

## **BATH AND NORTH EAST SOMERSET**

### **LICENSING (GAMBLING AND LICENSING) SUB-COMMITTEE**

Friday, 8th February, 2013

**Present:-** Councillors:- Douglas Nicol (Chair), Gabriel Batt and Gerry Curran

**Also in attendance:** Terrill Wolyn (Senior Licensing Officer), Jonathan Smith (Solicitor, Poppleston Allen Solicitors) and Francesca Smith (Senior Legal Adviser)

#### **1 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

#### **2 ELECTION OF VICE-CHAIR (IF DESIRED)**

**RESOLVED** that a Vice-Chair was not required on this occasion.

#### **3 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **4 DECLARATIONS OF INTEREST**

There were none.

#### **5 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

#### **6 MINUTES: 15 JANUARY 2013**

These were approved as a correct record and signed by the Chair.

#### **7 LICENSING PROCEDURE**

The Chair drew attention to the Review Procedure, copies of which had been made available to those attending the meeting.

#### **8 APPLICATION FOR THE SUMMARY REVIEW OF PREMISES LICENCE FOR BLUE ROOMS, ROYAL YORK HOTEL, 1 YORK BUILDINGS, GEORGE STREET, BATH BA1 2EB**

Applicant for Review: Avon and Somerset Police, represented by Dan Johnson (Solicitor), Inspector Steven Mildren, Detective Inspector Janice Pearson, Detective Chief Inspector Nicholas Papuca, Martin Purchase (Police Licensing Officer)

Licence Holder: Kambiz Shayegan, represented by David Holley (Licensing Agent), Blair Ruddick (Designated Premises Supervisor)

Other Persons: Ian Perkins (The Abbey Residents' Association), Sally Rothwell (Circus Area Residents' Association)

The parties confirmed that they had received and understood the Review Procedure.

The Sub-Committee had received notice before the commencement of the hearing that the Police and Licence Holder had been discussing new licence conditions and might require further time to reach agreement. The Police and the Licence Holder confirmed that this was the case.

Mr Smith asked Mr Holley why his clients had not submitted a representation to today's hearing. Mr Holley replied that his clients were very interested to see what was in the papers, which they had received the previous Monday, 4<sup>th</sup> February. Mr Holley stated that the Licence Holder intended to comment in detail on the allegations at today's hearing.

The Licensing Officer explained that the last day for representations had been 29<sup>th</sup> January and that she had personally delivered all representations received including a DVD of CCTV footage, which was part of the Police evidence, to the Licence Holder on 30<sup>th</sup> January.

Mr Smith said that he had advised the Sub-Committee on the provisions of the Human Rights Act, which would require that the Licence Holder be allowed to make representations in a process that might affect his right to a livelihood. Mr Johnson said that he had no objection to the Licence Holder being allowed to make representations, though he noted that the applicant had scrutinised the minutiae of the representations of the other parties, which he thought was a little unfair and not in keeping with the spirit of the process.

The Sub-Committee **RESOLVED** to adjourn the hearing for 20 minutes to allow discussions between the Police and the Licence Holder to continue.

When the hearing was reconvened, Mr Johnson addressed the Sub-Committee. He said that he was grateful for the granting of an adjournment, which had allowed the Police and the Licence Holder to agree on new licence conditions. He requested that the three Police witnesses be excused from giving evidence, as this was no longer necessary.

Mr Smith asked whether the Other Persons had been involved in discussions. When Mr Perkins said they had not, Mr Smith said that as a matter of law the fact that the Police had agreed conditions with the Licence Holder did not determine the process.

Copies of the proposed conditions were provided to Members and the Other Persons. The Sub-Committee **RESOLVED** to adjourn the hearing again to allow Members and the Other Persons to study them.

When the hearing reconvened, the Chair asked the Other Persons whether they were content with the proposed conditions. Mr Perkins said they were, but had suggested a couple of additional conditions, which the Licence Holder had agreed to accept. Mr Smith said that Members wished to hear the parties state their cases, as they wished to pose a number of questions.

Mr Johnson said that the Police case was simple and concerned acts of violence committed at the premises over the past 6 months and the dealing of Class A drugs at the premises. The Police wished that conditions were imposed on the licence that would ensure effective management of the premises. It was stated that the proposed conditions were intended to replace existing conditions. They were stronger versions of the conditions which exist on the premises licence combined with the conditions imposed at the hearing for the summary review where interim steps were imposed by the Sub Committee. It was stated that a couple of the conditions made mandatory practices that the Licence Holder admitted should be happening already, such as the keeping of a door staff register and an incident book.

