

LICENSING SUB-COMMITTEE

MINUTES OF A MEETING of the Licensing Sub-committee held on Tuesday, 6 September 2016 at 9.30am in the executive meeting room, floor 3 of the Guildhall, Portsmouth

Present

Councillors Hannah Hockaday
Dave Ashmore
Scott Harris

56. Appointment of Chair.

Councillor Hockaday was appointed Chair.

57. Declarations of Members' Interests.

No interests were declared.

58. Licensing Act 2003 - Application for the variation of a premises licence Astoria, 37-39 Guildhall Walk, Portsmouth PO1 2RY.

Present

Alistair Richie, Designated Premises Supervisor
Gemma Sands, Operations Manager
Philip Day, Solicitor for the applicant.
PC Pete Rackham, representing the Chief of Police.
Nickii Humphreys, Licensing Manager
Rob Anderson-Weaver, Community Safety Officer, Public Health

The Principal Licensing Officer introduced his report.

There were no questions.

The Licensing Manager introduced her report and in response to questions from Mr Day, she clarified the following points:

- The applicant had sent in a written response to the representations on 2 September. This was sent to the panel and published on the website on that day.
- She has concerns regarding how the VIP area would be managed.
- She agreed with the proposed conditions marked in green.
- She is not informed of Temporary Events Notice (TEN) applications and therefore did not visit the premises.
- Licensing Officers have visited in the past, but she did not know if they had visited when a TEN was in operation.
- The operating schedule was not clear about how areas would be closed and the patrons dispersed.

There were no further questions of the Licensing Manager.

PC Rackham included the following points in his representation:

- Some conditions have been amended since the application had been submitted.
- Violent crime levels had reduced by 50% in recent years thanks to joint working by the council, the police and venues.
- The majority of violent incidents did not involve actual bodily harm or grievous bodily harm.
- There is likely to have been some disorder which leads to the door staff asking people to leave. They have the right to use reasonable and appropriate force to expel them.
- Restricting the last entry to 02:00 would prevent a significant number of problems.
- He visited the premises when a TEN was in operation and observed that the dispersal was carried out safely and with military precision.
- The more people in the area at night, the higher the risk of crime.

In response to questions from members, he clarified the following points:

- The incident data includes complaints about door staff. These might not turn out to be a crime. However, disorder probably triggered the expulsion.
- The Home Office rulings regarding the recording of crime changed: previously an incident that involved one offender and two victims was reported as one crime; now it would be recorded as two crimes.
- He had visited the premises on many occasions over the last two years.
- He was not able to say if there had been an increase in incidents since Lyberrys extended its opening hours because this hearing concerns Astoria.
- The two premises are run by the same people and would have similar issues because same clientele.

In response to questions from Mr Day, he clarified the following points:

- The changes to crime recording mentioned earlier, were introduced between 18 months and two years ago.
- An allegation of assault by the door staff would initially be recorded as an allegation of assault. The majority of these allegations door staff arise because people don't understand the powers that door staff hold.
- It is normal for a large venue to have incidents from time to time.
- The venue is well run generally. In the past there have been incidents when management and door staff have moved on because their behaviour did not meet the standards expected.
- Policing levels have not been reduced despite the 50% drop in violent crime.
- When he started in 2007, 22 police officers covered this area at night. Now it is covered by 1 Sergeant and 8 officers who also respond to 999 calls elsewhere in the city.
- When compiling the data, he filtered out any incidents that happened outside Astoria and could have been logged at that venue in error.
- When people leave this premises at 02:00 they either go home, find somewhere to eat, hang around the area or try to enter other venues. It often depends on the weather.

- If the application were granted and the applicant adhered to how they managed the premises when they had a TENS, there is likely to be a smoother dispersal of patrons.

The Community Safety Officer, Public Health included the following points in his representation:

- The data shows that there are double the number of call outs in the evening.
- Most calls to the ambulance service are between 00:00 and 04:00 on Saturdays.
- The big screen in the Guildhall Square displays messages asking people to leave safely.
- Students do not tend to be around for five months of the period covered in the data.
- He did not include the number of people who accessed Safe Space.

In response to questions from Mr Day, he explained that:

- Many people do not call an ambulance from the location of an assault; they first move away some distance.
- Portsmouth has the second highest number of alcohol-related hospital admissions in England. Bournemouth has the third highest.
- Thousands of people walk through this area during the day. Although there are fewer people at night, there are more incidents. Most involve 18-24 year olds who are the most represented in the night time economy.

The panel took a ten minute break.

Mr Day included the following points in his representation:

- He reminded the panel that the applicant must demonstrate that the proposals will not have a negative impact on any of the licensing objectives. It is very difficult to prove a negative, if not impossible.
- The management know the number of people in the venue at any one time.
- There were no objections to any of the TEN applications.
- The two areas have two DJs who play different music. When the bar is closed, the music stops and the lights are turned on. Most patrons leave the venue and many of them go to Lyberrry.
- A member of the door staff stays on site for an extra 30 minutes to help manage the crowds of people trying to enter Lyberrry. It would therefore be better to extend the opening hours of Astoria.
- The data shows that there were fewer incidents when the venue was open later under a TENS.
- The door staff are very effective.
- This is the only venue in the CIZ where all the door team wear body worn video cameras. It is very easy for the police to review the footage when allegations are made.
- There are welfare officers on site and all senior staff are trained in first aid.
- The Operations Manager is Chair of Pub Watch.
- The proposed conditions were drafted in order to tidy up the licence.
- He would expect the area to be quiet during the day.

