

LICENSING SUB-COMMITTEE C

A meeting of the Licensing Sub-Committee C was held on 15 November 2013.

PRESENT: Councillors Taylor (Chair) Hudson and J A Walker

ALSO IN ATTENDANCE: P Craig - Applicant
C Harvard - Applicant's Legal Representative
R Fodor - Business Partner of Applicant (Part Meeting)
Sgt P Higgins - Cleveland Police Licensing Unit
PC S Craig - Cleveland Police Licensing Unit

OFFICERS: B Carr, C Cunningham and T Hodgkinson

DECLARATIONS OF INTERESTS

There were no Declarations of Interest at this point of the meeting

13/7 **APPLICATION FOR A TEMPORARY EVENTS NOTICE: 31 STATION STREET, MIDDLESBROUGH TS1 1SR**

Prior to the commencement of the meeting the Committee conducted a Site Visit to the premises.

PRESENT AT SITE VISIT:-

Members: - Councillor B Taylor (Chair); Councillors Hudson and J Walker
Officers: - B Carr, C Cunningham and T Hodgkinson
Applicant: P Craig
Applicant's Legal Representative: C Harvard
Cleveland Police: PC S Craig and Sgt P Higgins

The applicant and his legal representative conducted a tour of the premises and outlined to Members, the purpose of each area. The applicant pointed out the fire exits and proposed smoking/toilet facilities and provided those present with an outline of the works still to be completed at the premises and explained the arrangements with regard to disabled access and the provision of CCTV at the premises. At the end of the Site Visit, the Committee and those present returned to the Town Hall and the meeting commenced.

A report of the Assistant Director of Development and Planning Services had been circulated outlining an application for a Temporary Event Notice in respect of 31 Station Street, Middlesbrough.

Summary of the nature of the proposed event: D J Event

Summary of requested Licensable Activities: The sale by retail of alcohol, provision of regulated entertainment

Summary of Proposed Date and Time of Event: 22.00 - 04.00 on Saturday, 7 December 2013

The full detail of the application was attached at Appendix 1 to the submitted report.

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

Details of the Application

The Principal Licensing Officer presented the report in relation to an application for a Temporary Event Notice in respect of 31 Station Street, Middlesbrough, as outlined above.

A copy of the notice of the event was served on Cleveland Police and the Environmental Health Public Safety and Noise Team as required by the legislation. Members were advised that the Licensing Act 2003 allowed for the issue of a Temporary Events Notice (TEN) which permitted licensable activities on a temporary basis without the need for a premises licence. They were often used by venues that did not have a premises licence and by existing premises licence holders to extend the hours for licensable activities.

Details of the limitations imposed by the Licensing Act 2003 with regard to the use of TENs were included at paragraph 2 of the report. It was highlighted that the Licensing Act 2003 permitted only the Police and Environmental Health to object to a TENs licence on the basis of the four licensing objectives.

The report contained background information with regard to the premises which consisted of an industrial unit which had been previously used as a showroom and factory. The Committee was advised that the premises did not currently have the benefit of a premises licence.

On 18 October 2013, Cleveland Police had submitted an objection to the application under Section 104 of the Licensing Act 2003 on the grounds of crime and disorder and public safety (attached at Appendix 2 to the report). The Principal Licensing Officer outlined the options available to Members in respect of the application.

The applicant confirmed that the report was correct and the Chair invited the applicant's legal representative to present his case.

The applicant's legal representative advised Members that his client had applied for funding from a start-up organisation. The applicant was required to produce evidence that he was able to legally proceed with the event before accessing the funding. Members were advised that the timescale was tight and there was still a lot of work to be carried out at the premises. The legal adviser stated that he had advised his client that he would be unwise to proceed with the event until all the outstanding works to the premises were completed.

