

LICENSING SUB-COMMITTEE

MEETING : Tuesday, 8th November 2011

PRESENT : Cllrs. Hansdot, Toleman and Field

Officers

Tony Moseley, Licensing Enforcement Officer

Gill Ragon, Group Manager, Environmental Health and Regulatory Services

Lisa Wilkes, Food Safety and Licensing Service Manager

Steve Isaac, Solicitor

Also in Attendance

5. ELECTION OF CHAIR

Councillor Paul Toleman was elected as Chair.

6. INTRODUCTIONS AND PROCEDURES

The Chair introduced the Members of the Sub-Committee and Officers in attendance and asked the Applicant and Responsible Authority (Police) to introduce themselves at the appropriate time.

He then explained that following the presentation of the Officer's report, the Applicant would have an opportunity to present their case followed by the Responsible Authority. There would be an opportunity for questions following each of the above stages before each party had an opportunity to sum up with the Applicant being last to speak. Members of the Sub-Committee would then withdraw to consider their decision.

In addition to the Members of the Sub-Committee and Council officers in attendance the following were present:

Applicant:-

Mr Stephen Turley

Mrs Christine Turley

Responsible Authority (Police):-

PC Andy Cook, Licensing Manager, Gloucestershire Constabulary

Mr Paul Trott, Solicitor, Gloucestershire Constabulary

Sargent Lovell, Gloucestershire Constabulary

Mr David Lewis, Licensing Officer, Gloucestershire Constabulary

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7. DECLARATIONS OF INTEREST

There were no declarations of interest.

8. APPLICATION UNDER SECTION 34 OF THE LICENSING ACT 2003 IN RESPECT OF LIBERTYS SPORTS BAR AND HI JINKS SOFT PLAY CENTRE, 114-118 EASTGATE STREET, GLOUCESTER, GL1 1QT

A. The City Council's Report

The Licensing and Enforcement Officer presented a report on the application for a variation of a premises licence made under section 34 of the Licensing Act 2003 for 114–118 Eastgate Street, Gloucester GL1 1QT, received from Mr Stephen Michael Turley and Mrs Christine Joanne Turley. The application requested an extension of the hours for the provision of regulated entertainment, the retail sale of alcohol and the provision of late night refreshment in respect of Libertys Sports Bar and Hi Jinks Soft Play Area. It also requested that the closed door policy on New Years Eve be removed.

Members were advised of two corrections to the report. The Ward which the application related to was 'Westgate' and not 'Barnwood'. Paragraph 6.3 should have referred to Section 3, 4, 5 and 6 i.e. reference to Section 4 had been omitted in 6.3.

The site comprised an American style sports bar/diner featuring a bar, a separate hot food servery and fixed seating, with a large soft play area for children connected to it with a small refreshment counter.

The following variations to licensable activities were requested:

The Provision of regulated entertainment

- Films – a new terminal hour of 04.00 everyday
- Live Music from 10.00 until 04.00 everyday
- Recorded Music - a new start time of 09.00 and a new terminal hour of 04.00 every day.
- Performance of Dance – a new terminal hour of 04.00 everyday
- Anything of a Similar Description (to music or dance above) – a new terminal hour of 04.00 everyday
- Provision of Facilities for Dancing – a new terminal hour of 04.00 every day.

The Provision of Late Night Refreshment

- 23.00 until 05.00 everyday

Sale by Retail of Alcohol

- A new terminal hour of 04.00 everyday

It was requested that a condition referring to a closed door policy on New Year's Eve be removed.

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The Operating Schedule

The Licensing and Enforcement Officer drew the Sub-Committee's attention to sections of the Applicant's Operating Schedule which were to be ignored as they related to 'Hi Jinks' and confirmed that Members only needed to consider variations to the licensable activities for **Libertys Sports Bar**.

