



LICENSING SUB-COMMITTEE

MEETING : Tuesday, 20th October 2015

PRESENT : Cllrs. McLellan, Llewellyn and Hansdot

Officers

Vikki Fennell, One Legal

Lisa Jones, Food, Licensing and Markets Manager

Richard Barnett, Licensing and Enforcement Officer

Tony Wisdom, Democratic Services Officer

Also in Attendance

For the Applicant

Andrew Woods, Solicitor, Bar Fever

Nigel Blair, Commercial Director, Fever Group

Hayley Johnson, General Manager, Bar Fever

Jimmy Elias, Operations Manager, Bar Fever

Mark Griffiths, Counsel, Gloucestershire Constabulary

David Macfarlane, Licensing Manager, Gloucestershire Constabulary

Mark Mansfield, Licensing Officer, Gloucestershire Constabulary

APOLOGIES : None

1. ELECTION OF CHAIR

Councillor McLellan was appointed Chair for the meeting.

2. INTRODUCTIONS AND PROCEDURES

Those present introduced themselves and the Chair outlined the procedure which would be followed.

3. DECLARATIONS OF INTEREST

No declarations were made on this occasion.

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4. APPLICATION UNDER SECTION 34 OF THE LICENSING ACT 2003 BY BAR FEVER (GLOUCESTER) LIMITED, TO VARY A PREMISES LICENCE FOR 83-85 EASTGATE STREET, GLOUCESTER, GL1 1PN

The Licensing Authority

The Licensing and Enforcement Officer presented his report which detailed an application by Bar Fever (Gloucester) Limited to vary a Premises Licence in respect of 83-85 Eastgate Street, Gloucester.

He outlined the application and drew Members' attention to the following:-

- the variation requested set out in paragraph 3.5 of the report;
- non-standard timings to licensable activities set out in paragraph 3.6 of the report;
- the representation made by Gloucestershire Constabulary attached as Appendix 4 to the report;
- supporting information supplied by Gloucestershire Constabulary which had been circulated;
- the Special Policy in respect of Eastgate Street and the surrounding area detailed at Page 40 of the agenda pack.

There were no questions of the Officer.

The Applicant

Andrew Woods, Solicitor for the Applicant, advised that the Applicant was seeking to vary the existing licence to permit an extra hour of alcohol sales on Friday and Saturdays.

He advised Members that the premises had recently received Best Bar None Accreditation and had been assessed by PC Mansfield.

He stated that the Applicant had an excellent relationship with the Police and was very much aware of the Special policy applicable to the Eastgate Street area.

He noted that the Police representation referred to the requested variation as "relatively minor". He believed that it was minor and could not and would not add to Crime and Disorder as venue capacity was fixed, the same number of people or fewer would remain on the premises. By remaining open until 04.00 there would be a more gradual dispersal of patrons.

He referred to the Police reference to a "knock-on effect" but he noted that Members were required to determine each application on its merits so the outcome of this application would have no bearing on other applications.

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He referred to the comparative schedule of premises, capacity and closing times circulated by the Police and noted that should members be minded to grant the application, Fever would still not be the latest premises to close as Liquid could sell alcohol until 04.30 and closed at 05.00. The variation applied for would separate Fever from the dispersal of patrons from other premises.

He believed that Police resources were not a valid ground to refuse the application and he noted that the Police had indicated that extended hours would be acceptable on up to twelve occasions in one year providing seven days notice was given to them.

He asked that in the event of the Sub-Committee being minded to refuse the application as submitted that consideration be given to granting this, although if the twelve nights would not add to Crime and Disorder he questioned how any other nights could do so. He asked Members to take this into account in their deliberations.

He stated that Fever catered for an older crowd many of whom had asked to stay later and the Applicant would like to be able to keep them for a further hour which would also aid gradual dispersal at closing time.

The Applicant was aware of the list of incidents that had been circulated by the Police but he noted that many referred to refusals of entry or ejections from the premises. He stated that the second incident on the list referred to had included a reference to the fact that door supervisors had declined to give statements. The General Manager refuted this statement as Fever worked with the Police.

He stated that the 'minor' application was for well-run premises that had successfully operated Temporary Events Notices throughout the time that the present General Manager had been in post (4 years).

There were no questions of the Applicant by the Licensing and Enforcement Officer or the Police.

