

LICENSING SUB-COMMITTEE B

A meeting of the Licensing Sub-Committee B was held on 30 January 2006.

PRESENT: Councillor B Taylor (Chair); Councillors J A Jones and A Ward.

OFFICIALS: C Barnfather, T Hodgkinson and S Vickers

****ALSO IN ATTENDANCE:**

Agenda Item 4

Mr Jeffles – Manager Hotel Baltimore
Mr R Arnott – Applicant’s Legal Representative

M Nevison (Cleveland Police Legal Representative)
P C J Graham (Cleveland Police)

Agenda Item 6

P Parker – Applicant
P Angus – Events Manager and Organiser for Blue

DECLARATIONS OF MEMBERS’ INTERESTS

Councillor Regan had declared a Personal/Prejudicial Interest in relation to consideration of Agenda item number 4 Application to Vary Premises Licence – Hotel Baltimore, 250 Marton Road, Middlesbrough, as he was Ward Councillor for University. As a result, Councillor Regan was not present.

APPOINTMENT OF SUBSTITUTES

Councillor B Taylor was in attendance to act as a substitute for Councillor Regan.

LICENSING ACT 2003 – APPLICATION TO VARY PREMISES LICENCE – HOTEL BALTIMORE, 250 MARTON ROAD, MIDDLESBROUGH – REF NO. MBRO/PR0083

Summary of current Licensable Activities:

Sale by retail of alcohol for consumption on and off the premises, live music, recorded music, dancing.

Summary of current hours of Licensable Activities:

| | | | |
|-------------------------------------|-------------------|--------------------|--------|
| Sale of Alcohol | 11.00am – 11.00pm | Monday to Saturday | Bar |
| | 12 noon – 10.30pm | Sundays | |
| | 11.00am – 1.00am | Monday to Saturday | Lounge |
| Live music, recorded Music, Dancing | 11.00am – 1.00am | Monday to Saturday | Loung |

Summary of proposed variation of Licensable Activities:

To include the following regulated entertainment – Films

Summary of proposed variation to hours for Licensable Activities:

| | | | |
|----------------------------|------------------|------------------|------------|
| Sale of Alcohol | 11.00am – 1.00am | Monday to Sunday | Bar/Lounge |
| Live Music, recorded Music | 11.00am – 1.00am | Monday to Sunday | Bar/Lounge |

Dancing

There was also a request to remove the conditions previously imposed by the Special Hours Certificate (under Licensing Act 1964), that the sale of alcohol in the lounge is ancillary to music, dancing and substantial refreshment.

Full details of the Application and Operating Schedule were attached at Appendix 1 of the report.

The Chair introduced those present and outlined the procedure to be followed at the meeting.

Applicant in Attendance

The Applicant and the legal representative were present at the meeting and confirmed that a copy of the report and Regulation 6 Notice had been received. The report was confirmed to be an accurate representation of the Application.

The legal representative informed the Committee that the proprietor of the premises Mr Viliaris was unable to attend the meeting and submitted apologies on his behalf. Despite his absence Mr Viliaris had requested the Committee be informed he did not have a policy of disagreeing with the Police. He had never previously done so in forty years of business. However, as a point of principle he wished to contest the representation submitted on this occasion.

In respect of the representation the legal representative advised that the proprietor was willing to keep an incident book and ensure that all pint glasses were made from toughened glass. However, the Applicant felt strongly that the Police request for installation of internal CCTV was unnecessary.

In relation to the above proposal the legal representation requested that the Committee refer to the guidance issued by the Secretary of State, in respect of the Licensing Act 1003. The Committee's attention was drawn to paragraph 7.1, which stated that "Conditions may only be imposed on licences and certificates where they are necessary for the promotion of one or more of the four licensing objectives. Conditions may not be imposed on licences and certificates for any other purposes".

The legal representative made further reference to paragraph 7.17, which stated that "It is important that conditions are proportionate and properly recognise significant difference between venues". The use of the words proportionate and difference were noted and the legal representative requested that the Committee apply the guidance, as intended by the Secretary of State.

In response to a document presented by the Police, which detailed four incidents of crime and disorder at the premises the legal representative advised that none were related to licensable activities. Each incident was referred in turn; one related to domestic violence; one to credit card deception; one to a broken window and one to a report of a male on the premises, who when questioned by the Police believed himself to be God.