The Applicant had completed Box 'K' referring to the provision of entertainment facilities of a similar description to dancing from 10.00 until 21.00 every day. This was also to be disregarded as the existing licence covered this activity. The Applicant had set out in Section 'P' of the operating schedule measures which were already in operation to promote the four licensing objectives and which formed part of the comprehensive set of conditions attached to the existing licence.

The Licensing and Enforcement Officer reminded Members that they were being asked to **agree the extension of licensing hours for regulated entertainment and sale of alcohol from a terminal hour of 1 am to 4 am**, seven days a week. The Applicant was also requesting if the 'closed door' policy for New Year's Eve could be lifted to enable customers to go in and out.

Representations

Only one representation had been received from an Interested Party or Responsible Authority and that was from Gloucestershire Constabulary relating to three of the licensing objectives. The Police had also made reference to the 'Special Policy' for Eastgate Street contained within the Council's current Licensing Policy Statement. Members noted that this was the first occasion on which the "Special Policy" had been invoked. The Police acknowledged that the applicant was a responsible proprietor, but felt that if the application was granted there would be a detrimental effect on an area already suffering from alcohol related crime and disorder. The Police wanted the Sub-Committee to reject the application, but in the event of it being accepted they had asked for two specific conditions to be imposed relating to alcohol only being served with "substantial food" beyond midnight and only to those who had booked a taxi/private hire with a non-refundable £5 deposit. The Licensing and Enforcement Officer reminded Members that any conditions attached to the licence needed to be achievable, relevant and enforceable.

Licensing Policy Statement, Special Policy and Home Secretary's Guidance

The Licensing and Enforcement Officer explained the significance of pages 10 to 13 of the Council's Licensing Policy Statement which dealt with the issue of cumulative impact and the "Special Policy" in respect of Eastgate Street and how this created a 'rebuttable presumption'. Members were further advised that they should consider the case on its individual merits and their attention was drawn to paragraphs 3.18 to 3.21 and 3.23 to 3.24, in particular.

In conclusion, having considered the application, any relevant representations, the legislative provisions, the Council's Licensing Policy Statement and the Home Secretary's Guidance, Members had the following options as considered necessary to promote the Licensing Objectives:

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- (a) To accept the application and attach conditions as consistent with the operating schedule.
- (b) To accept the application and modify the conditions of the licence which includes altering, omitting or adding new conditions.
- (c) To reject the whole, or part of the application.

The Licensing Objectives were:-

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance;
- (d) the protection of children from harm.

Neither the Police nor the Applicants had any questions to ask of the Licensing and Enforcement Officer.

B. THE APPLICANT'S ADDRESS

Mrs Turley read out a prepared statement on behalf of Mr Turley. The statement referred to their experience of 25 years in the trade and the fact that they were active Members of the LVA and participated in the Council's Evening Economy Group. The problems in Eastgate Street were acknowledged, but were felt to occur either at the door or outside. Being the last bar in Eastgate Street their customers were frequently at their worst by the time they got to Libertys. The food promotions they currently offered were outlined as well as the internal taxi booking service which they already managed. The Police did not want them open until 4 am because that was the time their shift pattern changed.

Further clarification was sought on the definition of a 'substantial meal'. The £5 non-refundable taxi/private hire fee was felt to be unworkable and would put staff in a difficult position. They were aware of the late night levy coming into force in January 2012 and if the licensing extension was not granted they would need to close early to avoid having to pay the levy. In conclusion, they felt they had done all they could as socially responsible licensees and were keen to work with street pastors, Police, and first aiders to make Libertys a safe place and to help prevent crime in Gloucester.

QUESTIONS FROM THE RESPONSIBLE AUTHORITY TO THE APPLICANT

Query on the licensing extension request, 4 am not 3 am?

Response - trying to be responsible and prepared to settle for a 3 am licence for alcohol.

Substantial Meal Definition. Surprised that the Applicant thought the definition was 'vague' as it had been around for a number of years.

