

Minutes

Licensing/Appeals Sub-Committee Tuesday, 18th October, 2016

Attendance

Cllr McCheyne
Cllr Mrs Middlehurst

Cllr Newberry

Officers Present

Paul Adams	-	Principal Licensing Officer
David Carter	-	Environmental Health Manager
Dave Leonard	-	Licensing Officer
Chris Pickering	-	Principal Solicitor
Jean Sharp	-	Governance and Member Support Officer
Heather Ziervogel	-	Environmental Health Officer

178. Appointment of Chair

The Sub-committee resolved that Cllr McCheyne should chair the meeting.

179. Administrative Function

Members were respectfully reminded that, in determining the matters listed below, they were exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matter would be determined on the facts before the Sub-committee and the rules of natural justice would apply.

180. Declarations of Interest

There were no declarations of interest.

181. Licensing Act 2003 - Application for a Premises Licence: 236 Hutton Road, Shenfield, CM15 8PA

The report before Members provided information of an application for a new premises license in respect of **236 Hutton Road, Shenfield CM15 8PA**.

Members were requested to determine the application having regard to the operating schedule, the representations received, the Council's Statement of Licensing Policy and the four Licensing objectives.

This application was received on 23 August 2016 from Mr Kinnear in respect of 236 Hutton Road, Shenfield CM15 8PA.

The applicant described the premises as a restaurant and bar which was located in a high street style shopping parade with occupied residential flats above and was directly opposite Shenfield Railway Station.

The applicant sought a premises licence for the provision of the following licensable activities for the following hours;

Sale of alcohol;

08:00hrs-23:30hrs Sunday-Thursday and
08:00hrs-01:00hrs Friday & Saturday.

Live Music & Recorded Music, Performance of Dance & Anything Similar;

12:00hrs-00:00hrs Monday-Saturday and
12:00hrs-23:00hrs Sunday

Late Night Refreshment

23:00hrs-23:30hrs Sunday-Thursday and
23:00hrs-01:00hrs Friday & Saturday

Seasonal Variations

On the following days the permitted hours might be extended for an additional hour; Thursday, Friday, Saturday & Sunday of the Easter weekend. Friday, Saturday & Sunday of both May Bank Holidays & the August Bank Holiday, Christmas Eve & Boxing Day. Burns Night, Valentine's Day, St David's Day, St Patrick's Day, St George's Day, St Andrew's Day & Halloween provided that day is not followed by a normal working day. On New Year's Eve from the end of permitted hours until the start of permitted hours on the following day.

Opening Hours

08:00hrs-00:00hrs Sunday-Thursday
08:00hrs-01.30hrs Friday & Saturday

A set of conditions was proposed by the applicant in the operating schedule. The application was brought before the licensing sub-committee for determination following representations by responsible authorities (Essex Police and the Council's Environmental Health department) and following representations by local residents. Following discussions with the Police prior to the hearing, the Police withdrew their representation due to the acceptance

by the applicant of a condition relating to operation of a Challenge 25 age verification policy.

The sub-committee first heard from the licensing officer who outlined his report. The sub-committee then heard from the Council's Environmental Health (noise control) officer who outlined concerns regarding the running of a bar run by the applicant which was situated immediately next door to the applicant business. The sub-committee was informed that the neighbouring business was currently being prosecuted for breach of noise abatement notices but was informed by the applicant's solicitor, Mr Dadds, that this prosecution was being defended with vigour.

The sub-committee then heard from an objector, Mrs Holland. Following questioning from Mr Dadds, Mrs Holland informed the sub-committee that she was related to the landlord of the neighbouring business, Hollands Wine Bar, and she accepted that the Holland family had fallen out with the applicant over the running of that business. Mr Dadds submitted that the Holland family opposition to the current application related to disagreements relating to the landlord relationship with the applicant from the neighbouring business rather than anything to do with the applicant business.

The sub-committee then heard from Mr Dadds on behalf of the applicant. Mr Dadds quickly summarised the written documents contained in the agenda documents and responded to the other objections to the application. Mr Dadds highlighted the fact that this was a new application and as such it should be considered on its own merits. Mr Dadds drew the sub-committee's attention to para 1.17 of the Home Office's s182 guidance in support of this submission.

Mr Dadds submitted that there could not be crime and disorder concerns as the police had withdrawn their representation after discussions with the applicant. He also submitted that Hollands Wine Bar was a low crime establishment which was "not on the police's radar".