A Member noted the first proposed condition, which dealt with CCTV, and recalled that at the hearing of the summary review it had been stated that a new CCTV system had been installed. Mr Johnson confirmed that a new CCTV system had been installed, which met the requirements of the Police and confirmed that the Licence Holder had listened to the views of the Police and been cooperative. However, the condition was intended to strengthen the existing licence condition with respect to CCTV.

Mr Johnson said that the Police wished to amend the proposed condition relating to door staff, so that the 2 additional door staff proposed for Thursdays would commence duty at 00.00. A Member recalled that at the summary review hearing the Sub-Committee had rejected the idea that door staff should commence duty at 00.00, and had been of the view that they should be present from opening to closing. Mr Johnson responded that the amendment recognised that additional door staff were required on Thursdays, but only after 00.00 when people were leaving other premises and there was a need to cope with a sudden influx of new customers.

Mr Perkins stated his case. He said that he was speaking both as Chairman of The Abbey Residents Association and as a resident of George Street. He stated that he witnessed breaches of the licensing objectives by the Blue Rooms on a nightly basis. He stated that it was a large premises and had an important effect on the lives of local residents. He proposed two additional conditions to those proposed by the Police. The first would require the management to clear up mess and litter in a designated area in front of the premises. The second would require the management to have a quarterly meeting with residents to discuss their concerns and provide them with information, to which the Premises Licence Holder had agreed that day.

Mr Smith asked the parties whether they had seen the DVD of CCTV footage. Mr Holley replied that he had not seen it personally, though his client had. Mr Smith asked Mr Perkins whether he thought that there was an effort by the management of the premises to move people along the street and disperse them effectively. Mr Perkins said that he did not think so, and that in fact queue management was worse than at other premises. He stated that the premises were the last licensed premises at the end of the street, so by the time that customers, who had started at the other end of the street, arrived at the premises they had already drunk a good deal. He considered that there appeared to be little attempt to manage queues, and complaints were regularly received from elderly residents passing by who had been forced off the pavement. The issue was one of culture and management issues that were difficult to address through specific conditions.

Mr Smith asked Mr Perkins if residents had concerns about the hours at the premises. Mr Perkins replied that the Blue Rooms had a 24-hour licence, which he was not sure was needed. He stated that there many people living in George Street and the surrounding area, and noise at 2 or 3am was not easy to put up with. He stated that, ideally, premises would not open that late on weekdays. However, having spoken to the Police that day, he would be reluctant to suggest restricting the hours.

Mr Smith observed that it was not proposed to retain the existing condition concerning Pubwatch membership, or the prohibition on regulated entertainment in the sub- basement area after 23.30. Mr Johnson stated that the condition about Pubwatch membership was regarded as aspirational, rather than as enforceable, while the removal of 23.30 terminal hour for regulated entertainment in the basement area should be understood in the light of the new lower capacity limits proposed.

A Member noted that Mr Perkins had only mentioned noise nuisance on weekdays and not at weekends. Mr Perkins responded that though there were noise-limiting conditions for many of the premises in George Street, in practice they proved unenforceable. The Member asked whether noise was associated with students. Mr Perkins thought not, and stated that drinking establishments in George Street were very tribal. He said that students tended to frequent Moles, which did not often impact on local residents but that one major problem experienced by residents was drinkers arriving by train in Bath from Wiltshire and making for the night spots. He stated that such persons tended to be already drunk on arrival in Bath, and it was often difficult to decide on the appropriate moment for police intervention.

Mr Holley stated the case for the Licence Holder. He said that the Licence Holder accepted the conditions that had been proposed by the Police. Members asked whether the Licence Holder would be prepared to accept conditions relating to

- proof of age
- no admission to people under the age of 18 years.
- a dispersal policy
- door staff being outside the premises at certain times to control queues and dispersal
- cleaning in a designated area outside the premises
- membership of Pubwatch
- meeting regularly with local residents

Member asked where the smoking area was located and whether it was possible to avoid customers having to go outside to smoke and then being readmitted. They also asked whether there were gaps in the coverage of CCTV cameras.

