

LICENSING PANEL SUB-COMMITTEES

MONDAY, 19 JUNE 2017

PRESENT: Councillors Malcolm Alexander, Jesse Grey (Chairman) and Wesley Richards

Also in attendance: Cllr Shelim, Scott Pattinson, Jas Gill, Sarah Cracknell, Gavin Morris, Gavin Gordon, Grant Pearson, Marie Rave, Nash Gooderham, Mathew Phillips, Sarah Belton, Nick Hitchcock Kevin Norris, Jo Webb,

Officers: Steve Smith, Elaine Brown and David Cook.

APPOINTMENT OF CHAIRMAN

Resolved unanimously: that Cllr Grey be appointed as Chairman.

APOLOGIES FOR ABSENCE

There were no apologies of absence received.

DECLARATIONS OF INTEREST

There were no declarations of interest received. Cllr Richards informed that he was a ward member.

CONSIDERATION OF APPLICATION TO VARY A PREMISES LICENCE UNDER THE LICENSING ACT 2003

The Chairman welcomed everyone to the meeting and asked them to introduce themselves.

The item was introduced by the Council's Licensing Officer, Steve Smith, who explained the application related to a premise known as the Ink Restaurant and Bar, 13 High Street, Windsor, Berkshire, SL4 1LD. The application was for a variation of the issued premises licence as follows:

To change the current opening hours of the premises to 11.00 am until 02.00am Friday and Saturday. For the permit to sell alcohol for consumption on the premises from 11.00am until 01.30am Friday and Saturday. For the playing of recorded music on the premises from 11.00am until 00.00am Monday to Thursday, 11.00am until 02.00am Friday and Saturday and 11.00am until 11.00pm on Sunday.

Mr Smith explained that there was an error on agenda page 18 where the variation for the sale of alcohol consumption should sat 01.30am and not 02.00am. it was explained that the Dedicated Premises Supervisor was Cocco Camille Chamoun.

With regards to representations from the Responsible Authorities representation was only made from Environmental Health who had requested the following four conditions:

- Noise arising from any recorded music or any other source shall not be played at a level which give rise to a public nuisance to the occupants of any properties in the vicinity.
- All windows, doors (with the exception of access and egress) must remain closed during regulated entertainment.

- Indoor speakers should be pointed away from residential properties and should not be positioned close to openings such as doors and windows.
- The disposal of bottles into waste receptacles outside the premises is not permitted between 21.00 hours to 09.00 hours.

The applicant had agreed to the above additional conditions.

Mr Smith informed that there had been representations from Cllr Rankin and Cllr Shelim (both ward members), 18 interested parties and 11 objectors present today. Mr Phillips, from the Pegasus Group, representing his client was in attendance. There were 6 to 7 noise complaints currently being investigated.

The Sub-Committee were also informed that a venue management plan had been submitted and that all other existing conditions remained unchanged. Mr Smith circulated maps and photographs of Inks location and of the venue. Link was accessed via a front door and a back VIP entrance and SIA doorman controlled the door on the high-street.. The restaurant closed at 10.30pm and had 48 covers. There were six speakers; 4 in the lounge and 2 in the bar.

Mr Smith reminded the Sub-Committee to determine the application with a view to promoting the four licensing objectives, which were the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.

The Sub-Committee was reminded that it could:

- Grant the application as requested
- Modify the conditions of the licence, by altering or omitting or adding to them
- Reject the whole or part of the application.

Mr Smith advised the Sub-Committee to have regard for national guidance and the Council's own Licensing Policy.

Questions to the Licensing Officer

In response to questions from Members Mr Smith confirmed that the sale of alcohol was up to 01.30am with the venue closing at 02.00am, that he believed there was air-conditioning and that there were other venues in the local area that were licenced for the sale of alcohol after 12.00am.

Applicants Case

Mr Gooderham, applicants representative, informed the sub-committee that Ink was a small well run venue that opened in 2016. Ink Bar operated as a separate venue to the restaurant. The applicant wished the variation to the current licence to keep the business viable. The target audience was patrons between 25 to 55 years of age with a challenge 21 door policy.

The bar was aimed at the high end market with footfall between 30 to 50 people on a Friday and Saturday. Admission was by invite and guest list only. There had been no substantive noise or public nuisance complaints and there had been no objections from Thames Valley Police.

The venue had operated for 6 months with no complaints being made to the Council and the current complaints had been submitted after this application was made. With regards to entertainment the hours for music were currently covered by deregulated authority and thus the applicant was only asking for an additional hour.

There had been a four week consultation period before the application was made with discussions with the Council's licencing team and police. A venue management plan had been submitted and the owner had agreed to the additional conditions. Last entry to the venue would be 12.30am and reasonable steps had been taken to reduce the impact of noise.

Maximum sound levels to be agreed with the applicant willing to have sound monitoring if requested.

