

**LICENSING SUB-COMMITTEE**

4th January 2012

**PRESENT** – The Mayor; Councillors C. Hughes and B. Jones.

(3)

**LS1. ELECTION OF CHAIR – RESOLVED** – The Mayor.

**LS2. DECLARATIONS OF INTEREST** – No declarations of interest were made at the meeting.

**LS3. APPLICATION FOR A PREMISES LICENCE** – The Director of Place submitted a report (previously circulated) to consider an application to vary a Premises Licence in the light of a representation from a Responsible Authority (Environmental Health) and from four Interested Parties, namely persons living in the vicinity of the premises and/or having business in the vicinity of the premise on the grounds of public nuisance. The representations were in respect of Victoria Social Club.

The Licensing Manager introduced the application in detail, and advised Members that the original application was considered by a Licensing Sub-Committee on 27th May 2011 and was granted with nine conditions additional to the mandatory conditions. An application to vary the Premises Licence was made in November 2011 to include regulated entertainment (live and recorded music and activities similar to both) and to extend the hours for sale of alcohol.

A document was tabled providing details of a map of the area identifying the proximity of the local residents to the premises and also identifying nearby licensed premises.

Four representations were received from Interested Parties and considered written evidence from one and oral evidence from the others. Mr Garthwaite, Ms Heard and Mrs Osborne were present at the meeting and explained why they had made representations against the applications based on the prevention of public nuisance. Mr Todd, Principal Environmental Health Officer (Responsible Authority) explained the representation based on the prevention of public nuisance. The applicant, Ms Smith addressed the meeting and responded to representors and Members questions.

Members listened carefully to the representations made by the Interested Parties and Responsible Authority and the information provided by the applicant. Members also considered the four Licensing Objectives, the Council's Licensing Policy and the Guidance from the Secretary of State in respect of the Licensing Act 2003.

The Sub-Committee considered the views in accordance with Statutory Instrument 2005 No. 44, Guidance issued under Section 182 of the Licensing Act 2003 (Hearings) Regulations 2005 (Revised 2007) and in accordance with the 'Licensing Sub-Committees – Full Hearing procedure for Applications for Premises Licences/Club Premises Certificate Where Relevant Representations Have Been Received'.

In making their decision Members considered the all representations to be relevant and of the Interested Parties, gave greater weight to the representation from Mr Garthwaite due to his close proximity to the licensed premises.

**RESOLVED** – (a) That the application be rejected, on the grounds of the Licensing Objectives in relation to the Prevention of Public Nuisance, Prevention of Crime and Disorder and potentially Public Safety; for the following reasons:-

- (i) Members heard evidence of problems, occurring in the surrounding area of the premises in relation to public nuisance, for example littering and barracking from the fire escape. In the absence of evidence from the licence holder, Members did not feel assured that the problems currently on-going have been addressed, nor that future activities of this nature would be prevented or minimised, should the licence be varied. Members also believed that any extension or variations to the licence would merely exacerbate the current situation;
- (ii) The noise nuisance was of particular concern to Members, specifically as the noise relates and impacts on local residents and most notably Mr Garthwaite, and it was noted that the applicant had not offered to mitigate the sound, should the variation be granted, but offered merely to monitor it;
- (iii) While it was recognised that not all litter emanates from the premises, Members believed that it is the responsibility of the licensee, to remove litter within the reasonable vicinity of the premises. It was noted that the premises had a specific problem with cigarette butts being discarded by patrons, which in turn is leading to a public nuisance and believed that to extend the licence would only compound the issue, although, Members did note that wall mounted cigarette disposals, have been provided;
- (iv) Members heard that patrons were taking bottle and glasses onto the fire escape and that this is in contravention of the current licence conditions. Members were gravely concerned that Public Safety is being compromised with the promoted use of the fire escape as a balcony for patrons to engage in drinking and smoking.

(b) As a result of final reason above, the Sub-Committee decided to impose a further condition to the existing licence; as follows:

- (i) That clear and legible signage should be displayed at every fire escape advising patrons that such exits must only be used in the case of a fire emergency.
- (ii) Members also suggested that it would be of benefit to the licensee and the residents to work together to mitigate any problems.

