

Licensing Sub-Committee
Thursday, 8 July 2021

Present: Councillor Buston*, Councillor Harris*, Councillor Hogg*

Substitutes: None

*attended remotely

59. Appointment of Chairman

RESOLVED that: Councillor Buston be appointed Chairman for the Sub-Committee meeting.

60. Declarations of Interest

Councillor Hogg declared a non-pecuniary interest, by virtue of the fact that he was the holder of a licence issued under the Licensing Act 2003 on behalf of a registered charity.

61. Minutes of the previous meeting

RESOLVED that: the minutes of the meeting held on 9 March 2021 were a correct record.

62. Variation of a premises licence – Atik, Colchester High Street

Kate Pearsall, Licensing Enforcement Officer, attended the meeting to present the report. The Sub-Committee considered a report inviting it to determine an application which had been made under the Licensing Act 2003 to vary the premises licence in respect of the premises known as Atik, High Street Colchester. The application was to be determined by the Sub-Committee as the result of relevant representations having been received from local residents, the Colchester Civic Society and the Dutch Quarter Residents Association during the statutory consultation period. Essex Police had confirmed that they had no objections to the application, and Colchester Borough Council's Environmental Protection Department had not made a representation as they had agreed additional licence conditions with the applicant, and which were contained within the report. Prior to the hearing, the applicant had agreed to reduce the hours for licensable activities which had been applied for, and documentation was before the Sub-Committee, and all interested parties, detailing

the changes. The Sub-Committee was advised of the options which were available to it when determining the matter.

Johnathan Smith of Poppleston Allen Solicitors, represented the applicant and addressed the Sub-Committee. The Sub-Committee heard that the application they were being asked to determine was to vary the hours for licensable activities in respect of premises known as Atik, which had a long history of being operated as a licensed venue. The application had initially been to extend the hours for licensable activities until 04.00am, seven days a week, with seasonal variations until 06.00am but the hours which were now being requested had been amended to reduce them. Documentation summarising the reduced hours had been presented to all parties prior to the meeting, and the hours applied for, for all licensable activities were:

02:00 Mondays (except for first Monday of Freshers Week - 04:00)

03:00 Tuesdays (as existing)

03:00 Wednesdays

04:00 Thursdays to Saturdays

01:00 Sundays (except for first Sunday of Freshers Week - 04:00)

05:00 Bank Holiday Sundays and Christmas Eve, St Patrick's Day, Halloween and Boxing Day

New Year's Eve - end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day (as existing)

Start of British Summertime - +1 hour (as existing)

Conditions had been agreed with Colchester Borough Council (the Council's) Environmental Health Officer, and these were set out in the officers report, including the closure of the smoking area at 03.30am, and the monitoring of closed circuit television (CCTV) cameras.

The Sub-Committee heard that the premises classed itself as a night club, and the variation had been applied for to ensure that its hours of operation matched those of other local bars and takeaway food establishments. The hospitality industry had been particularly badly hit by the Coronavirus pandemic, and needed to recover. The General manager of the premises had been employed there for six years, and was a member of the local Pub Watch scheme. The hours during which licensable activity was permitted at the premises had been extended by way of a variation three times in the past, and no concerns had been raised by the environmental health officer of the Council or Essex Police in respect of these extensions.

The premises had extended its hours by way of Temporary Event Notices (TENS) on various days of the week in the past and no objections had been received to these from either Environmental Services or Essex Police.

The premises manager was aware of two complaints received from local residents over the past few years, one in relation to the time that trade waste was being collected from the premises, and the other about the use of the smoking terrace.

There were routinely up to fourteen members of door staff working at the premises, searching all patrons as they entered, and a robust dispersal policy was in place. At least three door staff monitored the front of the premises during the period in which it was shutting down for the night, and a member of door staff was also stationed at the top of East Stockwell Street, which was the street which led into the town's Dutch Quarter. Monitoring had been carried out at the previous weekend and the Sub-Committee was informed that after 12.30am on Friday night, no patron from Atik had walked down East Stockwell Street, while on Saturday two people had walked down East Stockwell Street. Two members of door staff also acted as taxi marshals on the taxi rank on the High Street, and would do so during extended hours if the application was to be granted.

Although the licence holder was not aware of any complaints having been received from local residents, they were happy to provide a contact number which could be telephoned in the event of any issues arising as a result of the operation of the premises, and would also facilitate meetings with residents and local hoteliers every 6 months.

