

LICENSING SUB-COMMITTEE

Monday, 16th April, 2012

Present:- Cllr Tagg – in the Chair

Councillors Cllr Mrs Heames and Cllr Mrs Simpson

1. APPLICATION FOR A PREMISE LICENCE Y2K

The Sub-Committee took into account the Licensing Act 2003 and the guidance issued under Section 182 of the act, the Council's Statement of Licensing Policy and also the fact that the Police and the Environmental Health Department had objected to the application on the basis that to grant the application would undermine the Crime and Disorder and Public Nuisance Licensing objectives.

The Sub-Committee considered that Licensing objective in the light of what had been said and listened to the arguments.

The Sub-Committee took into account that the Police had reached agreement with the applicant over a number of conditions to be attached to the proposed licence that would promote the Licensing objectives.

However, the Committee heard from Environmental Health that at this moment in time the grant of a licence would offend the Licensing objectives. In view of the fact that there had been no material improvement to the ventilation system installed at the premises since the review of the previous licence in 2008.

The Sub-Committee had sympathy for the plight of the applicant and would have like to assist him but the fact remained that the noise associated with activities such as the operation of the extractor fan and smells emitting there from would continue to affect neighbouring residential properties. Evidence to this effect had been given by Environmental Services.

The applicant had again raised the fact that his rights under the Human Rights Act were being breached.

The Sub-Committee had again taken that into consideration and weighed the rights of the applicant, against, those of the general public and concluded that the effect of the nuisance on the public outweighed the loss to the applicant.

The Sub-Committee had also taken into account the control measures referred in the injunction obtained against the applicant and also the fact that Environmental Health regarded the noise and smell issue as a statutory nuisance.

On balance the Sub-Committee was satisfied that the only action which would reasonably promote the licensing objective was for the applicant to replace the extractor fan system in consultation with the Environmental Health Department. Until this was done taking into account that the applicant could give no absolute guarantee that the system would in fact be installed, the Sub-Committee considered that they had no real alternative but to refuse the application.