The last entry, egress and sale of alcohol had been arranged so that clients leaving could be staggered. 4 special event licenses had already been granted allowing the venue to operate until 02.00am and there had been no complaints or negative impact on the local area. There had been no objections to the notices.

The Sub-Committee were informed that most of the objections related to noise but it was felt these were taken out of context as on three occasions when noise complaints were made the venue had been closed. They did not accept that drunk anti social behaviour in the area was down to the venue.

Objectors Case

Cllr Shelim informed that he was speaking on behalf of himself and Cllr Rankin. They both objected to the application due to public nuisance and possibility of crime and disorder.

Local residents have informed that there is a issue due to loud music especially bass vibrating through walls. This was not an isolated incident and he felt that local residents had a right to live in peace. There was also noise outside the venue once it closed.

Cllr Shelim also mentioned that he also had concerns about crime and disorder and felt that increasing the hours would increase anti social behaviour. Residents already had to endure anti social behaviour such as public urination; anti social behaviour would increase and be later into the night.

The Sub-Committee was addressed by a number of objectors who made the following points:

- They owned 4 flats above Natwest and there was an issue with noise. Ink's website boasted that it had the worlds best sound system and that the current noise levels were above that permitted. Noise levels had only come down when the application was made, he was concerned that it would increase again and be detrimental to his health.
- The Ink property had changed from office use to a restaurant, from a restaurant to a bar and there was concern that this application would result in it becoming a club. The building was listed so it would be difficult to sound proof. The restaurant / club had already generated anti social behaviour and there was a concern this would increase. There were concerns of increased public nuisance.
- Concern that staff at Ink were leaving a locked access gate open that was causing anti social behaviour in a private aces area; for example used contraceptives left behind.
- Have a two year old child and bought their property as it was a quite residential area and fear this will change.
- Original application was for a restaurant over two floors. Ink was now run as two separate businesses with the bar above. The original sound survey was for a restaurant not the existing bar / club.
- The applicant mentioned that the increased hours was for the viability of the business; however this would have a negative effect on existing businesses in the area such as property lets.
- The application was a fundamental change not a small amendment and would impact on his clients properties because of public nuisance and impact on residential amenity. The original change of use application was for a restaurant this was now becoming a mixed use facility with the addition of the club. Public nuisance was a concern and it was questioned that the Venue Management Plan had the risk assessment as being low which was not acceptable for a night club opening until 02.00am.
- Opening until 02.00am went against the planning application conditions. Concerned about negative impact on the wider community.

Questions to the Objectors

Cllr Richards asked if landlords had lost tenants because of the noise. A resident replied that after three weeks into his tenancy agreement he had decided to end his tenancy after the six month agreement. A landlord also informed that a tenant had said that if the noise continued they would end their tenancy.

The Chairman asked Cllr Shelim if there were conditions regarding the noise would this be acceptable. Cllr Shelim replied that it would be a compromise.

It was mentioned that what noise was reasonable at 02.00pm was not reasonable at 02.00am. The properties adjoining both sides of Ink were residential.

Cllr Shelim mentioned that there were two issues; noise and anti social behaviour.

The Chairman asked if there had been a history of complaints of anti social behaviour. There had been no complaints to the licencing team and Thames Valley Police had not objected. There were ongoing investigations from Environmental Protection.

The Chairman also asked if the two floors were separate businesses. He was informed that there were two separate entrances with the upper floor more like a lounge then a restaurant, both levels were covered by a single licence.

Applicants Questions

The applicant and her representative informed that the second floor had no dance floor and was a bar. It was questioned when did a bar become a nightclub. The fire capacity was for 116 people but on average there would be between 30 to 40 on a Saturday night. The Venue Management Plan would be reviewed regularly and had been assessed and approved by Thames Valley Police. The risk perception was low as there had been no previous issues. No customers had access to the backyard therefore anti social behaviour not from Ink.

Councillor Questions to the Applicant

Cllr Richards mentioned that there was concern about the noise and that the venue was advertised as a disco and not a restaurant. The applicant informed that it was advertised as a cocktail and Champaign lounge.

Cllr Richards mentioned that their website pictures showed it as a disco. The applicant informed that it was not a disco and the advert was for disco music played on a Thursday; they did not have a DJ on Thursdays unless it was a special event when an events licence was required.

Cllr Richards asked that with regards to noise was there an outside area where staff went. The applicant informed that there was a courtyard where kitchen staff could take a smoke break but this was not accessible to guests as they would have to go through the kitchen.

Cllr Alexander asked if entry to the bar was by invitation only and if it was a private club. The applicant informed that the policy was to be selective so you needed to be on the guest list. It was not a private club just selective.

Cllr Alexander questioned the accuracy of the plans on agenda page 35. It was noted that it was a criminal offence to operate outside the original application. The applicant informed that there had been no new plans submitted as it was a variation to the existing licence.

The applicant informed that due to issue regarding the plans they would withdraw the application and a new application would be submitted.

The meeting, which began at 12.00 pm, finished at 2.00 pm

CHAIRMAN.....

DATE.....