

Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **22nd March 2011**.

Present:

Cllr. Goddard (Chairman);

Cllrs. Mrs Blanford, Holland.

Also Present:

Licensing Manager, Legal Advisor, Member Services & Scrutiny Support Officer.

426 Election of Chairman

Resolved:

That Councillor Goddard be elected as Chairman for this meeting of the Licensing Sub-Committee.

427 Minutes

Resolved:

That the Minutes of the Meeting of this Sub-Committee held on the 5th October 2010 be approved and confirmed as a correct record.

428 St Mary the Virgin Church of England Church, Church Yard, Ashford, Kent, TN23 1QQ – Application from an existing licence holder to vary the premises licence.

The Chairman opened the meeting and welcomed all those present. Members confirmed that they had read the papers relating to the application. The Chairman explained the procedure to be followed at the meeting. He asked all those present to turn off their mobile phones and advised that recording of the meeting was prohibited in accordance with the Council's Procedure Rules.

The Licensing Manager then gave a brief summary of his report. The application had been made by an existing licence holder to vary the premises licence. The application to vary the Premises Licence was contained in Appendix A of the agenda papers, along with the site plan, showing the new area for licensable activities. The application had been made in the proper manner. Representations had been received hence the determination coming before Members.

The Parish Church of St Mary the Virgin was built in 1280 and was located within an enclosed area in the centre of Ashford. The premises currently had a premises licence, permitting the sale of alcohol both on and off the premises Monday to Sunday 11:00 to 23:00 with no seasonal variations. A copy of the current premises

licence was contained in Appendix D. The church did not require a licence for regulated entertainment (which included the playing of live or recorded music, the performance of plays and the showing of films) as these activities were exempted under the Licensing Act 2003. The exemption required only that the entertainment was held at a place of public religious worship and it was not necessary that the entertainment was in any way connected with or formed part of any ceremony of religious worship.

No representations had been received from any of the Responsible Authorities. Six parties had made representations. A summary of these representations was provided in Appendix B. Copies of the letters were contained in Appendix C. All of the representations were from parties living in the Churchyard area.

Five of the representations were written on a "common" letter, with all the representations stating that they objected to the grant of the licence due to all four licensing objectives and these could be summarised as follows:-

- Unpleasant behaviour from people attending performances at the Church.
- Noise associated with events held at the Church, although it was not clear if this was noise from recorded or live music performed at the events or from people attending the events.
- Concern that people attending events may be involved in "mass-fights and bundles" and other associated crime and disorder.
- Protection of children from harm.
- Public safety given poor weather, slippery conditions, trips and falls associated with gravestones and from increased footfall in the area.
- Current levels of anti-social behaviour in the area, especially in the evenings.
- In addition one letter referred to potential problems associated with people smoking who were attending events.

One representation in support of the application was received after the 23rd February 2011, but was rejected as it was outside the consultation period. Three representations were received from people living outside the vicinity of the Churchyard and were therefore rejected.

The matter before Members therefore was whether the changes to the internal layout of the church were likely to have an impact on any of the four licensing objectives. It was not within the Sub-Committee's remit to revoke the current license, they could grant the variation of the licence with no modifications to the conditions, modify the conditions of the licence or reject the whole or part of the application. The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departed from either the Guidance or the policy clear and cogent reasons must be given. Members were advised that if such a departure was made the risk of appeal was increased.

The Licensing Manager advised that additional information had been received from one of the Interested Parties. This information was distributed to all present and a five minute break was given to allow all attendees to read the additional information.

In response to questions from an Interested Party, the Licensing Manager advised that the current licensed area covered the Church and the graveyard up to the railings, the pavement area outside of the railings was not currently licensed and was not included as part of the variation. The fire assembly point(s) and fire exits would be dealt with by the Fire Service in accordance with the relevant legislation. The Fire Service would request that a Fire Risk Assessment be carried out for the premises and this would be used to determine fire exits and assembly points along with the capacity of the premises.