The sub-committee asked questions of the parties throughout the hearing and after offering all parties the opportunity to sum up their respective positions the sub-committee then retired to consider their decision and returned a short while later to deliver it.

Sub-committee members considered in detail the written and oral submissions and evidence put before them. The sub-committee noted that while this was a new application, it noted the detailed information presented to it by the Council's Environmental Health officer regarding the adjacent business which was controlled and run by the applicant. The sub-committee noted in particular the concerns regarding noise from the adjacent business and the submissions from Environmental Health regarding an earlier closing times for the applicant premises as a result.

The sub-committee noted the applicant's solicitor's submissions and volunteered conditions to deal with any potential issues and these were accepted by the sub-committee. The sub-committee still had concerns regarding the potential for noise nuisance as highlighted by environmental health however. The sub-committee resolved to grant the application with the

addition of the 'Challenge 25' age verification policy to conditions as listed on page 31 of the agenda (set out below) with the following variations:

- Para 8 shall be amended to include a condition that the removal of tables and chairs from the outdoor area and the closure of the outdoor area shall be included in the 22:00 deadline for the closure of the front of the premises (provided that the applicant is granted a pavement permit from the Council's licensing team). This condition was volunteered by Mr Dadds as a way to control potential noise emanating from the premises
- A para 10 shall be added with a requirement to install double entrance doors and for these doors to be closed from 22:00. Those doors shall be fitted with automatic closure devices. This condition was also volunteered by Mr Dadds as a way of lessening the noise emission from the front of the premises
- To alleviate any concerns regarding potential noise issues and to provide for a staggered closing time from the adjacent premises, the sub-committee decided to make minor amendments to the operating hours of the business as follows:

Sale of alcohol, live music, performance of dance and late night refreshment:

08:00 – 23:00 Sunday to Thursday

08:00 – 00:00 (midnight) Friday & Saturday

Opening Hours:

08:00 – 23:30 Sunday to Thursday

08:00 – 00:30 Friday & Saturday

The seasonal variations submitted on page 7 of the agenda were accepted by the sub-committee.

Listed conditions:

1. The Premises Licence holder shall ensure that a digital CCTV system shall be installed, operated and maintained at the premises. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The system shall continually record in real time at all times whilst the premises are open for licensable activities and customers are present.
2. The Premises Licence holder shall ensure that a staff member who is conversant with the operation of the CCTV system shall be on the premises at all times when open to the public. This staff member must be able to show the police or other Responsible Authority recent data or footage with the absolute minimum of delay.
3. The Premises Licence holder shall ensure that all recordings made by the CCTV system shall be kept securely stored for a minimum of 31 days.

Recordings shall be made available to an authorised officer or a police officer upon lawful request (subject to the Data Protection Act 1998).

4. The Premises Licence holder shall ensure that a log book for all incidents, accidents and emergencies shall be maintained. This book shall include the following information and will be available upon lawful request to the police or other Responsible Authority;

- a) All crimes reported to the venue
- b) All ejections of patrons
- c) All refusals of service
- d) Any complaints received
- e) Seizures of drugs or offensive weapons
- f) The full name of any person who has been involved in dealing with any of the above matters.

5. The Premises Licence holder shall ensure that when licensable activities are permitted beyond 00:00, SIA registered door supervisors shall be deployed from 21:00. When so employed, a door supervisors register shall be kept in which door staff shall sign to record their start and finish times along with their full name and SIA badge number.

6. The Premises licence holder shall ensure that staff engaged outside the entrance to the premises shall wear high visibility jackets or vests.

7. The Premises Licence holder shall ensure that, except for ingress and egress, the front door, back door and opening frontage of the licensed premises shall remain closed during the performance of licensed entertainment.

8. The Premises Licence holder shall ensure that The opening frontage of the licensed premises shall be closed and remain so from 22:00 until the beginning of licensable activities the following day.

9. The Premises Licence holder shall ensure that alcohol shall be served in toughened glasses where appropriate.

10. The premises shall operate a Challenge 25 age verification policy. Any person who appears to be under the age of 25 shall be asked to produce photographic identification to prove they are 18 or over. Failure to produce will result in service being refused. Acceptable forms of photographic identification include:

- a) Passport,
- b) Photocard Driving Licence,
- c) Photographic ID bearing the 'PASS' hologram.