The legal adviser raised the following points:-

- The Fire Authority had specified that the maximum capacity for the premises was 350 however his client had indicated that the capacity was nearer 250 - 300. In relation to the steps at the entrance to the premises, Members were advised that the steps would be sloped and new doors would be installed. Following advice from the Fire Brigade, the applicant intended to install 3 fire exits. The existing shutter at the entrance to the premises would be replaced with a door with a push bar to open it.
- 2 walls would be built in the intermediate room as protection in the case of a fire and the usual fire safety doors would be installed. Members were advised that the applicant had earlier at the Site Visit pointed out to Members the existing bar and had explained that it would be relocated to the left hand side wall. The space vacated by the relocation of the bar would be filled with seating.
- The room that lead out to the smoking area had been designated as a "chill out" room with seating. The steps leading into that room would be replaced and sloped and there was also some lighting/electrical works that still needed to be carried out. The Committee was advised that the work would be carried out by contractors and a copy of an artist's impression of what the premises would look like once the work was completed had been circulated to the Committee.
- The applicant was not trying to create a nightclub. The legal adviser referred to the documentation that had been submitted which described Void and Void Collective. The Committee was advised that there were no limits with regard to what the premises could be used for and the applicant wanted to step away from a night club culture.
- The legal adviser accepted that there had been a number of occasions when his client had acted illegally or doubtfully however he emphasised that there was no police evidence to suggest that physical injury to people or damage to the environment had occurred and there had not been any complaints from people in the neighbourhood with regard to any of the events he had held.
- The legal adviser referred to the event held in Osmotherly and advised that although

- the Police had attended they allowed the event to continue as long as his client cleaned up properly after the event. Reference was made to the "private party" held in Snowdon Road which had received visits from two separate groups of police officers; the second group having closed the party down.
- The legal adviser stated that he would give evidence with regard to other events held in Newcastle, Leeds, the Crown in Middlesbrough and Atik; all which had passed without incident. The legal representative referred to the event held at the Crown and advised that of the 150 people that had attended, one had been arrested for taking drugs.
 - The applicant had not associated with the people connected with Seven Sounds since November 2011 and he advised that the company no longer existed. To ensure that the events were controlled properly, the applicant intended to use at least 3 or 4 SIA registered staff. The applicant intended to use proper electrical installation engineers and he had also had an asbestos survey carried out in respect of the premises and a copy of the certificate and summary of the results had been included as part of the documentation for information.
 - The applicant intended to install a high quality CCTV system which would cover the internal and external of the premises. A fire alarm with three fire exits would be installed and the applicant had in place £5m public liability insurance. The applicant intended to place notices at the venue advising that no drugs would be permitted and the SIA registered staff and the premises own staff would monitor customers entering the premises and random searches would be conducted for drugs and weapons. The applicant would also be willing to follow any other recommendations made by the Police in respect of the control of drugs and weapons.
 - The applicant had carried out sound tests at the premises and the Council's Environmental Health department had offered no objections to the application. The legal adviser pointed out that the applicant did not have any convictions; not even a caution. The applicant had proved that he could hold events effectively and the legal adviser advised Members to consider the void events plan which he advised was a very comprehensive document.
 - The facility to listen to music and sell alcohol was not the prime objective of the application. The aim was to provide a studio for artists in Middlesbrough and the night time events would subsidise the cost of the art studio.
 - The applicant confirmed that the application was solely for the ground floor of the premises. The applicant confirmed that his application for funding had expired on 9 November, however he intended to re apply for the funding. The applicant's business partner had agreed to contribute £10k and the applicant confirmed that he was satisfied that the funding would cover all the work that was scheduled to be carried out at the premises. He stated that the building would be launched as a creative arts space and would be open to university students to display their art work free of charge.
 - The legal adviser referred to the previous meetings held between the Principal Licensing Officer and the Police and advised Members that the Police had suggested that the applicant use either the Cornerhouse or Chicago Rock for his event. The applicant had advised that the Cornerhouse had not been available for the date that he wanted and the cost of hiring Chicago Rock at £150k had been prohibitive. The legal adviser stated that the Police had indicated that they would view the application more favourably if the event was held in established premises however the applicant was trying to move away from using traditional nightclubs.
 - The applicant referred to a number of events he had held previously in particular the events held at the Crown, Spensleys and Atik in Middlesbrough and events held in Newcastle and Leeds and he stated that there had not been any trouble associated with the events and there had been no Police intervention.
 - The legal adviser stated that the Police had commented that the proposed venue was liable to encourage crime and disorder and this would undermine the crime and disorder licensing objective. The venue would not be marketed as an industrial unit or warehouse when it was completed. The legal adviser referred to the Holbeck Grand Ballroom - a project that had received funding from the Arts Council and he advised that the applicant wanted his project to be similar to that one.
 - The applicant's legal adviser sought permission from the Committee and the Police to submit a document from the applicant which addressed the objections from the Police.