Mr Crook, representing the applicant, spoke in support of the application. He felt that it was important to make clear to all present that the application before the Sub-Committee was a variation not a new application. The current licence was granted in February 2007 and permitted the sale of alcohol on and off the premises Monday to Sunday 11:00 to 23:00. No complaints had been received during the time that this licence had been held. Prior to holding a licence for the premises, Temporary Event Notices had been used when an event was scheduled to take place, however following a change in the law limiting the number of Temporary Event Notices that could be permitted in a year it had been decided that it was appropriate for the Church to have a permanent licence. St Marys had hosted events since the 1960's. The variation was being applied for as there had been a number of internal works carried out to the Church including; flexible seating arrangements, a superstructure stage, improved washroom facilities and disabled facilities and improvements to the galleries.

The alterations to the Church had been carried out to enhance the premises for the local community and to enable a greater number of arts based events to be held. There was no intention to increase the capacity of the Church. There was a limited selection of alcohol available for purchase, Bumble Bee fair-trade beer and a basic selection of wine. Alcohol was only served before an event and during the interval, it had never been, and would never be, served after an event. The only matter for Members to decide was whether or not the new layout would impact upon any of the four licensing objectives. The applicant was aware that this was an emotive subject and the Church had sympathy with the residents of the Church Yard that experienced anti-social behaviour on a regular basis; however these problems were in no way connected to the Church. The events envisaged for the Church would be the performance of Jazz, Choral and World music, it was not a pub. He further advised that the reason for the Church holding a long licence was to enable greater flexibility; it did not mean that the premises licence would be used all day.

In response to questions from Members the Reverend Canon Preece advised that alcohol had never previously been available for sale after an event, this would not change. Alcohol was served from the kitchen area in the north west end of the Church. He drew attention to the revised layout plan contained on page 18 of the agenda papers and advised that the altar would be located where the rectangular box with an 'X' inside was. The superstructure stage was demountable and would be positioned over the smaller stage with the altar and pulpit on it. This stage would be raised 1200mm off the ground and so would raise the performance area to provide

better sight lines for the audience. All exits would be clearly marked with emergency lighting and all fire extinguishers were serviced regularly.

The Licensing Manager advised that the licence had in fact been granted on 23rd December 2006. He reiterated to all those present that the impact of the variation on the four licensing objectives was the only matter under consideration.

In response to questions from the Interested Parties Reverend Canon Preece advised that there had been a marquee erected in the grounds for the sale of alcohol at events, however this had been when the Church had used Temporary Event Notices for events. The capacity of the Church would not be increased by the alterations, there would be 350 chairs on the ground floor with 150 to 200 chairs in the gallery, and this would mean that at full capacity there would be 500 to 550 people in the Church. He further advised that an agreement was being set up between the Church and Ashford Borough Council which would guard against the fears that the venue could be used in a similar way to a public house.

The Licensing Manager advised that the church did not require a licence for regulated entertainment (which included the playing of live or recorded music, the performance of plays and the showing of films) as these activities were exempted under the Licensing Act 2003.

Mr Adby, an Interested Party, addressed the Sub-Committee. He queried whether it was appropriate for Ashford Borough Council to determine the licensing application when the Council had funded the Arts at St Marys Project? He had been a resident of the Church Yard for sixteen years and could not think of a better place to live except on Friday and Saturday evenings. He had previously presented a petition to the Council regarding the anti-social behaviour problems experienced by the residents of the Church Yard. There were regular occurrences of noise, breaking of windows and anti-social behaviour. Many of the properties in the Church Yard were Grade II Listed and did not have double glazing which resulted in noise echoing around the area. He proposed that a modification be made to the hours of the licence from 18:00 to 22:00, he also suggested that access and egress be limited to the north door only as this was a non-residential area.

He further suggested that the consumption of alcohol should take place inside the Church and not in the grounds. In the summer it was suggested that doors to the Church were closed during an event to ensure that sound did not echo around the Church Yard. When events were held at the Church either licensed doormen or street pastors could patrol the area to ensure the safety of those attending the event. He was concerned that events held at the Church could add to the levels of anti-social behaviour experienced by residents of the Church Yard. He wished the Church every success with the arts programme but was concerned that about the potential impact upon noise levels in the area.