In answer to a question by Councillor Llewellyn, Mr Blair confirmed that the variation in hours requested was effectively an increase of thirty minutes in the opening hours.

In answer to questions by the Chair Mr Blair stated that Fever had worked hard on their dispersal policy. Staff would ensure that patrons had dispersed from both the front and rear of the premises. Water was available and where appropriate assistance was rendered to get people home safely.

Mr Blair stated that there was currently no set time for last admissions but indicated that a condition stating that there was to be no admission after 03.00 would be acceptable to the Applicant. He advised that customers would be vetted to ensure that they were not intoxicated prior to admission.

He explained that a clicker system was operated to control the number of patrons going in and out of the premises and this was monitored by the General Manager on a half-hourly basis.

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The Chair asked what time the premises closed when Temporary Events Notices (TENs) were in operation. The General Manager advised that TENs had been granted for six occasions this year until 03.30 although sale of alcohol generally stopped at 03.00.

The Responsible Authorities

Mark Griffiths, Counsel for Gloucester Constabulary, stated that the application was a minor but material variation for a premises with a capacity of 400 patrons and was therefore significant. He stated that there would be a cumulative impact as Eastgate Street was the epicentre for such an impact and referred to paragraph 3.16 (Page 41) of the Licensing Policy Objectives at Appendix 5.

He noted that the Special Policy had been in place for a number of years and had created a rebuttable presumption that any applications for new premises licences, club premises certificates or material variations will normally be refused.

He believed that the substance of the application was to provide an opportunity for patrons to consume alcohol for another hour and the Applicant had failed to rebut the natural consequence if people were to continue to consume alcohol for another hour.

The quality and character of the Applicant was not in dispute neither was the fact that the Applicant works well with the Police.

The representation had stated that the Police would accept up to twelve TENs per year but the Police had not been aware that the Applicant would be prepared to accept this.

He stated that the Applicant had failed to discharge the legal burden to prove that patrons who had left the premises would not add to Crime and Disorder in the area.

He believed that the application could not succeed as there was no evidence to rebut the presumption.

The Food, Licensing and Markets Manager advised that she had checked the dates of TENs against the dates of incidents at Fever provided by the Police and only three incidents had been recorded on two dates.

The Applicant had no questions of the Police.

Summing Up – Police

Mr Griffiths accepted that the knock-on effect and police resources were not relevant to the determination of the application and he accepted that the premises operated well.

He did not accept the argument that the increase in hours would spread dispersal of patrons in the area.

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In conclusion, he said that there was no reason for the application and no evidence to over-ride the special policy.

Summing Up - Applicant

Mr Woods stated that this was not a court hearing but like every other licensing hearing where evidence was presented in a ten to fifteen minute presentation.

He stated that there was one clear point – the Applicant had operated TENs without causing problems. When a TEN was applied for, the application was served on the Police who were apparently not aware of these applications and who had never objected to a TEN application by Fever.

He reiterated that his evidence was given in discussion at the hearing.

He noted that there were incidents recorded which actually represented door staff helping to reduce the cumulative impact in the area by refusing admission.

His evidence of the bar being a well operated premises was provided by the Best Bar None accreditation.

In conclusion, Fever served an older crowd who wished to stay longer so the Applicant had requested an extra hour's drinking with an extra half hour on the closing time.

The Chair and Members of the Sub-Committee withdrew to determine the application. Upon their return, the Chair read the Sub-Committee decision as follows:-

The Sub-Committee has considered the application made under Section 34 of the Licensing Act 2003 for a variation of a Premises Licence held by Bar Fever (Gloucester) Limited, 83-85 Eastgate Street, Gloucester, GL1 1PN. 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, the Sub-Committee has determined:-

To ACCEPT the application and modify the contents of the licence, by adding the following condition that "There will be no admission after 03.00hrs."

The Sub-Committee has found that the Licensing Objectives are satisfied and the conditions imposed on the licence will ensure that the licence meets these objectives.

The Sub-Committee has duly considered the special policy in relation to cumulative impact and in this case does not believe that varying the hours of the licence as applied for will not add to the issues which the policy seeks to address.

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The Responsible Authorities are reminded that should the Applicant fail to meet the Licensing Objectives then the licence can be subject to review at any time.

Both parties are reminded that there is a right of appeal to the Magistrates' Court within twenty-one days.

Time of commencement: 6.15 pm hours

Time of conclusion: 7.25 pm hours

Chair