

LICENSING SUB-COMMITTEE

MINUTES OF A MEETING of the Licensing Sub-committee held on Wednesday, 9 March 2016 at 9.30 am in the executive meeting room, floor 3 of the Guildhall, Portsmouth

Present

Councillor Julie Swan (in the Chair)

Councillors Jennie Brent
Scott Harris

22. Apologies for Absence

Councillor Gerald Vernon-Jackson had sent his apologies for absence and the reserve member Councillor Scott Harris had been called upon.

23. Declarations of Members' Interests

There were no declarations of members' interests.

24. Licensing Act 2003 - Application for the variation of a premises licence at the Fat Fox and Atrium Bar, Victoria Road South, Southsea PO5 2SP

After the chair had run through the procedure to be followed and fire regulations, Mr Derek Stone presented the report on behalf of the Licensing Manager. He reported that there had been some developments since the publication of the papers and circulated copies of additional correspondence:

- i) Lorraine Astill Environmental Health Enforcement Officer reported on her visit to the premises on 26 February regarding a noise complaint as well as visiting a neighbouring property on the evening of 4/5 March to assess the noise emanating from the DJ bass beat.
- ii) A response to this visit by the applicants regarding this noise complaint and the action taken to cancel DJs for the foreseeable future whilst a solution to the problem was being investigated.
- iii) A further letter from Mrs Catlow as one of the residents who had attended a meeting with the owners on 7th March regarding progress being made with the issues raised by local residents, and she and her husband felt prepared to support a 1am closing time but not 1.30am for Friday/Saturday.

Mr Stone explained the layout of the licensed premises and referred to previous occasional Temporary Events Notices for the venue, and Appendix D set out the hours of opening and for sales of alcohol for other venues in the vicinity. Conditions agreed with the police were set out in appendix E which included CCTV operation and employment of door supervisors. He referred to the two open noise complaints, as being investigated by Ms Astill. The

report included 6 local residents' representations on grounds of disorderly and anti-social behaviour, noise and the potential that a precedent for later hours would be set for other traders. Also Ward Councillor Hugh Mason (who apologised he could not be present) had asked that the extension should be no later than 1am on Friday and Saturday nights. Mr Stone wished to clarify that the reference in a written representation to police attendance at a large disturbance was not correct (additional door stewards had been called in to give support). It was for the committee to have regarding to the promotion of licensing objectives, as set out in Paragraph 7 of the report.

There were no questions from any party to the Licensing Manager's presentation.

The applicants' case was then made by Will Nelson supported by James Jarmon as co-owners of the business, who had worked closely with the licensing officers and had actively engaged the neighbours to try to come to a reasonable agreement. They wished to keep the customers at the venue for a bit longer on Friday and Saturday nights, and no other authorities had put in representations.

In response to questions from the committee members they expanded on the meetings with neighbours and reported that they had arranged the sweeping up of litter at the front of the premises at closing time and they asked patrons to respect the neighbours on their exit. They had also confined the smoking area and had temporarily suspended the DJ events. The applicants had also given contact numbers to the local residents to make contact if there were problems. When asked if sound-proofing was being investigated it was reported that as they were not the owners of the building (as this was on lease to them) the option of re-siting the DJ was being considered, away from the occupied flat. Amended conditions as suggested by the police (at Appendix E) had also been agreed to.

Mr Kris Esbensen then presented his case as an 'other person' who had made representation as a neighbour who had submitted a noise complaint, whose concerns included that the premises was becoming like a nightclub with the extended hours. He was however grateful for the dialogue with the owners and accepted that reasonable steps were being taken to address the areas of complaint, and he would now be content for an extension until 1am if the noise issue was adequately addressed.