- The Committee and the Police confirmed that they had no objections to the documentation been submitted as evidence and a copy was circulated to those present at the meeting.
- The legal adviser stated that he wanted to make it clear that the event held in the Thornaby Industrial Unit in 2012 which was licensed by Stockton Council, did have SIA registered staff, a portable fence and portable toilets. The applicant had subsequently received a telephone call from the Police to say that the event was unlicensed and that they needed to inspect the premises. The Fire Authority had visited the premises and declared that the premises were unfit and as a consequence the applicant was unable to hold the event. The legal adviser stated that the applicant had subsequently received an apology from Stockton Police regarding the cancellation of the event.
 - The Committee was advised that the applicant had proved previously that he could run safe events. A Police Sergeant from Thornaby Police had also reassured the applicant that his past involvement in licensing events would not be used against him when considering licensing applications.
 - The legal adviser stated that the applicant was surprised to receive the DVD evidence in respect of the event held at Snowdon Road. The legal adviser sought clarification from the Police whether they were objecting to the application because of the applicant. Sgt Higgins confirmed that the Police were objecting because of the location and the current state of the proposed venue for the event.
 - The applicant stated that Sgt Higgins had originally advised that he did not have a problem with the proposed TEN however he had stated that he would have to check if his managers had any objection to the event. The applicant confirmed that he intended to use registered SIA staff and bar staff from The Crown. The Committee was advised that the age range of the people that the applicant hoped to attract at the event was people in the age range of 18 - 30. The applicant confirmed that the screen shot of the Facebook evidence provided by the Police was completely out of date. The evidence was collected well before many of the remedial works had been carried out at the premises.
 - The applicant advised that Seven Sounds no longer existed. Initially the group's aim was to have fun and the events were advertised on Facebook to make more money. The applicant was unhappy with this and he decided to have no further involvement in the group.
 - In response to a query with regard to how the TEN event would be promoted, the applicant confirmed that it would be advertised via Facebook. The applicant confirmed that the number of people attending the event would be managed by using a clicker device to count the number of people entering the building. The applicant advised that tickets would be sold prior to the event via an electronic ticketing system. If over 800 people turned up at the event the applicant advised that he would apologise to those who had not been able to purchase a ticket and offer them tickets for the next event. He would also consider using a "one in one out" system or ask the SIA registered door staff to disperse those who did not have tickets.
 - The applicant advised that following the event held in Snowdon Road, 2 people had been found to be in possession of drugs and both received a caution for the offence. The applicant advised that he realised that he had made mistakes in the past however he would work with the Police to make the event successful and he would end the event at 2pm as a compromise.
 - The applicant's business partner arrived at this point of the meeting. In response to a query with regard to the events plan, the applicant confirmed that he had completed the plan. Sgt Higgins queried what type of adult entertainment the applicant intended to hold. The applicant advised that he had included the reference to adult entertainment in case any events were planned in the future. Sgt Higgins commented that it appeared that the events plan was put together by cutting and pasting extracts from different events plans. The applicant confirmed that he had researched different literature to put the plan together.
 - Sgt Higgins stated that there was still a lot of work to be done including the installation of CCTV, Portaloos, building of walls, installation of seating, lighting, ramps to ensure the premises were safe and fit for purpose. He queried whether the applicant had acquired any costings for the fire safe passageway and the installation of fire doors. The applicant advised that most of the work that had been carried out at the premises