The legal representative advised the Committee that the incidents referred to did not amount to a need for internal CCTV to be fitted. In addition there was no evidence to suggest that had internal CCTV been fitted this would have proved effective in deterring the above crimes from being committed.

With respect to the provision of external CCTV the Manager of the premises advised that there were four external cameras, although footage from the cameras had only been requested one occasion. The occasion in question related to an incident involving children throwing stones in the street.

The legal representative referred to the clientele received by the hotel and advised the Committee that the Baltimore was a three star hotel priced at the more expensive end of the market. As a sister hotel to the Vermont in Newcastle, which was cleared to receive high-risk guests including David Blunkett and John Prescott, the Baltimore prided itself on its excellent reputation.

It was advised that the Judges in Middlesbrough had held their Christmas Party at the premises and that the Mayor and Deputy Mayor had received guests for the Twinning Committee at the hotel. The legal representative expressed the view that the Council and Court Officials were obviously proud of the venue and felt safe and secure whilst on the premises.

In keeping with the hotel's good reputation it was stated that the proprietor did not wish to jeopardise his business and would continue to exercise discretion if the Application to extend the opening hours in the bar was approved. The Committee was advised that the type of clientele would not change upon the granting of the Application and that a good style of management was in place.

In relation to the cost of the installation of CCTV the legal representative advised the Committee that the cost was not insignificant and would be in the region of £10,000. He expressed the view that although the Applicant did not oppose the condition on the grounds of cost, if the condition were imposed it would amount to a form of financial penalisation.

Aside from the issue regarding the additional condition the legal representative made reference to the request to remove the conditions previously imposed by the Special Hours Certificate (under Licensing Act 1964), that the sale of alcohol in the lounge was ancillary to music, dancing and substantial refreshment. The legal representative stated that these conditions were archaic and the Applicant wished for them to be removed from the licence.

With respect to the additional condition requested the legal representative stated that the Police appeared to be requesting that all premises trading after 12pm were fitted with internal and external CCTV. It was noted that if this was the case then a policy was being applied. The legal representative reminded the Committee that each case needed to be judged on its own merit and evidence needed to be presented to prove there was a need for conditions to be added. It was stated that there was no evidence to support the need for internal CCTV to be fitted at the premises.

The Police enquired whether a risk assessment had been undertaken. The legal representative advised that there was no requirement under the Act for a risk assessment to be undertaken.

A Member of the Committee queried whether it was mainly guests who drank at the bar and the legal representative confirmed this. The Manager of the premises added that the reception of the hotel was manned twenty-four hours a day and that non-residents were not allowed back into the hotel after 12 pm.

The legal representative reiterated that the Applicant's main objection to the imposition of the condition was not one of cost. The Applicant objected on principle and did not wish to have the privacy of guests disturbed by the installation of internal CCTV.

Relevant Representation

A representation had been received from Cleveland Police on 9 January 2006 objecting to the Application for to vary the premises licence on the grounds of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

The Police Representatives were present at the meeting and confirmed that copies of the report and Regulation 6 notice had been received. The Police were invited to speak in support of their representation.

The Police legal representative stated that Cleveland Police were of the opinion that CCTV was necessary and that a blanket condition had not been imposed. The premises had been judged on merit and CCTV had been viewed as a necessary requirement. The Police stated that the premises were situated only a few hundred yards from the saturation area and that increased opening hours would result in increased crime and disorder.

It was noted that the prime trade of business had to date been as a hotel but that a request to open the bar until 1.30 a.m. was a substantial change. Although not viewed as a 'problem

premises' there had been serious incidents of crime and disorder at the hotel where the Police had been called. The installation of CCTV was seen as a preventative measure and the Police expressed the view that CCTV would help to reduce crime and disorder.

In relation to the proportionality of the condition proposed the Police advised that cameras were only required in areas where crime may be committed, which in this case was in the bar.

The Chair queried the benefits that CCTV, in the bar, would have provided in the four incidents referred to. The legal advisor to the Committee stated that none of the incidents occurred in the bar and that there was no evidence as far as this matter was concerned.