The hours which were being sought were no greater than other premises operating in Colchester, and the attention of the Sub-Committee was drawn to the opening hours of other local venues.

The Sub-Committee sought assurance that should the variation be granted this would not result in additional journeys taking place throughout the high street, with the potential for disturbance that this could encourage. Assurances were given that it was intended that the longer hours would serve to hold patrons in the venue and prevent additional journeys in town. The management team of the premises were in regular contact with the local police licensing officer, as well as other licensed venues in the area to discuss any issues which were experienced, and a good relationship was maintained with Essex Police.

It was pointed out to the applicant that although they had highlighted the opening hours of other licensed venues in the town centre, the Council's own policy required the Sub-Committee to judge each application on its own merits, and the opening hours of other venues could not be used as a reason to grant or refuse an application. Although the applicant had contended that very few complaints had been received from local residents over the previous few years, the Sub-Committee noted the volume of representations which had been received in respect of the application, raising concerns about the licensing objectives, including the prevention of crime and disorder and prevention of public nuisance.

The applicant considered that the application was supported by the fact that the premises had run under extended hours using TENS in the past with no issues, and additionally the fact that no responsible authority had raised any representations in respect of the application, suggesting that there were no issues with how the venue

traded. Of key importance to the operation of the premises was the robust dispersal policy and mechanisms which were enforced to minimise disruption as much as possible. It was confirmed that the member of door staff stationed at the top of East Stockwell Street would be instructed to patrol up and down the street should the variation be granted.

Dimitri Murray, representing the Dutch Quarter Association attended the meeting to address the Sub-Committee. He was surprised that Essex Police had made no representation in respect of the application, citing a number of instances when he believed that the police had been called to disturbances at Atik. The most serious of these was in 2018 when a large scale brawl had taken place outside the premises which had required the imposition of a dispersal order. The Dutch Quarter had grown in size as commercial building within it had been converted for residential use, and Mr Murray did not consider that any public benefit to extending the hours of the premises had been demonstrated, considering that providing more alcohol to patrons was the cause of issues in the town centre. He noted that Atik was considerably the largest venue in Colchester town centre, and therefore considered that its' patrons would be the largest contributor to anti-social behaviour in the town centre. The Sub-Committee heard that residents of the Dutch Quarter had no front gardens, and properties were close together bordering the street with single glazed windows, and late night disturbances therefore had a greater impact on residents than may be the case elsewhere in the town. He welcomed the circulation of a contact phone number to residents.

The applicant noted that although concerns had been raised with regard to disturbances at the premises, the police were duty bound to have made a representation in respect of the application if they had any issues with what had been applied for. The Council's Statement of Licensing Policy recognised that there was benefit in providing a range of activities and experiences in the night time economy, and it was considered that in this respect Atik did provide a benefit to the town, as young people and students liked to go to a night club to dance. It was considered that the objections which had been made to the application were very general in nature, and were in relation to the situation in the town centre as a whole, without really ascribing any specific issues to Atik as an individual premises. The Sub-Committee were reminded that any decision that it made was required to be based on evidence which was associated directly with the premises.

RESOLVED that: the application to vary the premises licence, as amended by the applicant at the hearing, and held by CC Stim UK Tradeco 3 Limited in respect of the

premises known as Atik, 131 High Street, Colchester, CO1 1SP; be granted subject to the following additional conditions:

1. The premises licence holder will provide a contact telephone number for the duty manager to the Dutch Quarter Association, and ensure that the telephone is answered during the hours that the premises are open for business.
2. The premises licence holder will offer and host meetings with local residents at least every six months, (or quarterly if requested by residents) to discuss any issues that may have arisen.

Reasons for the determination

In reaching its decision, the Sub-Committee carefully examined all the documents submitted, and the representations received from local residents, and it considered the submissions that were made during the hearing. The Sub-Committee took notice of the fact that although concerns had been raised around crime and disorder issues, Essex Police had not made a representation in respect of the variation application.

The Sub-Committee noted that the applicant had responded to the representations received and the concerns raised by voluntarily reducing the hours originally applied for. The Sub-Committee was encouraged by the applicants offer to extended patrols of door management and security staff in East and West Stockwell Street within the Dutch Quarter.

The Sub-Committee wishes to remind residents of their right to call any premises licence for review if it can be demonstrated that issues are associated with any premises. When considering a premises licence via the review process, the Licensing Sub-Committee would remind residents that it has extremely wide ranging powers to modify, or revoke, a premises licence to ensure that the licensing objectives are both promoted and upheld.