Mr Holley wondered whether picking at many small specific issues was the most effective means of improving the situation. He stated that as part of stronger management of the premises a number of customers had recently been asked to leave and some door staff had also been asked to leave. He confirmed that new door staff had been employed and had assisted with the dispersal of customers and that the previous evening a gradual dispersal of customers had taken place. He

stated that a CCTV camera monitored the car park and the basement area, which was below the car park.

Mr Smith asked whether there was a dispersal management and queue management policy. Mr Holley replied that there was, and it had been put into effect the previous evening. Mr Smith asked whether these policies were written down. Mr Holley replied that they were not at present, but this could be easily done. In response to a request from Mr Smith, Mr Holley and Mr Ruddick indicated, on a large-scale plan of the premises, where the smoking area was located. They demonstrated that it was unnecessary to leave the premises in order to smoke.

In response to a question from a Member, they stated that customers should not go to the Broad Street Car Park in order to smoke; there was access to the car park only through a fire exit. Mr Johnson said that the Police would be very concerned about the use of the car park by smokers; it was not well lit and there would be an adverse impact on residents. Mr Perkins said that the de facto smoking area was the area in front of the main entrance to the premises and downstairs in a lobby area. He said that this was a source of noise nuisance and of obstruction inside the premises and door staff appeared to do little to control it.

Mr Smith asked whether the Police had inspected the CCTV system at the premises. Mr Purchase said they had not, but it would be inspected. Mr Smith asked whether the Licence Holder would accept a condition requiring any necessary work to the CCTV system to be completed within 7-14 days. His representatives indicated that they would. Mr Smith asked whether any incidents had occurred at the premises since the summary review hearing. Mr Purchase said that there had been none, but this was only to be expected after a summary review hearing.

The Chair noted that there was a condition prohibiting irresponsible drink offers and asked about 2-for-1 offers. Mr Ruddick said that as far as he knew there had never been a 2-for-1 offer. The only offer now made was that of a spirit or liqueur mixed with a non-alcoholic drink for 99p. Mr Perkins said that concerns about this kind of offer had been expressed in his representation; there was a worldwide concern that alcohol mixed with energy drinks produced intoxication faster. Mr Ruddick said that such a drink would never be sold to anyone who was thought to be irresponsible, but it was a popular drink and 99p was a common price to charge for it.

Mr Smith suggested that if the Sub-Committee was considering the imposition of a dispersal policy it would be helpful to view the DVD of CCTV footage. The DVD was played and Inspector Mildren commented on it. The DVD showed scenes on the street immediately outside the premises comprising the incidents listed on page 194 of the agenda. Mr Perkins commented on the close proximity of residential premises to these incidents. Mr Smith asked whether the incidents were typical or whether they had been selected for effect. Inspector Mildren replied that they had been selected because they related to Police investigations, but in his view they were also typical. Mr Perkins said the incidents shown were in his view "par for the course" and were the kind of thing were frequently seen when representatives of The Abbey Residents Association walked around to observe the night scene.

Mr Ruddick said the film shown of a street fight on 7<sup>th</sup> September 2012 involved local residents as well as customers and that it had been a very difficult situation to

manage, but it was an isolated incident. He stated that the incident had started inside the premises, and if a similar situation was to occur now the presence of door staff inside and outside the premises would make it much easier to contain.

Mr Ruddick said that the Police statistics appeared to show that a very high percentage of incidents were connected with the Blue Rooms, but they had to be put in perspective by understanding that a high number of reported incidents in the summer months would inevitably be associated with the Blue Rooms, because most other clubs in Bath were closed then.

A Member said that he had been interested to hear that recently there had been greater management of customers leaving the premises and wondered whether this task would be easier if customers were advised that readmission to the premises would be at the discretion of management. Mr Ruddick agreed with this. Mr Smith commented on the complete absence of door staff when the fight on 7<sup>th</sup> September 2012 had occurred. Mr Ruddick said that some door staff had gone home because the club had closed and that this would not occur again.

Mr Perkins said that it was clear that people sometimes emerged from the premises in a very drunken condition. Since people did not become drunk all at once, he wondered how this could occur. He suggested that it must be the case that people who were already drunk were served with more alcohol. Mr Ruddick responded that people had different tolerance levels for alcohol and some people could change from one condition to another very suddenly. He said that there used to be staff at the premises who took advantage of the previous layout to serve drinks to customers who should not have been served, but now all staff received training on the effects of alcohol.