- had been undertaken by the applicant and his friends. He advised that it had cost £470 for the CCTV system and he intended to install an alarm. The applicant advised that his father's friend was a joiner and he would install the new bar.
- Sgt Higgins advised the applicant that any electrical work would need to be carried out by a qualified electrician. The applicant advised that he would employ qualified trades people to carry out any work in relation to the walls, alarms and electrics. Sgt Higgins queried whether the premises where he held an event at the Railway Arch in Newcastle had a premises licence. The applicant confirmed that the venue was fully licensed.
 - Sgt Higgins asked the applicant to reaffirm that he had spent £20k on the premises. The applicant confirmed that he had spent £1,500 on electrics, £1,000 on doors and £8,000-£9,000 on equipment for DJ's and artistes.
 - Sgt Higgins advised Members that the venue hire forms submitted by the applicant as evidence of demand for the premises had been submitted by the applicant's business partner and his girlfriend. The applicant pointed out that he had received a number of other hire forms from people who were not related to the business.
 - Sgt Higgins stated that he had not advised the applicant that he did not have any issues with regard to the event.
 - Sgt Higgins challenged the applicant on his statements with regard to police involvement at the events held at Cod Beck, Bon Lea and Snowdon Road.
 - Sgt Higgins challenged the comment from the applicant with regard to the fact that the Saltburn event was held annually and he confirmed that he had checked with a Police Inspector at Saltburn and he was not aware of an annual event being held at Saltburn beach.
 - The Chair asked the applicant if he had copies of the revised plans of the premises. The applicant confirmed that the plans had changed 6 or 7 times. The Chair stated that the building still needed a lot of work doing to it in particular the electrical works, toilet facilities and the erection of dividing walls and installation of fire doors.
 - A Member queried with regard to how many SIA registered staff would be employed at the premises. The applicant advised that there would be 4 SIA staff however if the Police specified that there needed to be 6 then the applicant would accede to the Police advice.
 - The applicant confirmed that he wanted the licence for an art studio and he hoped to hold temporary events on a monthly basis to raise money for the running costs of the premises. He confirmed that he would charge the artists for electricity and heating.
 - The applicant confirmed that ticket costs for the event would cover the costs of rent, business rates and the hire of staff.
 - The applicant confirmed that he had obtained a loan of £9,500 from his business partner and a £10,000 personal loan and his parents had assisted with the finance and he had received a tenancy agreement from the Landlord of the premises. He confirmed that insurance was in place and that he had no intention of holding an unsafe event.

The Council's Legal Adviser advised Members that the application was for the sale of alcohol up to 4.00am. If Members chose to approve the application then the application would be based on the current state of the premises as there was no provision in the law to place conditions on a Temporary Event Notice.

The Chair advised that the premises were based in a saturation area of the town and it was up to the applicant to prove that the event would promote the licensing objectives.

The Applicant's Legal Adviser spoke in support of the applicant.

Sgt Higgins stated that the applicant appeared to be vague with regard to costs contained within the business plan. The applicant stated that he was not able to state how much money the events would make as it depended on how many people attended.

The Principal Licensing Officer queried whether the applicant had received confirmation from the Bank whether he was able to have a loan. The applicant confirmed that funding was in place and that he had registered the business as a limited company in February 2013.

The Council's Legal Officer stated that the premises were situated in a saturation area and asked for clarification how the event would not impact adversely on the area. The applicant confirmed that he had contacted a taxi service and they had agreed that the applicant could supply customers with their taxi number to help disperse customers at the end of the event.

