

LICENSING SUB-COMMITTEE HEARINGS

20 MAY 2011

Present :- Councillor Barrie Cook (Chairman)
Councillors Michael Lilley and Ann Quarrie

1. Membership

Councillor Cook was appointed as Chairman for the meeting.

2. Declarations of Interest

There were no declarations of interest.

3. Minutes

The minutes of the meetings held on 11 March and 4 April were confirmed as correct records.

4. Applications under the Licensing Act 2003

The Head of Environmental and Protective Services submitted a report in relation to the following application for determination by the Sub-Committee, in accordance with the provisions of the Licensing Act 2003.

a) Liquid/Envy

The Sub-Committee considered an application for the variation of a premises licence in respect of Liquid/Envy to extend the hours of the licensable activities at the premises and to remove conditions from the premises licence.

In Attendance

Applicant: Mr Smith, Solicitor for the Applicant; Mr Price, Designated Premises Supervisor; and Mr Gorrie, Luminar Leisure
Officers: Mr Daines, Protective Services Manager; Mr Samuels, Legal Services; Ms Tuthill, Committee Services Assistant (Licensing); Mr Weavers (Legal Services Manager & Monitoring Officer), Mrs White, Committee Services Officer (Licensing)
Ward Councillors: Councillor Barlow and Councillor Spyvee
Interested Parties: Mr Murray, Dutch Quarter Association

Mrs White, Committee Services Officer (Licensing) briefly introduced the application advising that representations had been received from local resident, the Dutch Quarter Association and Ward Councillors. Mr Smith outlined the background to the application which sought not only to extend the hours for licensable activities on Sundays to Thursdays but also to amend and remove duplicated conditions, old public entertainment licence applications and Dispersal Procedure conditions.

Mr Smith requested that the application as submitted be amended to remove the requested extension of hours on Mondays, Wednesdays and Sundays. The hours on these days would remain unchanged. Mr Smith also asked that consideration be given to the granting of an additional 30 occasions on which the premises could open until 03.30 with licensable activities until 03.00. The applicant undertook to give notice to the Police and Licensing Authority of these events which it considered would provide it with increased flexibility, it was noted that these events would not take place on Sundays. In response to a question by the Chairman, Mr Smith responded that he could not guarantee that temporary events would not also be used alongside the 30 flexible occasions.

In seeking to remove a number of conditions on the licence, Mr Smith explained that the night bus had not been very successful and he circulated statistics on its use which indicated that at the stop outside Liquid/Envy, between two and eight people had got on the bus on each of the evenings that had been monitored. Mr Smith contended that the money that currently was used to fund the night bus could be used to fund other initiatives such as making a donation to the work of the SOS bus if it could be demonstrated that there was a need to do so. It was proposed to provide a Taxi Marshall from 02.30 for the extra hours that the premises were open. On Saturday a Marshall would be provided from midnight. Mr Smith indicated that sufficient notice would be given of the cessation of the night bus to enable the bus company to give the correct notice to decommission the route.

In response to the letters of representation the Sub-Committee was informed that six temporary events had taken place recently until 03.00 with the premises closing at 03.30. The Police had consulted their records and found there had been no increase in crime and disorder on those occasions. It was hoped that by extending the hours, more patrons would be encouraged to remain in the club and this would assist in helping to reduce migration between premises and resulting disturbance to local residents. A table showing the numbers of patrons leaving the premises and the direction of their travel was circulated to the Sub-Committee and it appeared to indicate that the increase in persons who could be expected to exit through the Dutch Quarter from Liquid/Envy on Tuesdays and Thursdays was not significant and was unlikely to be more than 11 people.

