
OUTCOME OF RECENT COURT APPEAL PROCEEDINGS

Purpose of Report

1. To advise Members of the outcome of recent Court appeal proceedings following a decision made by a Licensing Act Sub Committee.

Information and Analysis

2. The schedule attached as **Appendix 1** to this report give details relating to:
 - a) The determination of the application to vary a Premises Licence by the Licensing Act Sub Committees following the receipt of relevant representations from two "other persons".
 - b) The outcome of a Court Appeal against the decision made by the Licensing Act Sub Committees.

Human Rights Act

3.
 - a) Article 1 of Protocol 1 of the European Convention of Human Rights confers on individuals (and companies) the Right to Peaceful Enjoyment of their Possessions and the Protection of Property.
 - b) When considering matters relating to the grant, revocation, renewal or refusal of licences and the placing of conditions on licences, the Committee must consider whether the decision affects an individual, group or company's Human Rights as set out in the Convention and if it does, whether the interference with those rights is permissible by reason of the justifications set out in the Convention. In addition, consideration must be given to whether the interference is proportionate to the general purpose.
 - c) Article 6 of the European Convention on Human Rights confers on all the right to a fair hearing.

The Appeal Process

4. Appeals against the decision of the Licensing Committee are made to the Magistrates' Courts. The case is heard as a new Hearing, when further information, which was not available to the Licensing Committee, can be considered. The Magistrates, however, sit in the same capacity as the Licensing Committee, must have regard to the Council's Licensing Policy and must not put aside lightly such Policy. A decision of the Magistrates' Courts is final.

Legal Implications

5. This report has been considered by Legal Services for any legal implications in accordance with the Council's approved procedures. There are no issues which Legal Services considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Crime and Disorder Act 1998 Section 17

6. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. Although the prevention of crime and disorder is one of the four licensing objectives this is not a relevant matter in relation to the appeal

Recommendation

7. That Members note the contents of this report.

Richard Alty
Director of Services for Place

Background Papers

There were no background papers used in the preparation of this report.

Appendices

Appendix 1 Sloans, 20-22 Grange Road, Darlington, DL1 5NG

Pam Ross Extension 388647

Name of Premises: SLOANS, 20-22 Grange Road,
Darlington, DL1 5NG

Date of Committee: 10 June 2013

Committee Decision:

Following representations by two other persons, namely 2 local businesses in the vicinity of these premises, Members decided:

- That the application to include dancing in the licensable activities be approved;
- That the application to extend the terminal hour by one hour to permit the sale of alcohol until 02.00 am on Friday and Saturday be refused,
- That the application to extend the terminal hour by one hour to permit the regulated entertainment (recorded music and dancing) until 02.30 am on Friday and Saturday be refused;
- That the application to extend the terminal hour by one hour to permit the premises to stay open until 02.30 be refused;
- That the application to remove the requirement that recorded music should be played at background level only be refused;
- Conditions were also placed on the licence to deal with the four licensing objectives.

Appeal Details: 04 September 2013 at Darlington Magistrates Courts.

Appeal Information: Both the Council and Sloan's were legally represented. Prior to the Appeal both parties had agreed to meet their own costs. The Magistrates heard evidence from the Council's Licensing Manager and from a Director of Sloan's and also their Operations Manager.

Appeal Outcome: The Magistrates allowed the appeal in part only and granted the additional hour every Friday and Saturday for the sale of alcohol and provision of regulated entertainment and the additional hour for the premises opening times on Friday and Saturday also. The application to remove the requirement that recorded music be played at background level only was however refused. This was after the Court heard evidence that licensing officers had visited on 10 August 2013 and, among other things, had found the recorded music being played so loudly that officers had to shout to speak and had to leave the room and find a quieter place to discuss the matter with the duty manager