In response to questions from Members Mr Adby advised that anti-social behaviour in the Church Yard occurred primarily from 22:30 to 03:00 however it had been known to start at 18:00. There was no evidence to suggest that the anti-social behaviour was connected to the Church. It would be a different type of clientele that visited the Church for events; however it would only take one person to cause a

problem. He considered that under the 2003 Licensing Act there would be limited scope for the licence to be revoked or amended once granted.

Mr Buchanan, an Interested Party, addressed the Sub-Committee. He advised all those present that he was not against the application in principle he was however concerned about the anti-social behaviour that was experienced in the Church Yard on a regular basis. He had experienced his door being 'kicked-in' and windows smashed by individuals under the influence of alcohol. There had also been an incident where someone had been hospitalised due to a 'bottle-fight' having taken place in the Church Yard. He was aware that this was not necessarily relevant to this application; however he wanted the Sub-Committee to be aware of the problems currently experienced in the area. There was a concern that the increase in the number of people in the area would either add to the anti-social behaviour or they would get caught up in it. He supported the suggestion that the north door only be used to access and egress the premises. He wished the Church every success but suggested that after dark there would be issues in area unless bouncers were employed.

Mr Cooper, an Interested Party, addressed the Sub-Committee. He drew attention to his submission and page 16 of the agenda papers in particular where Reverend Canon Preece had signed the application as 'Vicar of Ashford'. He advised that the Reverend Canon Preece was not in fact the 'Vicar of Ashford' he was the 'Priest in Charge'. He accused Reverend Canon Preece of lying on the application form and advised that he would take this matter further as in his opinion the application was invalid.

The Legal Advisor advised all those present that this did not invalidate the application and deemed Mr Cooper's comments to be irrelevant.

Mr Cooper further advised the Sub-Committee that the paths around the Church were often slippery, particularly in adverse weather conditions. Anti-social behaviour existed in the Church Yard and there were concerns that this could put those attending events at the Church in danger. CCTV evidence was available which showed some of the anti-social behaviour in the area. At a recent festival at the Church noise from those in attendance had been audible outside of the Church.

Reverend Canon Preece advised that this event had been attended by a large number of children and so alcohol had not been sold. The noise related to the excitement of those in attendance and applause at the end of the event.

The Licensing Manager further advised that this was not likely to be relevant to the application being discussed as no alcohol was sold at this event. In response to Mr Adby's questions regarding whether it was appropriate for Ashford Borough Council to consider the application, he advised that the licence had to be determined by Ashford Borough Council, as all permissions for the sale of alcohol in the Borough of Ashford had to be determined by this licensing authority. All Members of the Licensing and Health and Safety Committee had recognised qualifications in Licensing and he reassured all those present that Members were governed by what they could consider whilst determining an application.

In response to questions from the Legal Advisor, Reverend Canon Preece advised that it was envisaged that ten to fifteen events would take place a year during the arts programme. The capacity for the Church would be approximately 500 people.

In summary Mr Crook advised that Reverend Canon Preece was grateful for the comments received and had sympathy for the residents of the Church Yard. There was no evidence to suggest that the anti-social behaviour experienced in the Church Yard was connected to the Church and events held there. The four licensing objectives would not be compromised by the variation in the licence and no objections had been received since the premises had held a licence.

The Licensing Manager then summed up the nature of the application and the issues for the Sub-Committee to consider. He reminded the Sub-Committee that they may grant the licence with no modifications, modify the conditions of the licence or reject whole or part of the application.

The Sub-Committee then retired to make their decision.

On return the Legal Advisor read out the decision.

Resolved:

That the variation to the premises licence be granted and the sale of alcohol be permitted from:

Monday to Sunday: 11:00 to 23:00

Subject to the following additional condition:-

- (i) The audience to leave via the north door only at the end of events involving the sale of alcohol.**

Reason: Prevention of Public Nuisance, the audience will pass less residential properties when they exit the premises.

The Licensing Manager be given delegated authority to amend the wording of the conditions as appropriate.

The Legal Advisor informed those present of their right of appeal to the Magistrates' Court and the Right to Review a Premises Licence.
