



Licensing Sub-Committee

Minutes – 27 November 2013

Attendance

Members of the Sub-Committee

Cllr Alan Bolshaw (chair)

Cllr Mark Evans

Cllr Neville Patten

Employees

Rob Edge

Section Leader (Licensing)

Sarah Hardwick

Senior Solicitor

Linda Banbury

Democratic Support Officer

Part 1 – items open to the press and public

<i>Item No.</i>	<i>Title</i>	<i>Action</i>
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BUSINESS ITEMS

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| 1. | Apologies for Absence
There were no apologies for absence. | - |
| 2. | Declarations of interest
There were no declarations of interest. | - |

DECISION ITEMS

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| 3. | Licensing Act 2003 – Temporary Event Notice in respect of
Gorgeous, 32-36 School Street, Wolverhampton
<u>In attendance</u>
<u>For the premises</u>
David Campbell - legal representative
Shaun Keasey - JJCA Limited
Dale Murphy - Designated Premises Supervisor | |
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Objectors

Duncan Craig (barrister))
WPC Natalie Holt) West Midlands Police
Inspector Sarah Thomas-West)

The chair introduced the parties and outlined the procedure to be followed at the meeting. No declarations of interest were made.

The Section Leader (Licensing) outlined the report circulated to all parties in advance of the meeting. He advised that two previous Temporary Event Notices had been submitted, to which the Police had objected, but the hearing s had not proceeded due to an error in the administration of the notices. Mr Campbell had submitted the following additional information following circulation of the report:

- Temporary Event Notices given in April and June 2013 and the weekend on 16/17 November 2013.
- Email from Shaun Keasey to David Campbell in regard to drugs swabs

The following had also been supplied by the West Midlands Police:

- Email from Police to Dale Murphy in regard to two incidents at the premises.
- Witness statement on behalf of WPC Emily Parker.

At this juncture. David Campbell outlined the case for the premises and, in so doing, advised that the hearing would allow the premises to demonstrate that allowing patrons to enter after 0200 hours would have not have an adverse effect on the prevention of crime and disorder licensing objective. This had been illustrated by the Temporary Events which had taken place earlier in November. He drew attention to the provisions of the Licensing Act 2003 and Regulation 18 of the Hearings Regulations. He also referred to the fact that the Police had not objected to the Temporary Events which took place in April and June 2013. No patrons were allowed entry after 0200 hours on 17 November as the premises had been advised by the Police that this would be in breach of the licence conditions; however David Campbell stated that it would not have been a breach. The Sub-Committee were advised that this resulted in a loss of takings amounting to approximately £1,500. David Campbell believed that the Police objections related to mere speculation and were not evidence based.

Dale Murphy outlined his role at the premises and confirmed that, to his knowledge, there had been no problems due to the removal of the late entry time for the Temporary Events. With regard to the statement of WPC Emily Parker, Mr Murphy advised that it had not been necessary to contact the Police as they had been at the door to the premises at the time of the incident. The Sub-Committee were advised that the premises had a zero tolerance policy in regard to drugs. Searches, within limits, were carried out on the door and staff patrolled the premises and acted upon any irregularities immediately.

Responding to questions, Shaun Keasey advised that the capacity for the premises was 225 and attendance figures could double when the last entry time was removed. He indicated that a further Temporary Event Notice had been submitted in regard to the following weekend. Dale Murphy could not recall the event in April when the Police had been called to the premises following refusal of entry to some customers as he only had the incident logs for October and November to hand. Mr Keasey advised that he had not been requested by the Police to supply details of the artists in regard to the recent Temporary Events. Whilst he acknowledged that these requests were discussed at Pubwatch meetings, the acts were not new or unfamiliar to the venue but he undertook to provide the details for the Police. Dale Murphy responded to a further question, confirming that he would expect Gorgeous to require more stringent conditions than a restaurant or public house in terms of drugs issues.

At this juncture Duncan Craig outlined the objection on behalf of the West Midlands Police, indicating that he believed it was appropriate for the Police to refer to previous events and to the variation application. WPC Natalie Holt advised that their drug testing machine had been out of order since June/July and would be used at venues such as Gorgeous, although she was not involved in this area of work. She was concerned that the removal of the late entry time would lead to a lack of control of the premises. Duncan Craig suggested that the removal would provide a potential for increased crime and disorder. He believed that the spirit of Temporary Events was to enable one off special events and not to circumvent licence conditions for regular events.

Responding to questions WPC Natalie Holt indicated that she was not present at the time when a group were refused entry an hour after last entry time, she was concerned however that people

would attend other premises then try their look when they closed at other late night venues. She confirmed that the Police had not objected to the Temporary Event in June 2013 and that she was not at work when the last Temporary Event Notice had been submitted. She acknowledged that the incident in the statement of WPC Parker occurred before 0200 hours but she believed it was still relevant for this hearing. She accepted that there was no evidence to suggest that problems had occurred at the premises during the previous three Temporary Events.

Both parties were afforded the opportunity to make a closing statement.

EXCLUSION OF PRESS AND PUBLIC

4. Exclusion of press and public

Resolved:

That in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business as it involves the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A of the Act.

All parties, with the exception of the Council's Solicitor and Democratic Support Officer, withdrew from the meeting at this point.

Part 2 – exempt items, closed to the press and public

5. Deliberations and decisions

The solicitor advised them of the options open to them on the decision to be made in regard to the Temporary Event Notice.

6. Re-Admission of Press and Public

Resolved:

That the press and public be readmitted to the meeting.

Part 1 – items open to the press and public

7. The parties returned to the meeting and the Solicitor advised the parties of the Sub-Committee's decision, as follows, which would be confirmed in writing the following day;
Having had regard to the Objection Notice of the Chief Officer of West Midlands Police, being a letter sent to Wolverhampton City Council on 19 November 2013, the Licensing Sub-Committee are

satisfied that a counter-notice should not be issued to you in accordance with Section 105(3) of the Licensing Act 2003 as it is not considered appropriate. However for the promotion of the Prevention of Crime and Disorder licensing objective and in accordance with section 106A of the Act, it is considered appropriate to attach the conditions on the premises licence to this Temporary Event Notice, with the exception of the last entry restriction (see attached).

When not issuing a Counter Notice The Sub-Committee are not required to give reasons for the decision, but wished to outline the following:

1. The Sub-Committee are required to consider this application on its merits and base any decision on evidence produced at the hearing on 27 November 2013. They are also concerned with last entry up to 0330 hours.
2. No objection notices were served in response to Temporary Event Notices in April and June 2013.
3. There have been three temporary events, covered by two Temporary Event Notices in November 2013, at which there were no significant problems. On 17 November 2013 there was an incident at the premises which occurred before 0200 hours. The person detained by the West Midlands Police was ejected by the premises as is expected.
4. There does not appear to be a drug problem at the premises. The substance seized on 17 November 2013 was found not to be a drug of any kind.
5. The Sub-Committee have heard what the Police said about the 'spirit' of the Act. However, the Thwaites case demonstrates that a decision should be made on evidence rather than speculation. The Police have said – 'There is a capacity for these premises to descend into a state of disorder should the current position not continue.' However, there is no clear evidence that this would happen.