The Licensing Officer said that in her view the condition prohibiting regulated entertainment in the basement area after 23.30 should not be removed in the light of a complaint that had been received from the neighbouring hotel. Mr Johnson said that the Police had no objection to it remaining on the licence.

The parties were invited to sum up.

Mr Holley said that the Licence Holder wanted to put matters right. He stated that the Blue Rooms were patronised by older people as well as young people. Two company directors over 40 had written letters of support to the Licence Holder. He hoped that the conditions agreed would address the problems of the past. He certainly believed that the foundations to their resolution had been laid.

Neither the Police nor the Other Persons wished to add to what they had already said.

Following an adjournment, it was **RESOLVED** to modify the premises licence by the imposition of the following conditions:

- A. Conditions proposed by the Police and agreed to by the applicant with some modification which replace existing conditions:

1. CCTV shall be installed to the satisfaction of the Police and maintained in good working order. All cameras shall record continuously during trading hours and for one hour afterwards. The time and date shall be displayed on the recordings. Recordings shall be maintained for a period of 31 days and made available to the Police or Licensing Authority for evidential purposes on request. If the CCTV equipment fails the Police and Licensing Authority must be informed as soon as possible and immediate steps shall be taken to affect a repair. A notice shall be displayed at the entrance to the premises advising that CCTV is in operation.
2. A minimum of 6 Door Supervisors shall be employed on all days from opening to half an hour after closing save for Thursdays when 8 Door Supervisors shall be employed from 00.00 (midnight) to half an hour after closing. One Door Supervisor shall be female and at least one Door Supervisor shall be stationed at the top of the steps. All Door Supervisors employed under this condition shall only perform a security function.
3. CCTV monitors will be watched at all times the premises are open. The person monitoring the CCTV will be SIA trained and registered and will be in radio contact at all times the premises are open with a member of Door staff and will report any illegal activity they see to the Door Supervisor,
4. Checks will be made of the male and female toilets on the premises every 15 minutes by Door Supervisors while the premises are open, a written record of such checks will be maintained at the premises and will contain the name of the person carrying out such check this record will be made available to the Police and Licensing Authority on request.
5. A register will be kept on the premises showing the full name, full SIA badge number, time on duty and time off duty of each Door Supervisor. The register will be retained for 12 months and made immediately available for inspection by the Police or Licensing Authority.
6. An incident book shall be maintained at the premises which all incidents of crime and disorder and any ejections by Door Supervisors shall be recorded. The incidence book shall be completed on a daily basis regardless of whether any incidents have taken place. The incident book shall be retained on completion for 12 months and shall be made available to the Police and Licensing Authority immediately on request.
7. A Personal Licence Holder shall be at the premises during all opening hours
8. A capacity limit of 300 persons will be maintained with no more than 100 persons using the sub-basement area.
9. Upon leaving the premises there will be signage advising that persons do so quietly.
10. A phone service to local taxi services will be offered and persons will be asked to remain the foyer of the premises until the taxi arrives.

11. All staff will be trained every three months in matters concerning illegal drug use and sale of alcohol to persons under 18 and to persons who are intoxicated and records kept of such training. The records will be made available to the Police or Licensing Authority on request. Any new members of staff shall be trained in accordance with this condition and within two months will have attended and completed the Award in Responsible Alcohol Retailing (or equivalent)
12. There will be no entry or re-entry to the premises after 2.00 am each morning.
13. All persons entering the premises will be searched for drugs, weapons or other illegal items on both entry and re-entry.

B. Additional New Conditions

14. Patrons will only be permitted to smoke in the area designated "outside area" on the plan with drawing number 1234/L0018.
15. Patrons leaving the premises through the entrance lobby shall be permitted to re-enter only at the discretion of the management up to 2.00 am on all days that the premises are open to the public.
16. No persons under the age of 18 shall be permitted to enter the premises on all days that the premises are open to the public.
17. The Premises Licence Holder shall devise a dispersal and queuing policy with the Police which shall be operational on all days that the premises are open to the public. The policy must include the provision that those Door Supervisors who remain on duty outside for half an hour after the premises close to the public to wear high visibility jackets.
18. All litter and associated debris shall be cleared away at the frontage of the premises from the boundary outside the premises to Bar Revolution and the junction with George Street and Broad Street on closing on all days that the premises are open to the public.
19. All bar staff shall attend and complete accredited training in the Award in Responsible Alcohol Retailing (or equivalent) within two months of the date of this decision.
20. The Premises Licence Holder shall complete all recommendations made in the Crime Prevention Report within 28 days of the date of this decision.
21. The Premises Licence Holder shall arrange quarterly meetings with representatives of the Circus Area Residents Association and The Abbey Residents Association, or their successor organisations, and the Police unless they are not required by the Residents 'Associations.

