



LICENSING SUB-COMMITTEE

MEETING : Monday, 25th April 2016

PRESENT : Cllrs. Randle, McLellan and H. Norman

Officers

Gill Ragon, Head of Public Protection

Lisa Jones, Food, Licensing and Markets Manager

Rebecca Tuck, Licensing Enforcement Officer

Matt Cloke, Environmental Protection Officer

Tony Wisdom, Democratic Services Officer

Also in Attendance

David McFarlane, Gloucestershire Constabulary

Mark Mansfield, Gloucestershire Constabulary

Jenny Stevenson, Gloucestershire Constabulary

APOLOGIES : None

1. ELECTION OF CHAIR

Councillor Norman was elected chair of the meeting.

2. DECLARATIONS OF INTEREST

No declarations were made on this occasion.

3. INTRODUCTIONS AND PROCEDURES

The Chair, Members and Council Officers present introduced themselves.

Gloucestershire Constabulary was represented by David McFarlane, Mark Mansfield and Jemma Stevenson.

The Applicant, Avni Duka was represented by his solicitor, Kieron Griffin of Griffin and Dee.

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4. APPLICATION UNDER SECTION 34 OF THE LICENSING ACT 2003 BY AVNI DUKA TO VARY THE PREMISES LICENCE FOR PICTUREDROME THEATRE, 162-166 BARTON STREET, GLOUCESTER, GL1 4EU

Licensing Officer's Report

The Licensing Officer presented the report which detailed an application by Avni Duka to vary an existing premises licence in respect of the Picturedrome Theatre, 162-166 Barton Street, Gloucester.

She drew Members' attention to the variations requested by the Applicant which were detailed at paragraph 3.5 of the report.

Two representations had been received from Responsible Authorities, Gloucestershire Constabulary and the City Council Environmental Protection Officer. She reported that the Applicant had agreed to accept the measures proposed by the Responsible Authorities.

She advised that 69 representations had been received from Other Persons together with three petitions containing 337 signatures.

She summarised the legal implications detailed at Section 6.0 of the report and drew Members' attention to Paragraph 6.9.

Neither the Applicant nor the Responsible Authorities had any questions of the Officer.

Councillor Randle asked for clarification of the hours requested for Thursdays and she was advised that the premises would close at midnight.

The Applicant's Representative

Mr Griffin advised that he had become involved with this application at a late stage.

He noted that Mr Duka had agreed readily to the proposals of the Responsible Authorities including closure at 01.00hrs and as result the application now represented only a modest change to the existing premises licence.

Works had already been started to comply with the proposals including noise attenuation measures.

He noted that there had previously been four public houses in the vicinity. The Blenheim, the India House and the Vauxhall Inn had all closed leaving One-Eyed Jack's as the only other licensed premises in the locality.

The premises for which the variation had been applied for had always been licensed and Mr Duka had taken over an existing premises licence. He had considerably improved the appearance of the building.

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In conclusion, he believed that it would be difficult to sustain an objection to this application in a locality where there were only two licensed premises and there had historically been four.

There were no questions from the Responsible Authorities.

Councillor McLellan referred to the description of the premises as a café bar and asked if the premises would be used as a nightclub.

Mr Griffin responded that it was not intended to use the premises as a 24 hour nightclub but to provide a venue for local trade and parties.

Councillor McLellan noted that some premises had an automatic cut out device which turned off the sound system if the volume exceeded a specified level. He asked if it was intended to install such a device.

He was advised that the noise alleviation measures required by Environmental Protection would be implemented and the Applicant would discuss the matter further with Environmental Protection. He was also advised that the car park was not part of the licensed premises and security staff would be available to guide people.

Councillor Randle was advised that the CCTV cover of the surrounding streets was not good and she questioned whether security staff would be adequately insured to undertake duties off the premises. Councillor Randle asked if the Applicant was prepared to pay the extra insurance premium to insure the security staff in those circumstances.

