

LICENSING SUB-COMMITTEE C

A meeting of the Licensing Sub-Committee C was held on 6 September 2013.

PRESENT: Councillors Taylor, (Chair), P Sharrocks and Williams

ALSO IN ATTENDANCE: PC Arbuckle and M Nevison, Cleveland Police
B Faulkner (Senior) and B Faulkner (Junior)

OFFICERS: C Cunningham, S Harker and T Hodgkinson

APOLOGIES FOR ABSENCE There were no Apologies for Absence.

DECLARATIONS OF INTERESTS

No Declarations of Interest were submitted at this point of the meeting.

13/2 **APPLICATION FOR TEMPORARY EVENT NOTICE - LA PHARMACIE AND MEDICINE BAR - 72 - 80 CORPORATION ROAD, MIDDLESBROUGH TS1 2RF - REF. NO: MBRO/PR0311**

A report of the Assistant Director Community Protection had been circulated outlining details of an Application for a Temporary Event Notice from Mr B J Faulkner in relation to La Pharmacie and Medicine Bar, 72-80 Corporation Road, Middlesbrough, Ref No. MBRO/PRO311.

The report detailed the nature, date and time of the proposed event as an After Party from Middlesbrough Empire, pre-sale tickets only, DJs, from the end of permitted hours on 27 December 2013 to 8.00 am on 27 December 2013.

Full details of the application and accompanying Operating Schedule were attached at Appendix 1 to the submitted report.

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

Summary of Proposed Licensable Activities

Extension of licensable hours from 3.00 am to 8.00 am on 27 December 2013.

The report provided background information in relation to the premises which consisted of a late restaurant, bar and nightclub situated in Middlesbrough town centre trading with the benefit of a Premises Licence. The terminal hours for licensable activities in accordance with the current Premises Licence was 3.00 am. The current premises licence was reproduced at Appendix 2 of the report.

On 29 August 2013 an objection notice was received from Cleveland Police under Section 104 Licensing Act 2003, which objected to the Temporary Event Notice on the grounds of the prevention of crime and disorder, the prevention of public nuisance and public safety. A copy of the notice was attached at Appendix 3 to the submitted report.

Applicants in Attendance

The Applicants confirmed that the information contained in the submitted report was correct. Since owning the premises for the last five years, the Applicants had previously been granted several Temporary Event Notices. No complaints regarding noise from La Pharmacie and Medicine Bar had been received from local residents or from the Council's Environmental Health Service.

The application for the TEN was for a proposed After Party from The Empire nightclub which closed at 4.30 am.

It was anticipated that people would get to La Pharmacie and Medicine Bar by 5.00 am. The Applicants confirmed that they would abide by any conditions that the Police required and suggested that they could stop serving alcohol at 7.00 am and serve soft drinks and hot beverages for the final hour.

If the Police wished to limit the numbers to less than the permitted number on the TEN, the Applicants were willing to comply. The Applicants also stated that additional security staff could be deployed if required. No patrons would be able to pay at the door as all tickets would be pre-sale only. The premises had a self-contained smoking area and patrons would not be permitted to enter and leave the premises more than once. Staff would ensure people did not congregate outside of the premises.

Although it was noted that La Pharmacie and Medicine Bar was located within the saturation area, it was described by the Applicants as a destination venue, unlike the venues in Albert Road or Southfield Road that catered mainly for passing trade.

The Applicants added that this was the first time they had applied for a Temporary Event Notice until 8 am and that in cities such as Newcastle, Leeds and Manchester, 8 am closing was a regular occurrence.

Questions to the Applicants

The Police Legal Representative confirmed that she had no questions to ask the Applicants.

Members were afforded the opportunity to ask questions of the Applicants and the following issues were raised:-

The Applicants were asked when they had last applied for a Temporary Event Notice? It was confirmed that a recent application for a Temporary Event Notice for a tenth birthday celebration of La Pharmacie and Medicine Bar in October had been approved. The application was for the extension of licensing hours to 5.00 am.

In response to a query regarding ticket sales, it was confirmed that entry to the After Party would be ticket only. The tickets would be sold at The Empire and in other clubs in Middlesbrough during the run-up to the event. It was anticipated that tickets would be sold out prior to the date of the event.

Clarification was requested with regard to the smoking area. The Applicants confirmed that the smoking area was self-contained and located at the rear of the premises. Security staff would be present in the smoking area and there would be no entry from directly outside of the premises.

The Principal Licensing Officer displayed a plan of the premises showing the location of the smoking area.

Relevant Representations - Cleveland Police

The Police Legal Representative referred to the Statement of PC Jason Arbuckle, which had been circulated prior to the meeting.

PC Arbuckle was in attendance at the meeting and confirmed the contents of his submitted witness statement, dated 4 September 2013.

A notice of objection had been submitted by Cleveland Police on 29 August 2013 in relation to the application as there were concerns that due to the late hour of the application, and the close proximity of the premises to a residential area, disturbance and disruption would be caused to local residents, impacting on the public nuisance objective.

PC Arbuckle confirmed that he had no personal issues with the Applicants or with regard to the running of the premises.

The Applicants had recently applied for two Temporary Event Notices, the first of which had been granted for a 5.00 am opening for a tenth birthday celebration in October. This application was for extended hours to 8.00 am on Boxing Day. The Police had not objected to the 5.00 am finish, however the Police felt that 8.00 am closing was a step too far.

At the rear of the premises there was a business centre and behind that, approximately 150 metres from the premises, was a residential area comprising houses, flats and maisonettes. The Police were not particularly objecting to the noise from the venue but had concerns in relation to patrons leaving the premises at 8.00 am in the morning.