C. Existing conditions to remain on the Premises Licence

22. Regulated entertainment on the Basement Floor (entry level) shall cease at 23.30 hours each day.

23. Premises shall be member of any organisation that exists locally to assist in safer bars, clubs and the circulation of information from one Premises to another.

Authority was delegated to the Licensing Officer to issue the licence accordingly.

The Chair advised the Licence Holder that the Sub-Committee had been so concerned about poor management at the premises that it had seriously considered removing the Designated Premises Supervisor.

## **REASONS**

Members have today determined a full review of a premises licence, following a summary review, of The Blue Rooms, 1 York Buildings, Bath.

In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Home Office Guidance on Summary Reviews, the Council's Policy and the Human Rights Act 1998.

A hearing was held on 15 January 2013 in order for the Sub Committee to consider what interim steps should be taken pending the full hearing. The Sub Committee determined to take interim steps by imposing additional conditions on the premises licence, with immediate effect, in order to ensure that the management and operation of the premises could be immediately improved in light of the representations made by the Police on serious crime.

Members also considered today if some, or all, of those additional conditions remain on the premises licence as part of their consideration of the review.

The review has been held on the basis of concerns of serious crime and serious disorder in respect of drug dealing on the premises and violence. Arrests had been made and charges laid in the Magistrates' Court. Since the hearing on the interim steps some of the defendants had been convicted.

The Members took into account all of the relevant oral and written representations made by the parties which also included a DVD as part of the Police evidence. They listened carefully to the representations made by the parties and were careful to balance their competing interests.

The Premises Licence Holder had not made any relevant representations but the Members considered that he should be permitted to speak as he had the right to a fair hearing. Members were very concerned with the evidence presented by the Police which showed a pattern of crime and disorder associated with the premises in the form of assaults, serious violence, thefts, very drunk persons entering and leaving the premises, lack of control of patrons entering and leaving the premises, noise and other anti-social behaviour such as vomiting in the street.

Whilst Members noted that there was some duplication in the Police records, and disregarded evidence where it was repeated. They considered that the evidence indicated that the Designated Premises Supervisor had not taken his responsibilities seriously as he should have and did seriously consider removing him as the Designated Premises Supervisor. The Police and the Premises Licence Holder had come to an agreement on the imposition of a number of conditions which were designed to replace the existing conditions on the premises licence.

Members also took into account the relevant representations from the Residents' Associations who had stated that their residents experienced noise, crowding outside the premises which could be intimidating for their members, anti-social behaviour, vomiting, drunkenness and shouting in the street by patrons; all of which could be directly attributed to the Blue Rooms.

They noted that both Police and Licensing Enforcement Officers had conducted visits to the premises since the interim steps were imposed and had found that the Premises Licence Holder had fully complied with these additional conditions.

Members were pleased to note the improvement in the operation of the premises in the last four weeks and the agreement between the Police and the Premises Licence Holder. They considered that the Premises Licence Holder had clearly demonstrated that he could operate the premises in a responsible manner. They also noted that the residents did not request a reduction in the hours at this stage. Members therefore did only what was appropriate and proportionate to promote the licensing objectives in light of the representations made to them today.

Members did seriously consider revoking the premises licence as the Designated Premises Supervisor had stated that the premises were not being managed.

However, they took into consideration the proposed conditions and those already in existence on the premises licence together with the interim steps taken.

They therefore decided to modify the conditions of the licence by imposing all of the conditions proposed by the Police and agreed by the Premises Licence Holder, with some modification, together with additional new conditions and the retention of two conditions already on the premises licence.

In their reasons for the decision on the interim steps they decided not to suspend the licence but do want to send a strong message that the supply, use and possession of drugs will not be tolerated and repeat that statement today.

The meeting ended at 2.48 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**



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