Mr Griffin advised that this was a matter that the Applicant would have to investigate and he confirmed that the Applicant would meet the requirements of the Police regarding dispersal arrangements.

Councillor Randle was advised that during 2015 there had been four occasions when complaints of noise emanating from the premises had been received:- 24 December, 28 February, 10 March and 9 April.

Mr Mc Farlane advised that the police were aware of twelve incidents since October 2015 of which three had resulted in Police attendance. During that period nine Temporary Event Notices (TEN) had been issued for the premises.

TENs had been issued on the following dates 30 May; 5 December; 24 December (3 calls); 31 December (1 call) 30 January; 13 February; 27 February; 27 March (large incident); 16 April (1 incident).

Councillor McLellan was advised that Environmental Protection had received no complaints in the current year.

The Applicant noted that in many incidents the noise was emanating from the car park and not from his premises.

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Mr McFarlane advised that Police from Wiltshire had had to attend the incident on 27 March. The Applicant advised that the incident had occurred in Vauxhall Street not on his premises.

Mr McFarlane noted that the incident could not be attributed directly to the premises and noted that a barbeque had been set up in the car park with over 100 people congregated within in the car park.

Councillor Randle was advised that the incident had been timed at 04.00hrs and the TEN was until that time.

Other Persons

Councillor Sajid Patel, a City Councillor for Barton and Tredworth, stated that local residents had only become aware of the application at very short notice,. He believed that the production of seventy representations and 337 signatories to the petitions was an indication of the depth of concerns of local residents.

He noted that Barton and Tredworth was one of the most densely populated areas in the County. Two residential streets adjoined the premises and it was not situated within the Special Policy Area and therefore should not be treated as such.

He did not believe that application promoted the four licensing objectives. He had seen children attending parties at the premises and residents were unable to sleep due to loud music and noise even with windows closed.

He expressed concerns regarding crime and disorder together with public safety as there had been some serious incidents outside the venue.

He asked if the licence holder could be trusted to abide by the rules as parties in the venue had gone until 03.00 and 04.00 hours.

He noted that the police had considered it to be 'extremely likely' that crime and disorder and anti-social behaviour would increase if the hours were extended.

He said that there had been instances of anti-social behaviour in the early hours of Saturdays and Sundays and existing conditions were regularly breached.

He stated that this was having a negative impact on residents and he called on the Sub-Committee to reject the application and to review the existing licence.

Mrs Phelps, who lived opposite the premises and owned properties in the vicinity stated that there had only been problems in past three years. She had welcomed the changes that Mr Duka had made to the frontage but she believed that the premises had gone downhill. She had made dozens of complaints including smoking on the premises, fighting and noise.

On occasion she had had to leave her home at 11.00pm and sleep elsewhere due to the noises and disturbance.

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She played a recording to demonstrate the noise levels inside her flat with the windows closed and advised the Sub-Committee that tenants had left her property due to the noise.

She had complained both at Christmas and Easter and stated that on one occasion a female was knocked unconscious as the Applicant looked on. On one occasion six police vehicles and ten police officers had been in attendance and she asked if that level of attendance could be afforded.

Mr Hashim Norat, who had been born in Gloucester and had been in business for 30 years. He ran a convenience store that was open from 04.00 – 20.00 hours. The premises had been an off-licence but he had discontinued alcohol sales as he hadn't realised the impact on the community.

He advised the Sub-Committee that he had called the police on Christmas Eve at 04.00hours when he had experienced foul and threatening language.

On one occasion fifteen police vehicles had been in attendance at the location and he questioned both the cost to the taxpayer and the impact on the availability of officers to deal with other crimes.

He believed that a mistake had been made in granting the licence and he asked the Sub-Committee not to make another by granting hours until 03.00hours.

Mary Badat of Blenheim Road was representing residents of that locality. She stated that it was a densely populated residential area and the nearest home was ten metres away from the premises. The applicant did not abide by the hours already permitted and loud music could be heard at a distance of 200 metres.

