

APPENDIX C

Licensing Sub-Committee
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Licensing Service

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Our Ref: 17/03355/LAREVI

Date: 27 July 2017

Dear Licensing Sub-Committee Members

Licensing Act 2003 - Application for the review of a premises licence Melody 229 - 231 Commercial Road Portsmouth PO1 4BJ

I refer to the recent application by the Chief Officer of Police for the review of the premises licence in respect of Melody, 229-231 Commercial Road, Portsmouth, PO1 4BJ.

This premises is licensed for the following activities:

- Sale of alcohol by retail between 10:00 and 23:00 hours every day;
- Playing of recorded music between 10:00 and 23:00 hours every day;
- Opening hours between 10:00 and 23:00 hours every day.

Members should be aware that there are a number of circumstances where entertainment activities are not licensable. No licence permission is needed for the playing of recorded music between 08:00 and 23:00 hours on any day at premises that are authorised to sell alcohol for consumption on those premises provided that the audience does not exceed 500 persons.

However, if recorded music is provided after 23:00 hours then this becomes a licensable activity for which authorisation is needed.

On behalf of the Licensing Authority, I would wish to make formal representations in respect of this application on the grounds of the prevention of crime and disorder for the following reasons:

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1. Provision of licensable activities otherwise than in accordance with the premises licence

The Chief Officer of Police has evidenced in the application for the review of the premises licence that on 3 separate occasions (28th April, 30th April and 24th June 2017) the premises were found to be open beyond the authorised hours on the licence, providing licensable activities contrary to the terms of the licence as well as permitting smoking on the premises and sales of alcohol to persons who were drunk.

On each occasion that these breaches were witnessed, the Police spoke directly to the premises licence holder (who is also the Designated Premises Supervisor) and gave clear advice and guidance in relation to compliance with the conditions on the licence.

Additionally, a further visit was made to the premises by Police and Licensing Authority staff in May 2017 to provide guidance and documentation to enable the licence holder to operate the premises in compliance with the 2003 Act. The licence holder was again reminded of her legal obligations and that she was only able to provide licensable activities until 23:00 hours and then the premises would be required to close.

It is of concern that despite comprehensive advice and guidance being given to the licence holder she has deliberately ignored that advice and has knowingly breached the conditions of the premises licence.

Members of the Licensing Sub-Committee will be aware that it is a criminal offence under section 136 of the Licensing Act 2003 to carry on licensable activities other than in accordance with a licence or other authorisation under the 2003 Act. Currently the Licensing Service is giving consideration to the instigation of legal proceedings in relation to the above matters in addition to making representations. The fine for this offence is unlimited and can also carry a period of imprisonment for up to 6 months.

2. Provision of Irresponsible drink promotions

The review application submitted by the Police evidences that despite no authorisation being in place for the provision of licensable activities after 23:00 hours, customers were able to purchase large quantities of alcohol for a fixed price up until 22:00 hours.

It would appear from the statements of people attending the premises (and notices displayed) that despite the premises having to close at 23:00 hours, the licence holder deliberately facilitated the premises staying open to the public longer than authorisation permitted.

However, if the licence holder wishes to contend that the premises ordinarily close at 23:00 hours then I have concerns that persons can purchase large amounts of alcohol with very limited time to consume those purchases.

By virtue of the Policing and Crime Act 2009, the Government added further mandatory conditions to premises authorising the sale or supply of alcohol on the premises. From 6 April 2010, conditions relating to irresponsible drink promotions applied to licences granted under the Licensing Act 2003.

The purpose of this condition was to ensure that responsible persons took all reasonable steps to ensure that staff did not carry out, arrange or participate in any irresponsible promotion encouraging the sale or supply of alcohol for consumption on the premises where there is a significant risk that the licensing objectives will not be satisfactorily promoted.

Paragraph 10.39 of the statutory guidance states:

"Under this condition, the "responsible person" (defined in the 2003 Act as the holder of a premises licence, designated premises supervisor, a person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18 or a member or officer of a club present on the club premises who can oversee the supply of alcohol) should be able to demonstrate that they have ensured that staff do not carry out, arrange or participate in any irresponsible promotions. An irresponsible promotion is one that fits one of the descriptions below (or is substantially similar), is carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises. The aim of the condition is to prohibit or restrict promotions which encourage people to drink more than they might ordinarily do and in a manner which undermines the licensing objectives".

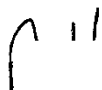
Paragraph 10.41 of the statutory guidance (large quantities of alcohol for free or a fixed price) states:

"Irresponsible promotions can include the provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted price, where there is a significant risk that such a promotion would undermine one or more of the licensing objectives. This includes alcohol to be provided to the public or to a group defined by a particular characteristic, for example, a promotion which offers women free drinks before a certain time or "all you can drink for £10". Promotions can be designed with a particular group in mind (for example, over 65s). A common sense approach is encouraged, which may include specifying the quantity of alcohol included in it or not targeting a group which could become more vulnerable or present a greater risk of crime and disorder as a result of excessive alcohol consumption".

I have grave concerns that the licence holder has demonstrated on numerous occasions an unwillingness to comply with the conditions on the licence nor adhere to the hours of opening and closing. She has also chosen to ignore repeated advice by responsible authorities to ensure that offences are not committed.

These are very serious matters and I concur with the views of the Chief Officer of Police that the only appropriate course of action would be for the Licensing Sub-Committee to revoke the premises licence.

Yours sincerely



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