## LICENSING SUB-COMMITTEE

12th January 2012

**PRESENT** – Councillors Lee, J Lyonette and S. Richmond.

(3)

**LS4. ELECTION OF CHAIR – RESOLVED** – Councillor J Lyonette.

**LS5. DECLARATIONS OF INTEREST** – No declarations of interest were made at the meeting.

**LS6. APPLICATION FOR A PREMISES LICENCE** – The Director of Place submitted a report (previously circulated) to consider an application for a Premises Licence in the light of a representation from Mr Connolly whom lives in the vicinity of the premises on the grounds of prevention of crime and disorder, public nuisance and the protection of children from harm. The representation was in respect of The Darlington Academy LTD.

The Licensing Manager introduced the application in detail, and advised Members that this was a new application as the previous licence had ceased when the previous owners of the premises had gone into liquidation.

A document was tabled providing details of a map of the area identifying the proximity of residents to the premises and also identifying nearby licensed premises.

Mr Connolly was not present at the meeting therefore the Licensing Manager put forward his reason why he had made a representation against the application based on the prevention of crime and disorder, public nuisance and protection of children from harm. The applicant, Mr Wem addressed the meeting and responded to Members questions.

Members carefully considered the written representation made by the Interested Party and also considered the four Licensing Objectives, the Council's Licensing Policy and the Guidance from the Secretary of State in respect of the Licensing Act 2003.

The Sub-Committee considered the views in accordance with Statutory Instrument 2005 No. 44, Guidance issued under Section 182 of the Licensing Act 2003 (Hearings) Regulations 2005 (Revised 2007) and in accordance with the 'Licensing Sub-Committees – Full Hearing procedure for Applications for Premises Licences/Club Premises Certificate Where Relevant Representations Have Been Received'.

In making their decision Members considered the representation and viewed it to be relevant yet felt his concerns were based on the issues associated with the former Escapades and balanced these with the applicants' lengthy experience as an operator of similar premises in Middlesbrough. Members were satisfied that the robust Operating Schedule addressed the vital concern of the Police and Safeguarding Children's Board through the additional conditions in respect of the over 14's event.

**RESOLVED** – (a) That the application be granted subject to the conditions offered as part of the Operating Schedule with one minor amendment in respect of the protection of children from harm. Those conditions, including the amendment, are as follows :

- (i) There shall be a minimum of 4 door staff on duty at the premises from admission time every night that the premises is open to the public when only one of the three rooms is open and no more than 200 persons are present. There shall be a further one member of door staff on duty for each additional 100 patrons (or part thereof) when only one room is open.
- (ii) There shall be a minimum of a further 2 door staff on duty for each additional room that is open. When all 3 rooms are open there shall be 6 door staff on duty until total numbers of patrons exceed 600 when there shall be a further one member of door staff for each additional 100 patrons (or part thereof) until a maximum of 10 door staff has been reached.
- (iii) A minimum of one body-cam or head-cam shall be worn by a member of “front of house” door staff. This camera shall have audio and video capacity and be in operation at all times the premise is open for licensable activities or at the commencement of any incident of violence or disorder or dispute in which door staff are involved in at the front of house.
- (iv) The Premises Licence holder or his designated representative shall ensure that premises specific training is provided to all staff. This will include training in respect of all conditions attached to the premises licence; training in the premises drugs policy and general licensing law. Training will be provided to all new staff members at induction and refresher training provided at least every 3 months. This training will be recorded in a register that includes the signature of the member of staff and the licensee and will be available for immediate inspection by the Licensing Authority or Durham Constabulary upon request.
- (v) The Premises Licence Holder shall ensure that a digital CCTV system is installed in the premises to the satisfaction of Durham Constabulary and be in operation at all times when the premises are being used for licensable activities. Cameras shall cover all public entrances, points of sale and display and other areas to which all patrons and staff have admission including those areas which may not be visible from the bar or serving area.
- (vi) The CCTV system shall be of such a quality that individuals are readily identifiable from recordings made and shall only be operated by properly trained staff. Recordings shall be kept in secure, tamper free storage and retained for a period of no less than thirty (30) days or such other period as shall be specified by Durham Constabulary. Recordings shall be available on request to the Licensing Authority and/or Durham County Constabulary or other Responsible Authority and be provided within 14 days of any such request.
- (vii) Plastic/polycarbonate glasses shall be used at all times when alcohol is available for sale to the public.
- (viii) All incidents of crime and disorder relating to the premises shall be recorded in a consecutively page numbered, hard back incident book, which shall be stored in the reception area of the premises. A log detailing which members of the door supervisor team are on duty shall also be kept in a separate part of the incident

book. The book shall be produced to the police and Licensing Authority on request.

