employed to further reduce anti-social behaviour. It was also proposed that no alcohol would be sold from the premises.

There was currently considerable noise at weekends during the late evening from people leaving nightclubs and public houses and walking home through Broad Street. There was also noise from people leaving the Cassiopeia Nightclub a few doors away from the application site, which operated into the late hours of the morning. The applicant felt that a properly regulated takeaway/restaurant would be a welcome facility to the area.

If granted it was proposed that the takeaway/restaurant would encourage mainly people

who had worked during the nights, such as taxi drivers who would be able to take advantage of late night food facilities.

Notices would be placed inside the premises asking customers to reduce noise when leaving the premises and warning against anti-social behaviour. An employee would clear rubbish from the vicinity of the premises as required.

In response to questions from interested parties, Members of the Sub-Committee and the Head of Safer Communities and Community Development over their concerns relating to noise late at night and anti-social behaviour, the applicants gave an assurance that such nuisances would not be exacerbated by a late night takeaway and reference was made to a takeaway operated by Mr Ahmed in Middleton Road, Banbury, where there was no complaint of noise or anti-social behaviour.

Mrs Mayo and Ms Stych, on behalf of the interested parties, stated that the noise nuisance resulting from the extension of the licensing hours granted to Cassiopeia until 4.00 am would only be exacerbated by granting a licence to 47b Broad Street opening until 5.00 am.

The recently introduced smoking legislation resulted in patrons from Cassiopeia congregating outside the nightclub to smoke thus increasing the noise and disturbance to residents in the area caused by people leaving the nightclub and traffic noise. The granting of a licence to the applicants of 47b Broad Street would increase the nuisance from the clientele smoking outside these premises, which were directly opposite Amos Court, an elderly persons group dwelling. There were also two other similar elderly persons group dwellings in the vicinity.

Reference was also made to the anti-social behaviour in this area at night as a result of people leaving public houses and nightclubs in the town centre. There was also a considerable amount of rubbish which was clearly visible the following day and which would only increase as a result of a takeaway opening in Broad Street until 5.00 am in the morning. Such a premises would only encourage people to loiter in the area when it was an objective of the police to encourage people to disperse from the town centre and surrounding streets as soon as possible.

Mr Lowther on behalf of the Head of Safer Communities and Community Development stated that although there had been no evidence of public nuisance associated with these premises in the past he would object to the granting of a premises licence for the hours stated as the effect of permitting these activities would draw custom from the town centre to purchase hot food and whilst waiting for and eating the purchases these individuals were likely to cause annoyance to the residents of the nearby dwelling. He considered that midnight on any day as being the latest suitable hour for the opening of such premises. With the recently introduced smoking legislation people smoking outside the restaurant would be audible to residents of Amos Court and he considered that if the licence were granted to the times requested it would be difficult for his department to control the noise nuisance.

The provision of a doorman could act as a deterrent against anti-social behaviour although this could result in additional noise and disturbance if there were problems between the doorman and the clientele. He considered that this was not a suitable premises to operate a takeaway facility until 5.00 am.

The Sub-Committee then retired to consider the review in accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005. On the return of the Sub-Committee the decision was announced and it was

RESOLVED

Not to grant the applications as submitted.

REASONS – the Sub-Committee having regard to the licensing objectives considered that the application as made would cause unacceptable nuisance. In particular it considers that there will be nuisance by virtue of noise and disturbance, caused both by people congregating and vehicles, at unacceptable hours.

The Authority has had regard to Policies LA4 (Noise control to suit late night trading) and LA5 (Addressing Local Concerns). It does not consider that at the moment the arrangement for general management proposed are sufficiently robust to prevent the nuisance.

The decision of the authority is to grant the applications with the variation that the permitted hours of operation will be only until 12 midnight on each day.