- Astoria is the second biggest establishment in this area but is linked to a relatively low number of incidents.
- If people want to stay out until 4am they will do. It is better for them to be in a tightly controlled environment.

In response to questions from members, he clarified the following points:

- The two premises run independently.
- People are counted in and out of the premises. This information is checked centrally on a spreadsheet every 15 minutes. If is nearing capacity, a queuing system is initiated.
- There is rarely any congestion between the two venues because both are operated at under capacity to allow free movement.
- Friday night is not a drinks-promotion led night.
- The taxi rank very close to the venues. The door staff patrol the vicinity of the two venues and assist people at the taxi rank.

In response to questions from the Licensing Manager, he explained that:

- He took the data provided by the police listing the number of incidents in the CIZ and removed those that were incorrectly logged. He then sorted it by date, type and summarised the facts.
- There were three incidents linked to Astoria on days where a TEN was operating; two of which would have happened anyway.
- He did not accept the suggestion that the information extrapolated regarding Astoria might not reflect the situation regarding the whole CIZ.
- He noted that this is a Cumulative Impact Policy Area and understood the reasons.

The Principal Licensing Officer had nothing to add.

The Licensing Manager asked the panel to note that:

- The management of the venue is not in dispute.
- Statutory guidance directs the panel to determine the potential cumulative impact of the proposed measures.

PC Rackham added that although the venue is one of the best in terms of management, there are high levels of violent crime in this area.

The Community Safety Officer, Public Health suggested that the applicant could continue to use TENs.

Mr Day asked the panel to note that:

- There is a limited number of TENs that a venue can operate per year.
- Over the years in this area some venues closed, some have increased their hours and there has been less crime. The slight blip in crime approximately 18 months ago could have been due to the change in the way incidents are recorded.
- The management of the premises is relevant.

DECISION

Licensing Act 2003 - Application for the variation of a premises licence Astoria, 37-39 Guildhall Walk, Portsmouth PO1 2RY was granted.

REASONS

The committee heard the representations of the applications, the relevant Responsible Authorities and considered all the papers put before it along with the annexes attached to each document.

The committee was aware that the premises is located within an area of Special Policy and that when having regard to applications for licence grant or variation that the starting position is that any variation which is likely to add to the existing cumulative impact will normally be refused or made subject to certain limitations unless and it is acknowledged that it is the applicant's burden to show, that the applicant can demonstrate that there will be no negative cumulative impact upon one or more of the licensing objectives.

The Responsible Authorities (police, licensing and public health) assert that the proposed measures are offered by the applicants are insufficient to negate any cumulative impact upon the licensing objectives: crime and disorder; prevention of public nuisance and public safety.

The committee looked to all the Responsible Authorities but mainly the police for guidance and assistance in determining the effect of a licensing activity in terms of all the licensing objectives, but principally in terms of the police prevention of crime and disorder - the committee should but is not obliged to accept all reasonable and proportionate representations made by the police.

The committee took a similar view with respect to the representations made by public health and the licensing department.

The above stated, the committee balanced its consideration all representations made by the applicants through their advocate.

In considering the application, the committee was mindful of the following:

- The legal burden placed upon the applicant.
- The fact that is not an obligation upon the applicants in setting out their operating schedule to positively diminish the current cumulative impact within the special policy area.
- The evidence produced by the responsible authorities and the detailed submissions and comments made by the applicants through their advocate.
- The committee considered the evidence put forward by public health.
- The committee accepted that the management of the venue is clearly engaged with all responsible authorities.
- The committee noted that the operators represented to the committee that the Astoria will only link with Lyberry Friday night to Saturday morning.

Whilst the applicants put forward a range of conditions to assuage the committee having considered the factual evidence produced by the police when coupled with additional factual data and having reviewed all aspects of

the case on balance and having due regard to all the circumstances of the case the committee is entitled to grant the application for variation.

As set out in the application (including new plans) and as set out in red and green on the attached amended schedule of proposed changes dated 2 September 2016 (as amended at paragraph E) and subject to the following additional condition:

That on any day the operators of Astoria will ensure that there is no entry to Astoria via Lyberry post 02:00, either by the front door or via Lyberrys rear access.

In addition and for the avoidance of doubt, the committee did consider the ability under the 2003 Act to consider a review and how and by whom a review could be initiated and was of the mind that this was an appropriate additional safety mechanism.

Having heard the representations from the applicants, the committee was satisfied that the burden that rests with the applicants to shift in showing that their operating schedule will not have a negative cumulative impact has been shifted. In coming to this conclusion, the committee having been shown the data from the Responsible Authorities was of the view that the applicants had sufficiently assuaged the risk of increasing the cumulative impact by reason of the full range of variations as offered by the applicants. The committee considered the following when balancing the factors:

- The clear need to vary the current licence.
- The steps taken to manage risk and control the exiting of patrons from the venue.

Chair

The meeting concluded at 1.10pm.