Response – still need clarification. Not sure if this meant a plated meal or a slice of pizza.

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Because premises are at the end, customers don't get there until the end of the night. Query whether bar would be closed by the time people got there.

Response – Could look at other markets. Don't want to do drinks promotion as that will fuel problems. Will need to get customers in before midnight because of late night levy.

Had the applicant taken account of the Eastgate Street policy and the need to offer a different business experience to that of a night club?

Response – intention to break cycle of drinking. Trying to be socially responsible and help police by providing safe environment.

QUESTIONS FROM MEMBERS TO THE APPLICANT

Was the venue all seated at all times?

Response – majority of space allocated for seating - 130 seats, standing room at bar, area for dance floor.

Food ordering and service

Response – ordered at the bar and delivered by a waitress.

Query on taxi/private hire booking service/concern about people waiting outside

Response – explained that there was an internal booking system and that as their number came up the taxi was waiting outside. It was not felt enforceable to book taxis for customers as soon as they came in as the Police had requested as one of the conditions for granting the extension.

C. ADDRESS BY THE RESPONSIBLE AUTHORITY (POLICE)

Mr Paul Trott, Solicitor, addressed the Sub-Committee and outlined details of the representation as set out in Appendix E to the report.

He reminded Members that they had recently reviewed and renewed the licensing policy which included the 'Special Policy' for Eastgate Street. Normally, matters were neutral but the policy put the 'boot on the other foot'. There would be an adverse effect and the applicant had yet to show how he was going to overcome that presumption. Mr Trott had not seen the Applicant's Operating Schedule. He acknowledged that the Applicant had come up with some ideas, including the taxi ordering system, but he had not seen any details of staffing arrangements to show how the late hours would be accommodated. The "Special Policy" put the onus on Mr Turley to show that the extension would not have a negative effect. The City Council's policy referred to diversification of premises, but this application did not add anything different and the Sub-Committee should reject it as 120 people would be vertically drinking. Mr Trott concluded his statement by reminding the Sub-Committee that the "Special Policy" required them to decide if the applicant had produced evidence to allow them to depart from their policy. The Police did not believe this was the case.

PC Andy Cook, Licensing Manager for Gloucestershire Constabulary addressed the Sub-Committee and explained the detailed graphs and pie-charts showing crime statistics for Gloucester City and Eastgate Street in particular. PC Cook said there

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was a strong link between violent crime and alcohol. The graphs for Eastgate Street illustrated a surge in criminal activity in the early hours of Saturday and Sunday mornings. Police research confirmed the need for a "Special Policy" to include Eastgate Street and the Council was right to retain it. There was a massive problem in Eastgate Street.

QUESTIONS FROM THE APPLICANT TO THE RESPONSIBLE AUTHORITY (POLICE)

What constituted an 'incident'?

Response – (PC Cook) Anything drawn to the Police's attention needing their intervention. Usually this came via a phone call, but not exclusively. Could come from a variety of sources. Sometimes via Club radio or the Camera Room. Occasionally raised by officers themselves. Many were not recorded and were dealt with and logged in the pocket book. (Sargent Lovell) The Police radio was congested on Friday and Saturday nights and there was more reliance on the Pubwatch radio where licensees reported matters which did not get recorded as 'incidents'.

QUESTIONS FROM MEMBERS TO THE RESPONSIBLE AUTHORITY (POLICE)

Whether this was the first bar that wanted to stay open until that hour?

Response – 28 were open all day, 26 open at night. Nightclub trade stayed open until 4 or 5 am.

One of the graphs showed a fall in crime why was this?

Response – There had been a steady fall and this was attributed to the Special Policy which helped to cap the problem. However, the figures were starting to climb again.

Whether one premises staying open until 4 am would make any difference

Response – Any premises in the street staying open until 4 am would make a significant difference. The premises would go from a family venue to a late night bar allowing customers to have freedom to drink and go back out on the street.