Summary of Objection

The Police advised Committee that the Police and Local Authority had a statutory duty, under section 17 of the 1998 Crime and Disorder Act to contribute to the reduction of crime. The Police expressed the view that if this Application was granted the Local Authority would be in breach of this regulation and the police respectfully requested that this Application be refused.

Reference was made to section 35 sub-section (5) of the Licensing Act and the Police stated that the "likely effect" of the granting of the licence would be an increase in crime and disorder. The Committee's attention was drawn to section 7.25 of the Government Guidance, as well as section 83 of the Council's Licensing Policy, which stated that consideration needed to be given to the use of CCTV within and outside the premises.

The Police emphasised the need for CCTV and stated that they were not attempting to impose unnecessary conditions. It was respectfully requested that the recommendation for CCTV be upheld.

Summary of Application

The Applicant's legal representative expressed the view that most issues had been dealt with but advised the Police that the Applicant was acutely aware that the premises were situated in a residential area. He went on to state that there was no evidence to suggest that if the Application were granted the clientele at the hotel would change. It was noted that the Applicant did not wish to jettison the reputation of the business and open the doors to all.

In respect of the guidance and legislation referred to by the Objector the Applicant's legal representative advised that section 35 sub-section (5) of the Licensing Act had no bearing on the case. He stated that the guidance was clear in its intentions and advised there was no evidence to support the claim that CCTV was needed. The legal representative respectfully commended the Application.

It was confirmed that there were no further questions and those present, other than representatives of the Council's Legal Services and Members' office, withdrew whilst the Committee determined the application.

Subsequently all parties returned to the meeting whilst the Chair announced the Committee's decision:

DECISION

ORDERED as follows:

1. That the Application for a Premises Licence be granted in full, subject to the following conditions:
 - (i) An incident book should be kept up to date at all times. This book should relate only to crime and disorder and should not be seen as a duplication of any other incident book kept, for example health and safety or accident books.
 - (ii) All pint glasses should be made from toughened glass.

2. That the conditions previously imposed by the Special Hours Certificate (under Licensing Act 1964), that the sale of alcohol in the lounge is ancillary to music, dancing and substantial refreshment be removed.

Reasons for Decision

The reasons for the decision were based on the following:

- (i) The Application was considered on its own merits, taking into account the four Licensing Objectives of the Licensing Act 1003, and the information contained within the submitted report.
- (ii) Consideration was given to the Representation made by Cleveland Police.
- (iii) Consideration was given to the following section of the Licensing Act 2003:
- | | |
|-----------------------|-----------------------------|
| Variation of Licences | Section 35 Sub Section (50) |
|-----------------------|-----------------------------|
- (iv) Consideration was given to the following section of the Government Guidance to the Licensing Act 1003:
- | | |
|----------------------------------|---|
| Crime and Disorder | Starting at paragraph 7.1 and Annex D |
| Public Safety | Starting at paragraph 7.3.1 and Annex E |
| Prevention of Nuisance | Starting at paragraph 7.38 and Annex G |
| Protection of children from harm | Starting at paragraph 7.46 and Annex H |
- (v) Consideration was given to the following sections of Middlesbrough Council's Licensing Policy:
- | | |
|--|--------------------------|
| Licensed Premises in residential areas | Page 10, para 42 |
| Prevention of nuisance | Pages 10 to 15, para 38 |
| Crime and Disorder | Pages 17 and 18, para 83 |
| Protection of children from harm | Pages 19 to 23 |

LICENSING ACT 2003 – APPLICATION FOR PREMISES LICENCE – 4 FOSDYKE GREEN, MIDDLESBROUGH – REF NO. MBRO/PR0443

A report of the Head of Community Protection had been circulated outlining an application for a Premises Licence for 4 Fosdyke Green, Middlesbrough, Ref. MBRO/PR0443.

Representations had been received from:-

- Cleveland Police – based on the Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and Protection of Children from Harm
- Environmental Health – based on the Prevention of Public Nuisance.

Prior to commencement of the meeting, an agreement was reached between the Police, and the applicant's legal representative to amend the operating schedule in respect of the application to include the additional condition, as outlined below.

1. The premises should be fully fitted with internal (colour) CCTV. Video tapes should be kept for a period of 31 days or such longer period as may be agreed with the police and should be kept in a locked cabinet or suitable location, where access can be gained by management only.