The Police were of the view that by extending the opening hours until 8.00 am there would be opportunity for anti-social behaviour and alcohol related incidents to increase as the premises would attract patrons from other premises that closed earlier.

The Police did not believe that the proposal of pre-event ticket sales would prevent alcohol related crime and disorder. At the present time, venues in the town closed between 3.00 am and 5.00 am and the vast majority of patrons would have consumed alcohol and at that time would be making their way home. However on this occasion they would be consuming alcohol until 8.00 am.

During a normal weekend a large number of people came to Middlesbrough to drink alcohol on a regular basis. Throughout the Christmas period many people were on holiday and Boxing Day was one of the busiest nights of the year. Incidents of anti-social behaviour and domestic violence increased and a high number of emergency calls were reported. If this application was granted, the Police felt it would undoubtedly place additional strain on resources, and therefore impact on the public safety and prevention of crime and disorder objectives.

It was highlighted that between 8.00 pm on 26 December 2012 and 8.00 am on 27 December 2012, one hundred and thirty eight calls were made to the Police for the Middlesbrough district area. Thirty-three of these were '0' priority events which required immediate emergency Police attendance. Eighty-four were priority '1' events which required immediate Police attendance but not as an emergency. Thirty of the incidents occurred within the saturation zone and twenty six of the events were linked to alcohol related crime and disorder.

Twenty six incidents related to alcohol was generally three or four times more than what would be expected on a regular Friday or Saturday night. PC Arbuckle gave examples of the types of alcohol related incident that had occurred which included: drunk and disorderly, fighting, a person collapsed, possession of drugs, person acting suspiciously, and theft from licensed premises.

Reference was made to an incident on 24 December 2012 when a male was assaulted outside La Pharmacie and Medicine Bar following an initial altercation inside. During the assault, the victim received a fractured jaw in two places which required surgery to insert two metal plates and wiring into the jaw. PC Arbuckle stated that the Police did not have major concerns with La Pharmacie and Medicine Bar but the potential for incidents of that nature was there and was very real.

In response to a query, PC Arbuckle confirmed that there were no conditions that could be imposed that would alleviate the Police's concerns.

PC Arbuckle added that if the venue was permitted to close at 8.00 am, the vast majority of patrons leaving at that time would have consumed alcohol. Potentially there would be four hundred people in the town centre when other members of the public were going to work or to the winter sales.

The Police Legal Representative reiterated that the Police had no issues with the Applicants. The main reason for objecting to the application was the date for which it was required. Boxing Day was historically extremely busy for the Police with the number of incidents occurring being approximately four times more than usual. The Police concerns were not alleviated by the fact that the tickets would be pre-sold as this would not prevent alcohol-related crime and disorder.

Guidance under Section 182 of The Licensing Act 2003, paragraphs 7.31 and 7.32, provided that the Police could object to a Temporary Event Notice on the basis of any of the licensing objectives and such cases might arise about the scale, location and public nuisance. In the Police view, this was exactly the problem - location, timing and the fact it was Boxing Day. In addition, PC Arbuckle had expressed concerns regarding public nuisance and close proximity to a residential area. As far as the Police Officer was aware, the Environmental Health Service had not objected because their main concern would be noise from the premises, not from patrons in the streets.

Not only would a successful application potentially impact on nearby residents but patrons leaving the event, who would more than likely be fuelled with alcohol, could potentially meet shoppers and people going to work.

There were no conditions that would alleviate the Police concerns, and granting the TEN would undermine crime and disorder, public safety and public nuisance objectives.

The Applicants added that they had successfully operated licensed premises for over 30 years in the town and made the best use of these premises, with as little trouble as possible.

It was confirmed that there were no further questions and all interested parties other than the Officers of Legal Services and the Members Office, withdrew whilst the Committee determined the application. Subsequently all the parties returned and the Chair announced the Committee's decision.

DECISION

Members noted that under the Act the Committee could either allow the Temporary Event to take place, allow the Temporary Event to take place subject to the imposition of one or more of the conditions on the existing premises licence or refuse the Temporary Event Notice. It had no power to modify or restrict the proposals put forward in the notice.

The Committee considered the Licensing Act 2003, Home Office Guidance under Section 182, the Council's Licensing Policy Statement, the report and appendices and the representations made by the parties at the hearing and decided to refuse to allow the Temporary Event and order that a Counter Notice be issued as it considers it is appropriate to do so as it is likely the event will undermine the two objectives of the prevention of crime and disorder and public safety.

The Police informed the Committee that there were three or four times more incidents of alcohol fuelled incidents of crime and disorder and issues of public safety in and around licensed premises in the saturation area on boxing night into the early hours of the following day, and last Christmas time a male was assaulted outside of these premises.

The Committee considered that the Temporary Event would be likely to lead to an increase of incidents of alcohol fuelled crime and disorder and issues of public safety in an area which is already contained within the Special Saturation Policy Area because of the time of year the proposed event is to be held. That the premises are situated in a Special Saturation Area and the extended hours of drinking until 8.00 am is likely to encourage patrons migrating from other premises in the Saturation Area closing in the early hours when problems occur to continue drinking to La Pharmacie and Medicine Bar.

In reaching the decision Members had considered the following:-

1. The Licensing Act 2003 and amended Government Guidance issued under Section 182 of the Act.
2. Middlesbrough Council's Licensing Policy.
3. The case presented by the Applicants.
4. The representations received from the Police.

The Applicants were reminded of the right to appeal to the Magistrates Court within 21 days of

the date of the decision.