

LICENSING SUB-COMMITTEE

MEETING : Tuesday, 12th April 2011

PRESENT : Cllrs. C. Witts, Noakes and Porter

Officers

Gill Ragon, Group Manager, Environmental Health and Regulatory Services

Lisa Wilkes, Food Safety and Licensing Service Manager

Carl Knights, Licensing and Enforcement Officer

Steve Isaac, Solicitor

Anthony Hughes, Democratic Services Officer

Also in Attendance

Mr Martin Liddiard, Barrister (No 5 Chambers, Birmingham)

Mr Andrew Jones, Site Manager, Tuffley Service Station

Mr James Sykes, Territory Manager, ROC UK Ltd

Ms Sharon Barnard, Objector speaking on behalf of Mr Sheppard

Mrs. Ann Ferris, Licencee of the Fox and Elm Public House

5. ELECTION OF CHAIR

RESOLVED

That Councillor Lise Noakes be elected Chair for the meeting.

6. INTRODUCTION AND PROCEDURES

The Chair welcomed all parties to the meeting and explained the procedure to be followed.

In addition to the Sub-Committee members the following interested parties were present:-

For the applicant

Mr Martin Liddiard

Mr Andrew Jones

Mr James Sykes

Barrister (No 5 Chambers, Birmingham)

Site Manager Tuffley Service Station

Territory Manager, ROC UK Ltd

Objectors

Ms.Sharon Barnard

Mrs. Ann Ferris

Speaking on behalf of Mr Sheppard

Licencee of the Fox and Elm Public House

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7. DECLARATIONS OF INTEREST

There were no declarations of interests by members of the Sub-Committee.

8. APPLICATION FOR A NEW PREMISES LICENCE FOR ESSO TUFFLEY SERVICE STATION, 387 STROUD ROAD, GLOUCESTER, GL4 0DA

The Sub-Committee and all parties considered a report outlining an application made under section 17 of the Licensing Act 2003 in respect of premises situated at Tuffley Service Station, 387 Stroud Road, Gloucester, GL4 0DA. The application by ROC UK Ltd was for a new premises licence authorising the provision of late night refreshment Monday to Sunday 23.00 to 05.00 hrs. each day and the supply of alcohol Monday to Sunday 00.00 to 24.00 hrs each day. The application had received representations from local residents, the licensee of a public house adjacent to the application premises and a petition.

The Sub-Committee had also received additional documents which the applicant wished to refer to at the hearing; a letter from Lockett and Co., a statement of persons attending the hearing, a radius plan and the Thwaite's case law.

On the invitation of the Chair, Mr C. Knights, Licensing and Enforcement Officer, presented the report.

There were no questions from the applicant or from the objectors.

On the invitation of the Chair, Mr M. Liddiard on behalf of the applicant presented the case in support of the application by ROC UK Ltd.

With the agreement of all parties, Mr Liddiard tabled an analysis of customer flow, shop vs forecourt for the period 1st to 31st March 2011. At the request of the objectors, the Sub-Committee also received an updated radius plan to include the premises of Robinswood Hill Social Club.

The Sub-Committee adjourned to allow members and all parties to consider the new information.

On reconvening, Ms. Barnard and Mrs Ferris asked questions of the applicants and replies were given.

Mr Knights, the Licensing and Enforcement Officer indicated that he had no questions to ask of the applicants.

Members of the Sub-Committee asked questions of the applicants and answers were provided.

On the invitation of the Chair, Ms. Barnard and Mrs Ferris presented the case against the application.

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The Chair invited the applicants to ask questions of the interested parties and answers were provided.

Members of the Sub-Committee asked questions of the interested parties and answers were provided.

Mr Knights, the applicants and the interested parties were given the opportunity to summarise their positions.

The Sub-Committee retired from the meeting to consider their decision and then reconvened the meeting for clarification on primary use.

On returning, the Sub-Committee requested and were furnished with a transcript of the case of *R (on the application of) Murco Petroleum limited v Bristol City Council (2010)* and sought additional information from the applicants as to the basis upon which usage had been calculated. Mr Liddiard intimated that the applicants had based their position on footfall.

The Sub-Committee retired from the meeting to consider further their decision.

On returning, the Chair informed all parties as follows:

RESOLVED

The Sub-Committee have considered the application made under section 17 of the Licensing Act 2003 for a premises licence by ROC UK Ltd and having had regard to the representations made by the interested parties, evidence from the applicant, the Home Secretary's Guidance, the Council's own statement of licensing policy and the legal implications as set out in the report as well as the case law of *Murco Petroleum Ltd v Bristol City Council*, the Sub-Committee has decided to grant the provision of late night refreshment and refuse permission for the supply of alcohol.

Reason for Decision

The Sub-Committee accept the application for the provision of late night refreshment on the basis that none of the Licensing objectives can be proven to be in breach.

The Sub Committee reject the application for the supply of alcohol on the basis that the Sub-Committee are not satisfied on the evidence of primary use. The Sub-Committee referred to the case of *Murco v Bristol City Council* paragraph 24. The Sub-Committee determined that if they were unsatisfied by the evidence provided on primary use the application should be refused. The Sub-Committee also had regard to paragraphs 16 and 18.

Time of commencement: 19:30 hours

Time of conclusion: 21:45 hours

Chair

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