In addition, documents detailing the Applicant's waste collection contractor, together with a valid waste collection agreement/waste transfer note were provided.

Subsequently, the responsible authorities withdrew their objections to the application and, as there were no other objections, the licence was granted in accordance with the amended operating schedule and additional condition.

NOTED

LICENSING ACT 2003 – APPLICATION FOR TEMPORARY EVENTS LICENCE – BLUE BAR, UNIT 3, CENTRE NORTH EAST, ALBERT ROAD, MIDDLESBROUGH – REF NO. MBRO/PRO286

Summary of the nature of the proposed event:

Post club party for approximately 350 people travelling by bus from Tall Trees, Yarm.

Summary of proposed date and time of event

18 February 2006, 10 pm to 10 am

Relevant Objections

An objection notice and accompanying letter had been received on 18 January 2006 from Cleveland Police, objecting to the Temporary Event Notice on the grounds of crime and disorder.

Full details of the Application and Operating Schedule were attached at Appendix 1 of the report.

The Chair introduced those present and outlined the procedure to be followed at the meeting.

Applicant in Attendance

The Applicant and a company representative were present at the meeting and confirmed that a copy of the Regulation 6 Notice had been received. Unfortunately the Applicant had not received a copy of the report and the Chair requested that in line with the guidelines the Applicant received a copy before the meeting commenced.

The Applicant was provided with a copy of the report and confirmed that it was an accurate representation of the Application.

In discussing the details of the report the Applicant confirmed that the Application was for a Temporary Events Licence for a post club party at Blue Bar on 18th February 2006. The event was scheduled to run from 10pm to 10am and designed to cater for approximately 350 people travelling by bus from Tall Trees, Yarm. Access to the all night event would be by ticket only and tickets would need to be purchased in advance at Tall Trees, Yarm.

A member of the Committee queried the price of the tickets and was advised that the price would be in the region of £7- £10. It was anticipated that the ticket price would include entry as well as transport by bus from Tall Trees, Yarm to Blue Bar, Middlesbrough. In relation to the entertainment and facilities provided the Applicant advised that refreshments would be served throughout the evening and that this was not simply an alcohol only event.

The Applicant described the way in which he intended to manage the event and described the night as being similar to a private party, which was well organised, safe, tidy and in-house. In terms of security a minimum of six regulated door staff would be on duty, which was well in excess of the numbers required. The premises was fitted with a top of the range CCTV system and the Applicant advised that he was happy to work in partnership with the Police on regulating this event.

Relevant Objections

An objection notice and accompanying letter had been received from Cleveland Police on 18 January 2006 objecting to the Temporary Event Notice on the grounds of the prevention of crime and disorder.

The Police Representatives were present at the meeting and confirmed that copies of the report and Regulation 6 notice had been received. The Police were invited to speak in support of their objection.

The Police legal representative initially questioned the purpose of holding such an event and put forward the suggestion that the only purpose was financial gain. The Applicant responded to this suggestion and stated that his business was to provide entertainment and that many people wanted the night to continue.

The Police requested agreement from the Chair to show a video to demonstrate the sequence of events on Friday and Saturday nights at closing time. The Police explained that the video captured disturbing images of instances of drunken violence, in which people had been seriously injured. The Chair queried whether the footage related directly to the premises concerned and was advised that it did not. The purpose of the video was to highlight the problems encountered by the police in the town centre on a weekend. It was noted that the applicant had seen the video before and had no objection to it being shown, as it did not concern them.

The Chair sought legal advice and took the decision that the footage was inappropriate, given that it did not relate directly to the premises in question. The Police then decided not to show it.

The Police informed the Committee that Saturday nights were their busiest with approximately 15,000 – 20,000 people descending on the town centre. Manpower was already stretched to the limit and in light of this situation the Police expressed the view that granting this Application would only serve to undermine the crime and disorder objective. If the Application were granted Officers would need to be moved, from the outskirts of the town into the town centre, in order to manage the added pressure.

The Police stated that they had real concerns relating to the consequences associated with an influx of a further 350 people into an area of saturation at 3am, many of whom had already been drinking throughout the evening. The Police recognised that the premises were equipped with an excellent CCTV system, although this was only effective up to the point at which guests left the premises.

