

LICENSING APPLICATIONS SUB-COMMITTEE 1 MINUTES - 1 NOVEMBER 2016

Present: Councillors Woodward (Chair), Dennis and Vickers.

15. MINUTES

The Minutes of the meeting of Licensing Applications Sub-Committee 2 held on 7 July 2016 and Licensing Applications Sub-Committee 1 held on 19 July 2016 were confirmed as correct records and signed by the Chair.

16. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE, ISLAND PIZZA AND GRILL, PIPERS ISLAND, CAVERSHAM BRIDGE, READING

The Head of Planning, Development and Regulatory Services submitted a report on an application by Reading Borough Council for a review of the premises licence in respect of Island Pizza and Grill, Pipers Island, Caversham Bridge, Reading.

The report stated that the Reading Borough Council Environmental and Nuisance Team had requested the review of the Premises Licence, outlining numerous incidents of public nuisance that had taken place on the premises since 2014. The report stated that the application provided details of incidents that had generally occurred between 2300hrs and 0400hrs. It stated that the noise being generated from the premises was so severe as to warrant a noise abatement notice being served on the premises licence holder on 21 December 2015. The application stated that further noise nuisance had occurred in August 2016 on more than one occasion which was arguably a breach of the noise abatement notice. The application also raised significant concerns about the management of the premises and the lack of effective noise monitoring between the hours of 2300hrs and 0400hrs.

The report stated that the application sought revocation of the premises licence as the only definitive means of promoting the licensing objectives, or if the Sub Committee was not minded to revoke the licence then the applicant sought the removal of all live and recorded music from the licence, the removal of the exemption to play live music between 0800hrs and 2300hrs under Section 177A of the Licensing Act 2003 and the removal of the Designated Premises Supervisor due to his lack of control over the noise issues discovered at the premises and his poor management in breaching the licence conditions and the noise abatement notice.

The report stated that supporting representations from Thames Valley Police and Reading Borough Council's Licensing team had been received, which outlined concerns in regard to crime and disorder at the venue and licence conditions consistently being breached.

A copy of the review application was attached to the report at Appendix RF-1.

A copy of the representations received from Reading Borough Council's Licensing Team and Thames Valley Police were attached to the report as Appendix RF-2 and RF-3 respectively.

A plan showing the location of the premises and surrounding streets was attached to the report at Appendix RF-4

The report stated that the Premises Licence Holder was Reading Island Bar Ltd and the Designated Premises Supervisor was Mr Omar Yucel. The current Premises Licence, a copy of which was attached to the report at Appendix RF-5, permitted the following:

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Hours for the Performance of Live Music

Sunday - Thursday from 1800hrs until 2400hrs
Friday-Saturday from 1100hrs until 0100hrs

Live Music shall be permitted outdoors between 0900hrs and 2100hrs Monday to Sunday only. It shall be unamplified and for one hour a day only.

Hours for the Playing of Recorded Music

Sunday - Thursday from 1100hrs until 2400hrs
Friday-Saturday from 1100hrs until 0100hrs

Hours for the Performance of Dance

Sunday - Thursday from 1800hrs until 2400hrs
Friday - Saturday from 1100hrs until 0100hrs

Hours for the provision of Late Night Refreshment

Sunday - Thursday from 2300hrs until 2400hrs
Friday - Saturday from 2300hrs until 0100hrs

Hours for the Sale by Retail of Alcohol

Sunday - Thursday from 1100hrs until 2400hrs
Friday - Saturday from 1100hrs until 0100hrs

That the terminal hour for all licensable activities on New Year's Eve be extended until 0400hrs on New Year's Day

Hours the Premises is Open to the Public

Sunday - Thursday from 1100hrs until 2400hrs
Friday - Saturday from 0900hrs until 0100hrs

The premises still benefited from the exemption to play live music between 0800hrs and 2300hrs as per the provisions in the Live Music Act 2012 and the exemption stated at Section 177A of the Licensing Act 2003.