SUMMING UP

Cleveland Police

Sgt Higgins stated that there were significant risks of the crime and disorder and public safety licensing objectives being undermined if the TEN was to be granted. The Police had concerns with regard to the unsuitability of the venue and building and the track record of the organiser in organising similar events. He referred Members to the video footage of the events held at Saltburn beach and Snowdon Road.

Sgt Higgins stated that the venue was an empty shell and it was likely that customers would not treat it with the respect they would afford an established venue. He referred to previous events held by the applicant and the amount of necessary involvement of the Police in the events. He referred to the fact that under age young people had attended some of the events, the amount of debris left on site after the events and the fact that drugs were found at least one of the events.

Sgt Higgins referred to the lack of safety provisions in place at the Snowdon Road event, the fact that the Fire Brigade had served a prohibition notice on the premises and the lack of respect given to Police attending the event to close it down by the applicant and some of the customers. Sgt Higgins pointed out the grip seal bags used for drugs which were found at the Snowdon Road event and the randomness of all the electrical equipment and cables within those premises.

Sgt Higgins advised that two years previously, the applicant had been organising events that had undermined the licensing objectives

Sgt Higgins acknowledged the intention of the applicant to hold legitimate events however he encouraged the applicant to organise events in established premises where there would be proper controls in terms of the premises and staff.

The Applicant

The legal representative for the applicant queried whether there had been any instances of violence, criminal damage or injuries sustained at the the Cod Beck event. Sgt Higgins advised that the Police had no direct evidence however there had originally been postings on Facebook which had later been taken down with regard to the fact that equipment had been stolen and that a confrontation had taken place with regard to the stolen equipment. The applicant advised that a microphone had been misplaced however there had not been a confrontation with regard to this issue.

With reference to the event at Cod Beck, the applicant's legal representative advised that this event was not organised by the applicant. Sgt Higgins advised that the applicant had spoken in the Evening Gazette on behalf of 7 Sounds - the group that had organised the event and he had advised that he was the spokesperson for the group.

With regard to the event held at Snowdon Road, the applicant's legal representative stated that the it was a private party. Sgt Higgins advised that two of the people at the event denied knowing the applicant and he advised Members that the event was advertised on 7 Sounds Facebook page.

The legal adviser stated that his client was trying to do things properly. Sgt Higgins advised that the applicant needed to hold more events in established premises. The Committee was advised that the applicant had successfully held two events at The Crown. He advised that the applicant had provided a risk assessment in respect of the use of the premises which the Police had dismissed as they believed that the applicant had "cut and pasted" information

from other licensing documentation.

The legal representative suggested that the grip seal bags found by the Police at the premises in Snowdon Road, could have been used to carry sandwiches. Sgt Higgins advised that this was highly unlikely as the bags were only the size of a 50p coin. In response to a query with regard to whether the bags had been tested for drugs, Sgt Higgins advised that it would have been a waste of resources as the event was attended by people who had previously been arrested for the use of drugs.

In response to a query with regard to how the electronic shutter was operated at the Snowdon Road premises, Members were advised by Sgt Higgins that it was via a key which was located inside the premises. The applicant stated that there was also a button inside the premises and a key lock located outside the premises.

Reference was made to the annual event held at Saltburn and Sgt Higgins advised that the local police were unaware of the event. The applicant's legal representative clarified that although his client was present, he did not have any involvement in the organisation of the event. The applicant's legal adviser stated that the applicant had the appropriate finance in place to fund the project and Members needed to decide whether the applicant would let his parents and business partner take on these financial commitments if he was not confident about running the premises. The Committee was advised that the applicant needed to generate at least £6k-7k to pay for the work that had already been carried out at the premises.

The legal adviser stated that the applicant intended to install CCTV and an alarm at the premises and he acknowledged that although the electrical installation appeared to be untidy, it did not mean that it was unsafe.

