

LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

WEDNESDAY, 21 JULY 2021

PRESENT: Councillors David Cannon (Chairman), Geoff Hill and Sayonara Luxton

Also in attendance: Councillor John Bowden, Councillor Samantha Rayner, Gary Grant (Barrister), Anthony Gorbett (Operations Director), Alex O'Reilly (Regional Director), Stephen Fleury (General Manager), Rio Kader (General Manager and DPS), Professor Martyn McLachlan, Ms Penny Banham and Ms Jessica Ainley (Objectors)

Officers: Mark Beeley, Greg Nelson, Anthony Lenaghan and Shilpa Manek

APPOINTMENT OF CHAIRMAN

Councillor Luxton proposed Councillor Cannon be Chairman for the meeting, this was seconded by Councillor Hill.

RESOLVED UNANIMOUSLY: That Councillor Cannon was elected Chairman for the meeting.

APOLOGIES FOR ABSENCE

There were no apologies for absence received.

DECLARATIONS OF INTEREST

Councillor Luxton declared an interest as she had considered a previous application for a license at the same venue.

PROCEDURES FOR SUB COMMITTEE

The clerk informed all present of the procedures for the Sub Committee.

CONSIDERATION OF APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003

The Reporting Officer to outline the application and the decision to be taken

Greg Nelson, Trading Standards and Licensing Manager, set out the application. This meeting of a Licensing Sub-Committee was convened to hear an application for a new premise licence located within the Royal Borough of Windsor & Maidenhead. In line with the Licensing Act 2003, when relevant representations were made against an application, a hearing had to be held to consider them. A relevant representation made against an application for a new premises licence had to relate to at least one of the four licensing objectives set out in the Licensing Act 2003. These were; 'The Prevention of Crime and Disorder', 'Public Safety', 'The Prevention of Public Nuisance', and 'The Protection of Children from Harm'.

The purpose of this hearing was for the Sub-Committee to hear the application, receive written and oral representations from other parties and then to make a decision in respect of the application.

The Applicant was CC Stim UK Tradeco 3 Limited and the DPS was Mr Rio Kader for the premises ATIK, 19 William Street, Windsor, SL4 1BB. CC Stim UK Tradeco 3 Limited had applied, under the Licensing Act 2003, for a new premises licence to be granted.

The application was to licence a town centre nightclub comprising one trading floor with a balcony area. The previous Premises Licence had lapsed and the applicants had applied for identical Licensable hours and conditions to the previous Licence held. A summary of the application was as follows:

Main Room

- The standard opening hours of the premises: Monday to Sunday 11:00 – 03:30
- Films Indoors Monday to Sunday 11:00 – 03:00
- Indoor sporting events Monday to Sunday 11:00 – 03:00
- Boxing or wrestling entertainments Indoors Monday to Sunday 11:00 – 03:00
- Live Music Indoor Monday to Sunday 11:00 – 03:00
- Recorded Music Indoors Monday to Sunday 11:00 – 03:00
- Performance of dance Indoors Monday to Sunday 11:00 – 03:00
- Late night refreshment Indoors Monday to Sunday 23:00 – 03:00
- Supply of alcohol on the premises Monday to Sunday 11:00 – 03:00

Small Room

- The standard opening hours of the premises: Monday to Sunday 11:00 – 03:15
- Licensable activities as above Monday to Sunday 11:00 – 02:45
- Seasonal Variation: An additional hour to the standard and non-standard timings on the day when British Summertime commences New Year's Eve and Halloween permitting licensable activities until 03:30, closing at 04:00.

The Designated Premises Supervisor (DPS) was Mr Rio Kader.

This application had originally received one representation from Thames Valley Police, but this was withdrawn after a meeting was held with the applicants. There were no other representations from the responsible authorities which included; Royal Borough Fire and Rescue Service, Planning, Local Safeguarding Children's Board, Public Health, Trading Standards, Environmental Health and RBWM Licensing. There had been nine individual representations from residents that were relevant to the application as they related to one or more of the four licensing objectives.

The Licensing Panel Sub Committee was obliged 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

- The protection of children from harm

In making its decision, the Sub-Committee was also obliged to have regard to national guidance and the Council's own Licensing Policy. The Sub-Committee had to have regard to all of the representations made and the evidence that it heard.

The Sub-Committee must, having regard to the application and to the relevant representations, take such step or steps as it considered appropriate for the promotion of the licensing objectives.

The steps that were available to the Sub-Committee were:

- (a) Reject the application;
- (b) Refuse to specify a person in the licence as the premise's supervisor;
(*Note – not all of these will be relevant to this particular application)
- (c) Grant the application but modify the activities and/or the hours and/or the conditions of the licence;
- (d) Grant the application.

Where conditions were attached to a licence then reasons for those conditions must be given.