She had to sleep with her windows closed due to disturbance from the Vauxhall Car Park. On occasions, children were woken at 03.00 and Police were called at 04.00. Night workers were afraid to use the Car Park and music continued until 05.00 hours.

She noted that the Applicant had had the opportunity to work with the Police and City Council to reduce the nuisance.

Mr Saeed Ahmed, a resident of the locality, totally objected to the application and referred to incidents in the Car Park which appeared to be treated as an extension of the licensed premises. He asked if the designated smoking area was part of the car park and Councillor Randle illustrated the area on a site plan.

He believed that the access to the premises from the car park should be examined and mobile CCTV should be installed there.

Mr Mohaddis Mulla advised that everything he had wished to say had been covered by previous speakers.

Councillor Said Hansdot, a City Council Ward Member for Barton and Tredworth, noted that public houses used to close at 22.00hours and believed that even opening until midnight was already detrimental to the local community.

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He believed that the premises were not being policed properly and he called for the Special Policy Area to be extended to include Barton Street as the local community wanted the business to be run in a proper manner.

Councillor McLellan was advised that complaints had been received by the Police on three occasions when a TEN was in place and on nine occasions without a TEN. He was advised that Ward Members were not informed of TENs in their Wards.

Mr McFarlane noted that the Police could not attribute incidents in the car park to the licensed premises which was why no action had been taken against the premises in the past.

The Licensing and Enforcement Officer noted that the holder of a Premises Licence could apply for up to fifteen TENs in a year and applications were sent to the Police and Environment Protection so they could object if necessary.

Mr Hashim Norat asked the Sub-Committee to take into account that the streets were narrow and access for emergency vehicles could be hampered by parked cars.

Licensing Officer's Summing Up

The Licensing and Enforcement Officer outlined the options available to the Sub-Committee set out at paragraph 2.1 of the report and drew Members' attention to the court case detailed at paragraph 6.

Summing Up on behalf of the Applicant

Mr Griffin noted that the Sub-Committee had heard some impassioned comments but he reminded Members that the business had improved a dead and derelict building.

He was working with the Responsible Authorities to address issues. The Club had been there a long time and the variation requested represented a modest increase in permitted hours and if policed correctly the issues would be overcome.

The business brought trade to the community and Mr Griffin noted that a nearby supermarket had alcohol on sale for twenty four hours a day.

Mr Duka would ensure that the premises complied with the imposed conditions or would risk losing his licence, the Responsible Authorities would have no problems if the conditions were complied with.

Mr Griffin reminded Members that the Applicant was not responsible for what happened in the Car Park and he believed that all four licensing objectives were met by the application before the Sub-Committee otherwise the police and Environmental Protection would not have withdrawn their objections.

Decision

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The Chair, Members and the Solicitor retired to consider their decision.

Upon their return, the Chair read the following statement:-

The Sub-Committee has considered the application made under Section 34 of the Licensing Act 2003 for a variation of a Premises Licence for the Picturedrome Theatre, 162-166 Barton Street, Gloucester. 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 set out in the report, the Sub-Committee has determined to reject the whole of the variation application with the exception of the change of name of the premises.

The Sub-Committee believes that the application for a variation fails to promote the licensing objectives, in particular, the prevention of public nuisance and the prevention of crime and disorder.

It feels that, on the balance of probabilities, the anti-social behaviour and the public nuisance complained of will increase as evidenced by the problems experienced by local residents on numerous occasions.

On three separate occasions where the premises were using Temporary Event Notices there were serious incidents of anti-social behaviour and this is evidence to the Sub-Committee that there is a direct correlation between an extension to the hours of the premises and an increase in anti-social behaviour.

This is a built up and densely populated area, outside the special policy Area and therefore the Sub-Committee is mindful of the amenity of local residents.

All parties are reminded that there is a 21 day right of appeal to the local Magistrates' Court.

Time of commencement: 6.15 pm
Time of conclusion: 8.20 pm

Chair