The Committee was advised that if they chose to grant the application, it was likely that the applicant would apply for further TEN's in the future so that he could build up a track record of organising successful events. The applicant was willing to provide an undertaking that he would carry out all the required works at the premises before the date of the event. Members were advised that the appearance of the premises would never be up to the standard of usual night clubs as this was not the type of premises that the applicant wished to operate.

It was confirmed that there were no further questions and all interested parties other than the officers of Legal Services and Members Office, withdrew whilst the Committee determined the application.

Subsequently all the parties returned and the Chair announced the Committee's decision.

DECISION

The Licensing Sub Committee considered the representations made by the parties, the Guidance under Section 182 of the Licensing Act and the Council's Policy.

The Committee decided to issue a Counter Notice and reject the Application for a Temporary Event from 22.00 hours on the 7 December 2013 to 04.00 hours on the 8 December 2013 at 31 Station Street Middlesbrough for the sale by retail of alcohol and the provision of regulated entertainment on the grounds that the event would undermine the prevention of crime and disorder and public safety licensing objectives.

The Committee visited the Premises and heard representations from the Applicant and the Police. The Committee considered that the Premises were in a poor state of repair and overall run down. The Premises required extensive refurbishment to ensure the Premises became a safe environment. The problems included but were not limited to poor lighting, exposed electrical cabling, no working toilets, uneven unsafe flooring, large steps which would be problematic to disabled customers and the premises did not comply with many fire safety requirements.

The Committee considered that the safety of people attending the event would be at serious risk. The Committee recognised that the Applicant had carried out some refurbishment works

but this was too little in view of improvements that were required. Although the Applicant made assurances to the Committee that the work would be completed before the event no detailed factual schedule of works and costings were presented to the Committee. The Committee considered the condition of the Premises seriously undermined the Public Safety objective.

It was the police's view and the Committee agreed that this type of venue, namely a disused warehouse, was connected to an underground clandestine culture which attracts drug misuse and a lack of respect for the Premises.

The Premises are situated in an area already saturated by Licensed Premises which has a negative impact on Crime and Disorder and is covered by a special policy. The Committee were not satisfied that the event would not further negatively impact on crime and disorder in the area.

Evidence from the police showed that the Applicant had been involved in events that had involved many police officers, crime and disorder and public safety issues which reduced police effectiveness in other areas.

The applicant was involved in events at Cod Beck Reservoir and Saltburn which involved police having to attend monitor or disperse people. At the Saltburn event police advised the group were intoxicated and included underage people, they had caused littering, carried on dangerous activities and were hostile towards the police. The Applicant acting as a spokesperson for the group criticised the police in a press article for dispersing the group.

At an event ran by the Applicant at Snowdon Road it was clear drugs were used at the Premises. There were also serious issues of Public Safety and the people who attended were put in grave danger in that the only exit from the premises was a closed electric shutter and a Fire Safety Prohibition Notice was served on those premises. After watching the DVD and considering the representations the Committee considered that the Applicant had a flagrant disregard for the police. The Committee were also concerned that when a previous Temporary Event Notice was granted to the Applicant in respect of an event at Bon Lea, 800 people turned up in breach of the Temporary Event Notice and the event did not go ahead.

The Committee acknowledged that the Applicant may have run an event at the Crown which the Applicant submitted was without problems, however, an arrest was made in relation to drugs. The Crown has a Premises Licence with conditions controlled by the Premises Licence Holder and a Designated Premises Supervisor and the Committee considered that this was different to running a temporary event where no safeguards were in place.

The Applicant informed the Committee that he planned to operate the Premises as a creative space for art media etc and required the temporary event to fund this activity. However, the Committee considered that late night drinking and music as a funding source was detrimental to the prevention of crime and disorder and public safety.

The Committee believed that if the event was to go ahead, it was likely that crime and disorder would occur and public safety would be put at serious risk.