During members' questions to Mr Esbensen it was established that he had not always been present when the bands had played at weekends (including under the Temporary Events Notices), but the DJ had been heard by him and his visiting family who could not sleep due to the noise, caused by the structure of the building. In response to a question from the applicants he confirmed that the background music had not been at a level to cause complaint. Mr Esbensen and the applicants had agreed to work together to resolve the issue of the DJ and live band noise disturbance when planning future events. Mr Peter Baulf, the legal adviser pointed out that at paragraph 4.7 of the report the recourse available to deal with anti-social behaviour.

All parties were given the opportunity by the Chair to sum up their case but they had nothing further to add before withdrawing from the room whilst the panel met in private to come to their decision. After due deliberation, the parties were invited back to hear the decision, as read out by the legal adviser Mr Baulf.

DECISION: in the matter of the Licensing Act 2003, application for variation of a premise license at the Fat Fox and Atrium Bar, Victoria Road South, Southsea PO5 2SP

The committee had carefully considered the application before it for the variation of an existing licence and has also considered the representations made in relation to this application, both made orally and in writing.

The Committee noted that the applicant had discussed the original variation application.

The Committee granted the application as amended below:

All variations set out in paragraph 2 (page 1 of the report for the extension of current licensable activities by 1 hour on a Friday and Saturday night until 1.30am) **except:**

- Films Friday and Saturday to 1.00am;
- Live Music Friday and Saturday to 1.00am;
- Performance of Dance Friday and Saturday to 1.00am.

In addition to the above, evidence had been given by the operators of the premises that they propose to take the following additional, voluntary steps in relation to the premises in order to uphold and promote the licensing objectives. The Committee is invited to also amend the license to recognise the agreed, deleted and substituted conditions as outlined in Appendix E to the Licensing Manager's report. The Committee makes no conditions to the variation but observes that the operators agree to:

- Examine the provision of appropriate sound proofing and D.J. re-positioning;
- Provision of a smoking area;
- Suspension of the current D.J. bookings;
- Further meetings and contact with immediate neighbours if required.

REASONS:

There have been no representations made by any of the relevant Statutory Responsible Authorities, this said it was noted that Environmental Health has had occasion to attend the premises recently; the above agreed changes to the variation application were in response to this attendance and discussion with the relevant neighbours.

The Committee has heard objections from the relevant local residents, all from residents living within the immediate vicinity to the premises, along with a local councillor who wrote in, particularly pertaining to the issue of noise and potential anti-social behaviour, these complaints are in respect to two potential licensing objectives, firstly Public Nuisance and secondly Crime and Disorder. Several of the complaints have been generic in nature about the

consideration of noise being a potential public nuisance rather than relating to specific incidents linked to the licensed premises. It was further noted that no formal intervention has been initiated by way of noise abatement notice or such like via Environmental Health and nor have the Police made any representation.

The above comments would entitle the Committee to conclude that in the opinion of the relevant Responsible Authorities that no statutory nuisance or anti-social behaviour has been caused and no failure to promote the relevant licensing objectives undermined, indeed it is of note that the offer made by the applicants to amend its current application to vary will significantly reduce the noise emanating from the premises.

In addition and having considered the Statutory Guidance (section 182 of the Licensing Act as amended and enacted in March 2015) the Committee is also aware that any Responsible Authority and indeed any other person may ask this committee to review the licence because of any matter arising at the premises in connection with any of the licensing objectives.

The Committee could find no reason to decline the licence variation as sought with the proffered concessions as above being proportionate and consistent with respect to the promotion of the relevant licensing objectives.

25. Exclusion of the Press and Public

The exclusion of the press and public was not passed as consideration of the exempt item was deferred.

26. Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847 - Consideration of Hackney Carriage Driver's Licence - Mr H

Mr Stone, on behalf of the Licensing Manager, asked that this item be withdrawn on a technical issue as the applicant Mr H had originally applied for a private hire licence and was subsequently applying for a hackney hire licence so this would require resubmission.

The committee agreed not to consider this item.

The meeting concluded at 11.00 am.

Councillor Julie Swan
Chair