The report stated that in determining the application the Licensing Authority had a duty to carry out its functions with a view to promoting the four licensing objectives, as follows:

- The prevention of crime and disorder
- public safety
- The prevention of public nuisance
- The protection of children from harm

The report stated further that in determining the application the Licensing Authority must also have regard to the representations received, the Licensing Authority's statement of licensing policy and any relevant section of the statutory guidance to licensing authorities. Further, in determining the application the Licensing Authority could take such of the following steps as it considered appropriate and proportionate for the promotion of the licensing objectives:

- Take no further action
- To issue formal warnings to the premises supervisor and/or premises licence holder

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- Modify the conditions of the licence (including, but not limited to hours of operation of licensable activities)
- Exclude a licensable activity from the scope of the licence
- Remove the designated premises licence supervisor
- Suspend the licence for a period not exceeding three months
- Revoke the licence

(Where the Sub-Committee took a step mentioned in the third and fourth bullet points above it may provide that the modification or exclusion was to have effect for a period not exceeding three months or permanently.)

The report set out paragraph 2.14 of Secretary of State's Guidance, Section 182 of the Licensing Act 2003 (March 2015), which stated that the Act enabled licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It was therefore important that, in considering the promotion of the licensing objective of preventing public nuisance, licensing authorities and responsible authorities focused on the effect of the licensable activities at the specific premises on persons living and working in the area around the premises which might be disproportionate and unreasonable.

The report also set out paragraph 9.12 of Secretary of State's Guidance which stated that in their role as a responsible authority, the police were an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police had a key role in managing the night-time economy and should have good working relationships with those operating in their local area.

The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but might also be able to make relevant representations with regard to the other licensing objectives if they had evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority had evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remained incumbent on the police to ensure that their representations could withstand the scrutiny to which they would be subject at a hearing.

Mr Omar Yucel, Director of Island Pizza and Grill Ltd was present at the meeting and addressed the Sub-Committee and was represented by Mr Jon Payne, Solicitor, who addressed the Sub-Committee on behalf of the premises licence holder.

Peter Narancic, of Reading Borough Council's licensing team was present at the meeting and addressed the Sub-Committee on the application. Jodie Wilson, of Reading Borough Council's environmental protection (noise) team and PC Simon Wheeler, Thames Valley Police, were present at the meeting and addressed the Sub-Committee on the application.

Resolved -

That having reviewed the Premises Licence in respect of Island Pizza and Grill, and having had regard to the licensing objectives for the prevention of crime and disorder and the prevention of public nuisance and the oral and written representations made, the Secretary of State's guidance (in particular paragraphs

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9.12, 10.29, 10.30, 11.1, 11.17, 11.18 and 11.20, and paragraphs 10.5.1 and 11.11.2 of the Council's Statement of Licensing Policy the Sub-Committee has concluded that it would be appropriate and proportionate for:

- i) the premises licence to be suspended for 14 days;
- ii) the current Designated Premises Supervisor to be removed.

That Section 177A of the Licensing Act 2003 did not apply to conditions 1 and 3 imposed after a licensing authority hearing referred to on page 102 of the report, or to condition 4 imposed after a licensing authority hearing referred to on page 101 of the report; and

That the following additional conditions be imposed:

1. A written noise control policy shall be adopted. Any amendments to this policy will be submitted to the Council prior to implementation and shall take account of any written advice from the Council and Police. A copy of the policy shall be kept on the premises and shall be made available to the Council and Police on request;
2. Sound emanating from the premises as a result of regulated entertainment shall not exceed 45dB L[A]_{eq[15 min]} as measured 1 metre from the façade of any residential building. The Premises Licence holder shall be responsible for any such measurement and it shall be undertaken by a recognised and competent contractor;
3. A sound limiting amplifier shall be installed at the premises and all music played shall be filtered by the system. The level of the limiting amplifier shall be set to achieve the above condition, or other level as agreed with the Council. Any equipment shall be approved by the Council.