- (ix) There shall be clear and legible signage at every entrance point advising that random drugs and weapon searches may be conducted and that any person refusing to be searched shall be refused entry to the premises.
- (x) The premises shall be fitted with a police approved drugs box for the deposit of any suspected illegal substances pending police collection and a drugs register to record any items seized and placed in the drugs box. Both shall be located in the reception area of the premises and monitored by CCTV. The register shall be produced on request to the Police or Licensing Authority.
- (xi) Door staff shall monitor the occupancy levels of the premises using two hand held counter clickers, showing both entry and exit to the venue.
- (xii) A medical room shall be designated within the premises and a minimum of one fully qualified first aider shall be on the premises during operating hours.
- (xiii) Barriers shall be used outside of the premises to ensure orderly queuing for entry into the premises and upon closing placed along the footpath to prevent patrons running across the road. All entry and exit points shall be patrolled by door staff.
- (xiv) The Premises Licence Holder (PLH) shall work with the council's Environmental Health Team to limit noise emanating from the premises. If the Environmental Health Team deems it necessary the PLH shall employ a reputable noise consultant company and implement their recommendations.
- (xv) All rubbish, bins, etc shall be stored within the venue and shall not be emptied between the hours of 10 pm and 7 am.
- (xvi) There shall be clear and legible signage at every exit point requesting that patrons exit quietly. Announcements shall also be made over the sound system to that effect. Any person who does not comply with these requests shall be refused further entry.
- (xvii) A designated person shall patrol the outside of the premises at 30 minute intervals from 10 pm onwards to assess any noise nuisance emanating from the building and any littering including discarded promotional material. The DPS shall take immediate remedial steps to remove any such nuisance.
- (xviii) The Premise Licence holder shall ensure that all staff, including door staff, reprovided with details of the Premises dispersal policy and this policy shall be implemented at the end of each evening when the premises are open to the public.
- (xix) Persons under the age of 18 shall not be admitted onto the premises except for designated over 14s events.
- (xx) The Challenge 21 policy shall be implemented. Any fraudulent or fraudulently used ID shall be seized, stored securely and given to police as soon as possible.

- (xxi) On any Sunday, Monday, Tuesday, Wednesday or Thursday over 14s will be admitted to the premises subject to the following additional conditions:
- (a) All patrons shall be given a secure wristband of different colours, differentiating under 18s from over 18s.
  - (b) On 14+ nights children under the age of 16 years will not be admitted unless accompanied by a responsible adult. Each responsible adult shall not be responsible for more than 4 such children.
  - (c) The theme of each event shall be live music.
  - (d) Each event shall finish no later than 11pm.
  - (e) All drinks shall be served in plastic or polycarbonate glasses.
  - (f) There shall be a male and female toilet attendant on duty in respective toilets. All staff employed in this capacity shall be subject to CRB checking.
  - (g) Two additional registered door staff shall be employed. These shall act as floor walkers within the areas to which patrons have access. Door staff employed as floor walkers shall constantly monitor patrons for evidence of alcohol or drugs, and also to protect patrons from unwanted attention or harassment.
  - (h) If any patron is found to be under the influence of drugs or alcohol then their parents or guardian shall be contacted and asked to collect the child or children. The management will not turn away patrons without doing their best to ensuring they are safe and are able to be collected by a parent or guardian.
  - (i) There shall be a maximum of 20 of the 14+ events each year.
  - (j) The Police Licensing Officer and the licensing Authority shall be given at least 28 days written notice all such events.
  - (k) At least one member of front of house door staff shall be a female.
  - (l) Prior to Patrons entering the premises all bags shall be searched by male or female door staff as deemed appropriate.
  - (m) Where alcohol is seized from persons under 18 it shall be confiscated and the person refused entry to the venue. The details of the seizure shall be recorded in a refusals register, which shall be made available for inspection by a Police Officer or an authorised officer of the Local Authority on request.
  - (n) Any club night held on the same night as a 14 plus night shall not commence until a minimum of 60 minutes after the conclusion of the 14 plus event.

These conditions are in addition to the mandatory conditions relating to the sale of alcohol and the provision of films.

(b) That a slight amendment be made to the applicants dispersal policy at item 9 it should read that the DJ will play slower music rather than 'may'.