Councillors Barlow and Spyvee attended the meeting and addressed the Sub-Committee. Councillor Barlow explained that he had no problems with the management of the premises but that the proposed extension in hours had to be balanced against the needs of residents in the Dutch Quarter some of whom had raised the issue with him during the election period when he was canvassing. The issue of the Neighbours Charter was discussed and it was explained that liaison meetings had not taken place for the last two or so years. This was partially attributed to a change in management at

the premises but it was also noted by the applicant's representative that in this time complaints had not been made to the premises or Environmental Control which may indicate an absence of problems with the operation of the premises.

Mr Murray addressed the hearing on the general issues that faced residents in the Town Centre and on the exit routes from the town, which included the Dutch Quarter for those going north of the town. Mr Murray informed the Sub-Committee that he believed that people had given up complaining and expressed his view that the only time the premises was interested in talking to local residents was when it was seeking to extend its hours. Mr Smith in response to questioning on the Neighbour Charter responded that this was circulated to residents in East and West Stockwell Streets as they were considered close neighbours of the premises.

The Decision

RESOLVED that –

(i) having regard to the relevant parts of the Section 182 Guidance, the Council's Licensing Policy, the contents of the report and the submissions made at the Hearing the Sub-Committee determined to grant the application to permit –

- The provision of films, boxing or wrestling entertainments, live music, performances of dance, facilities for making music, facilities for dancing and the supply of alcohol for the following hours –

Tuesdays and Thursdays 11.00 to 03.00

- Late night refreshment for the following hours –

Tuesdays and Thursdays 23.00 to 03.00

- The premises to be open for the following hours –

Tuesdays and Thursdays 11.00 to 03.30

- The removal of those conditions set out in the relevant section of the application submitted on 21 March 2011.

(ii) the permission sought at the hearing to hold licensable activities on an additional 30 other flexible occasions be refused.

The Licence was granted subject to the following conditions –

Conditions offered by the applicant at the Hearing

1. To adopt the additional Taxi Marshall condition proposed under Section 6 of the Dispersal Policy, circulated at the hearing, in relation to Tuesdays and Thursdays.

Conditions imposed by the Sub-Committee at the Hearing

1. To have regular liaison meetings with residents or representatives of residents in the Dutch Quarter.

Considerations

The Sub-Committee noted that 4 relevant representations had been received from interested parties and that the Dutch Quarter representative and Ward Councillors Spyvee and Barlow attended the hearing speaking on their own behalf. The Sub-Committee noted that there had been no representations from the Responsible Authorities.

The applicant submitted additional paperwork in support of the application on the numbers of people using East and West Stockwell Street, the number of people getting on the night bus outside Liquid/Envy, the dispersal policy, Thwaites case and the temporary event notices that had been submitted recently. This paperwork had been submitted to all parties.

In arriving at the decision the Sub-Committee considered each point very carefully. It noted the representations, arguments and evidence presented by all parties including the applicant and the interested parties under the Licensing Act 2003 and had regard to the section 182 Guidance and the Council's Statement of Licensing Policy.

Reasons for Determination

The Sub-Committee was mindful that its decision must be a necessary and proportionate response aimed at the promotion of the licensing objectives. The applicant's representative submitted that there was no significant evidence that he considered would constitute a breach of the licensing objectives. Temporary events had been held to the terminal hours proposed on occasions and no evidence had been presented by responsible authorities or interested parties to indicate that problems had occurred specifically at the premises.

The Sub-Committee after carefully weighing the evidence of all parties considered that this was an application for a variation of a premises licence from an applicant with a good and established record, an absence of any reviews or representations from responsible authorities and with a proven track record through TENS of operating at the times requested. The applicant had suggested a range of possible additional measures including working with local residents to address their concerns. The Sub-Committee felt that when weighed against the evidence presented by the interested parties, some of which was not within the remit of the Sub-Committee and referred to the general problems of the night-time economy, it preferred the evidence of the applicant.

The Sub-Committee felt that the case made by the objectors in respect of the likely noise nuisance and crime and disorder as a result of the application was not proved sufficiently to justify the refusal of the application or the imposition of further conditions, other than the two above.

5. Close of Meeting

The meeting closed at 12.43.