The Sub-Committee's reasons were:

- The Sub-Committee felt that the Premises Licence Holder would benefit from a period which could be used to implement systems which would enable him to meet all the licensing conditions
- The warning letters sent from the Council had not been heeded
- The fact that the service of the Noise Abatement Notices had not resulted in any appreciable improvement
- The fact that the Licence had been reviewed previously
- The fact that the Council and Police had held a performance review meeting on 6 May 2015, which had no appreciable effect on performance
- The repeated breaches of conditions.

(The meeting started at 5.00pm and finished at 8.50pm)

Present: Councillors Woodward (Chair), Dennis and Grashoff.

17. APPLICATION FOR A TEMPORARY EVENT NOTICE - ISLAND PIZZA AND GRILL

The Director of Environment and Neighbourhood Services submitted a report on an application by Mrs Elina Evans for the use of a Temporary Event Notice (TEN) in respect of Island Pizza and Grill, Pipers Island, Caversham, Reading.

The report stated that the Premises currently had a Premises Licence in force. The Premises Licence had been reviewed on 1 November 2016 (Minute 16 refers) and the Sub-Committee resolved to suspend the licence for 14 days and impose additional conditions. A decision from the Premises Licence Holder as to whether they would appeal the decision was still awaited. If the Premises Licence Holder proceeded with an appeal the conditions attached to the Premises Licence by the Sub-Committee on 1 November 2016 would not apply to this TEN. A copy of the current Licence was attached to the report at Appendix RF4.

The report stated that the application was for the use of a Temporary Event Notice to extend the permitted hours of the Premises Licence to permit the sale of alcohol and the conduct of regulated entertainment and the provision of late night refreshment from 1800 hours on 13 January 2017 until 0100 hours on 14 January 2017 and from 1700 hours on 14 January 2017 to 0200 hours on 15 January 2017. A copy of the Temporary Event Notice application form was attached to the report at Appendix RF1.

Representations objecting to the application had been received from Reading Borough Council's Environmental Protection and Nuisance Team, and was attached to the report at Appendix RF2, and Thames Valley Police, which was attached to the report at Appendix RF3. During the hearing the applicant, Mrs Elina Evans, reported that she only required a TEN for the evening of 14 January 2017 and not the full period that had been applied for. The relevant persons (Environmental Protection and Thames Valley Police) confirmed that their objections remained even if the event was for one evening only.

The report stated that in considering the representation received, the Licensing Authority had a duty to carry out its functions with a view to promoting the licensing objectives.

The report also set out the relevant sections on Temporary Event Notices from the Council's Licensing Policy (paragraphs 10.10.1 to 10.10.4) and Secretary of State's guidance (paragraphs 7.32 to 7.39 and paragraph 9.12).

Mrs Elina Evans, the applicant, was present at the meeting and addressed the Sub-Committee on the application.

Jodie Wilson, Senior Environmental Health Officer, Reading Borough Council and PC Simon Wheeler, Thames Valley Police, were present at the meeting and addressed the Sub-Committee on the objections raised.

Resolved -

That, having regard to the oral and written representations made by the parties, the Secretary of State's guidance and the Council's statement of licensing policy, the Sub-Committee decided to serve a counter notice to the Temporary Event Notice as the Sub-Committee had no confidence that the premises would keep to their conditions and that they would not be able to promote the licensing

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objectives of the prevention of crime and disorder and the prevention of public nuisance and these licensing objectives would be undermined if the Temporary Event Notice were to go ahead because:

- (a) in relation to the prevention of crime and disorder licensing objection, there had been a history of violence, mismanagement, overcrowding and lack of security when Temporary Event Notices had been granted previously;
- (b) in relation to the prevention of public nuisance licensing objective, the premises had a history of non-compliance of licence conditions linked to noise nuisance.

(The meeting started at 3.38 pm and finished at 4.35 pm)