In relation to the transportation of guests from the event the Police raised concerns that there was a lack of transport infrastructure in place in the early hours of the morning, particularly on a Sunday. The Applicant responded to these concerns and advised the Committee that many of the guests would leave throughout the course of the event and that leaving times would be staggered. In addition a local taxi firm would be advised that the event was going ahead and sufficient provision would be made.

Reference was made to Section 161 of the Licensing Act and the Police legal representative advised the Committee that under the powers of the Act the Police were within their rights to close the premises if there was likely to be any disorder. The closure would need to be deemed necessary in the interests of public safety, although the Police acknowledged that it would be very difficult to close the premises and redirect 350 guests away from the town centre.

In relation to a proposal that this event be held monthly, if successful, the Police advised that this would have serious repercussions for the policing of the town. It was stated that a small percentage increase in the number of incidents requiring police attention would require additional Officers to be on duty, as well as pose further difficulties for dealing with paperwork the following day.

In terms of the area of saturation the Police legal representative advised the Committee that there were currently in excess of fifty licensed premises situated in the saturation area and queried that if people wished to stay out later why could they not remain at the Tall Trees, Yarm. The Applicant advised that the management at Tall Trees did not wish to run this event and that the event was being organised by Blue Bar.

Summary of Application

The Applicant advised the Committee that he wanted to work closely with the Police in managing the event and reduce the risk of crime and disorder. He informed the Committee that the door staff would have radio contact with the Police via the CCTV system, which was designed to help free up Police time.

In addition to the measures outlined it was noted that the guests would be leaving throughout the course of the evening, which was easier to manage than if they all left at the same time. The Applicant advised that local taxis firms would be contacted to accommodate the extra business and every provision would be made to transport the guests home.

In response to Police concerns relating to people arriving at the venue intoxicated the Applicant informed the panel that admittance would be managed responsibly. Guests who had had too much to drink would be refused entry at the door or would not be allowed onto the buses at Tall Trees.

The Applicant expressed the view that the purpose of the new licensing legislation was to prevent binge drinking by allowing licensed premises to remain open for longer and thereby enable people to stagger their drinking. As yet many licensed premises had not been afforded this opportunity owing to speculative concerns that people would drink even more. The Applicant respectively requested that the Application be granted.

Summary of Objection

The Police advised Committee that the Police and Local Authority had a statutory duty, under section 17 of the 1998 Crime and Disorder Act to contribute to the reduction of crime. The Police expressed the view that if this Application was granted the Local Authority would be in breach of this regulation and the police respectfully requested that this Application be refused.

The Police stated that the purpose of the event was primarily financial, in contrast with the added burden placed on the Police of 350 people arriving into an area of saturation at 3am. The possibility of such an influx posed numerous problems for the Police, as additional Police resources would need to drawn into the town centre, the result of which would be a decrease in the number of Police in operation on the outskirts of the town.

Reference was made to the guidance issued under section 182 of the Licensing Act and the Committee was referred to section 8.61. The Police legal representative advised that in relation to Police intervention the police opposed the Application on the grounds of scale, location and timing. In respect of their powers of closure under part 8 of the Act the Police advised that should disorder arise the closure of the premises would prove particularly difficult. The Police adopted a proactive, as opposed to reactive approach to policing and expressed the view that the Application would undermine the crime and disorder objective if granted.

DECISION

ORDERED as follows:

That the Application for a Temporary Events Licence be granted in full.

The Committee respectfully requested that the Applicant advise a local taxi firm that the event was to be held to ensure that guests were transported away from the town centre as quickly as effectively as possible.

Reasons for Decision

The reasons for the decision were based on the following:

- i) The Application was considered on its own merits, taking into account the crime and disorder Licensing Objective of the Licensing Act 2003, and the information contained within the submitted report.

- ii) Consideration was given to representations made by the premises user in relation to security at the event, transport arrangements and the fact that admission was by advanced ticket sales only.
- iii) Consideration was given to the Representation made by Cleveland Police.
- iv) Consideration was given to the following section of the Government Guidance to the Licensing Act 2003:
 - Crime and Disorder Starting at Paragraph 7.20 and Annex D
 - Permitted Temporary Activities Starting at Paragraph 8.16