Query on official incidents and those not recorded

Response – A lot of matters were not recorded. The public did not always report things and Police dealt with issues on the spur of the moment. Incidents were only created when Police asked for back up.

Query on 'significant difference' and the impact this would have

Response – Difficult to predict. Figures were available for TNT but the Police would not suggest using that as a barometer as every premises was individual.

Whether having another premises open until 4 am would spread revellers more thinly and help matters

Response – there was a cumulative effect caused by the close proximity of the bars and footfall with everyone leaving at the same time. This would not help. There would be more alcohol consumed and more footfall. Application should be refused. Mr Turley himself had referred to incidents caused by customers turning up at his bar 'tanked up'. The geographical location of Libertys meant it was the last in the Street before customers reached nightclubs such as Liquid and Interaction, resulting in a

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concentration of people in one place.

Query on whether the Police had any objection to the lifting of the 'closed door' policy on New Year's Eve

Response – (Solicitor Paul Trott) No objection to this, as it was only those matters where they had made representations, they were considering.

Query on whether TNT had licence until 4 am

Response – Only until 3 am. Acknowledged that Mr Turley was one of the better managers and helped the Police but still unable to support licensing until 4 am.

D. CLOSING STATEMENTS

Licensing and Enforcement Officer

The Licensing and Enforcement Officer reminded Members of their powers, the Licensing Act, the City Council's Licensing Policy Statement, the Home Office Guidance and outlined the options open to them.

The Responsible Authority (Police)

Mr Paul Trott said that Eastgate Street was a hotspot for crime and disorder as had been illustrated in the charts provided in their representation. 15% of crime had been recorded in one street. Violent crime was high. This was not the time for the Council to depart from its "Special Policy". The Council had originally granted the licence believing it was going to offer something different. The Council would be reducing diversity and adding to the problem by granting the extension and offending against the special policy and the rebuttal policy. The Applicant's only justification for the extension was that the current operating hours were not profitable. The Applicant had other options but preferred to 'cash in'. The Council ran the risk of adding to the costs of disturbances and should reject the application.

The Applicant

Mr Turley objected to the phrase 'cashing in'. He would be losing money. Taxis and doormen all cost money and it would be easier to make money early on in the evening. The Taxi service would help the City. He concluded by saying he would like the Police and authorities to help them and would invite them inside the venue. He was trying to work with the Police.

RESOLVED

APPLICATION UNDER SECTION 34 OF LICENSING ACT 2003 TO EXTEND THE HOURS FOR THE PROVISION OF REGULATED ENTERTAINMENT, THE RETAIL SALE OF ALCOHOL, AND THE PROVISION OF LATE NIGHT REFRESHMENT AT LIBERTYS SPORTS BAR

The Sub-Committee members considered the facts, representations from the Police and the applicant, the Council's Licensing Policy Statement including its "Special Policy" on Cumulative Impact Area in Gloucester City, Home Office Guidance issued under Section

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182 of the Licensing Act 2003 and caselaw

THE SUB-COMMITTEE DETERMINED

To **accept** the application to vary the licence but with the following conditions: -

CONDITION 1

All licensable activities to cease at 3 am except for late night refreshments.

CONDITION 2

Customers should be encouraged to wait inside the premises for a taxi or private hire.

CONDITION 3

All other conditions as per the existing licence to apply to this variation.

CONDITION 4

All other matters applied for in the application to vary and not objected to by the Police are to apply.

REASONS

1. No objections have been received from residents or businesses in the vicinity to the application
2. In accordance with 3.21 of the Special Policy, Members considered that 2 extra hours for licensable activities were unlikely to add significantly to the Cumulative Impact on the licensing objectives by making it any worse. Whilst Members considered the Special Policy, the Policy is only a guideline and this case has been decided on its individual merits, as provided for in the Policy.

Time of commencement: 09:30 hours

Time of conclusion: 12:10 hours

Chair