The Sub-Committee were reminded that any party to the hearing could appeal against the decision of the Sub-Committee to the Magistrates' Court within 21 days of the notification of the determination.

Questions to the Reporting Officer from Members

The applicants representative expressed concern that due to the timings of the meeting, a determination from the Panel may not be reached today. He asked for consideration to be given to the premises and the staff that were employed there. It was asked if the decision could be communicated to the applicant well in advance of the five working day deadline.

The Chairman could give no guarantees but said that the decision would be communicated to the applicant as soon as possible and within five working days.

Councillor Luxton asked why the representation from Thames Valley Police had been withdrawn.

Greg Nelson explained that discussions had been held between the applicant and Thames Valley Police, with an agreement being reached.

Councillor Hill noted that the previous business at the same premises had closed. He asked if there was any difference with the previous license to the one being presented.

Greg Nelson said it was almost identical, the original company had gone into administration. After discussions with the police, the license being proposed had been altered slightly. The original application was for alcohol to be sold until 3.15am, with the venue to close at 3.45am. This had been brought forward 15 minutes by the applicant.

The applicants representative explained that there was more restraint on the license being proposed. The first license was to close at 3.45am, the license being proposed today would have the small room cease sale of alcohol at 2.45am and close at 3.15am, while the main room would cease serving alcohol at 3am and would close at 3.30am. This was 15 minutes earlier than the previous license that had been granted. The police had wanted there to be an

orderly dispersal policy included which was condition number 26. A residents contact number would also be publicly displayed so that any issues could be directed straight to the management and a residents meeting could be organised every three months. The applicant had removed the flexibility to extend the opening hours for international sporting events.

Councillor Hill asked if there were any changes on the seasonal opening hours.

The applicants representative confirmed that there was no change to this part of the license.

The Chairman asked if it was the same company applying for the new license as had applied for the old license.

Greg Nelson confirmed that it was a different company.

Councillor Luxton asked for clarification on what decision the Sub Committee could make.

Greg Nelson explained that the Sub Committee needed to be clear in the decision that they made and ensure that reasons were given to justify the decision. If this was not done, the decision could be appealed by any of the parties present.

Questions to the Reporting Officer from the applicant

The applicant had no further questions for the Reporting Officer.

Applicants Case

The applicants representative said that the company was the same management team under a different name. The Delta group were one of the largest UK operators in the night time industry, until they went into administration in December 2020. The new company had bought the majority of the clubs that were in the UK. There had been some issues with the landlord at ATIK's premises in Windsor, but had the license been transferred over in the correct way, this Sub Committee would not be taking place. The company was aiming to reinstate the license which had been previously granted at the premises.

Clubbing was a hugely important part of socialising for young people and ATIK was the centre of that clubbing experience in Windsor. Nightclubs were not for everyone but for a significant number of the 75,000 annual customers that visited ATIK it was their primary form of entertainment. The applicants representative used an example of an article in The Times newspaper, where a comparison was made between clubs and church and how much it could mean to young people. The applicant was aiming to reinstate the license with the conditions which had been listed in the report. Some residents had made objections, but all the licensing authorities were happy with the license that was being applied for.

The applicants representative explained that the premises had been a late night venue for over 60 years, with Tom Jones having performed previously. The building was not suited to any other function and would be a vacant shell if it was not a club. Addressing residents who pointed out that young people should go to other larger places like Reading, where the night time economy was significantly larger, would not stop young people in Windsor travelling and causing noise late into the night. There had been a rise in the number of illegal raves during lockdown, but these did not have the same controls and safety as a venue like ATIK. The applicants representative asked the Sub Committee if they wanted Windsor to be attractive to young people. Nightclubs were an anchor for the night time economy and they could often improve other local businesses too, as clubbers would spend money before the night out and potentially staying overnight in the town too.

The applicants representative admitted that ATIK could have an impact on local residents. However, it was important that this was balanced and things could work, the management

team at ATIK could mitigate the impact of the club well and this was why none of the licensing authorities had objected to the license application. The premises last had an operational review in early 2019, with Thames Valley Police commenting that ATIK had done well, with all mitigations being taken.

If the license was granted but with conditions that meant the opening hours were shortened to a 2am close, this would not be viable. There were already venues open later in Windsor and ATIK was the only dedicated club. A £10 entry fee was often charged for nights at ATIK, which allowed the premises to cover some of the cost and also meant customers were not encouraged to drink as much alcohol. If there was a 2am close, customers would leave the club and look to go to other venues. This would cause a significant migration of people moving along the surrounding streets in the early hours of the morning, potentially worsening the noise situation. ATIK had good dispersal controls, which saw staff assisting customers as they left the premises. Some were placed outside the premises and all worn bodycams. Very few customers came by car, most walked home or got taxis. There had been no representations from residents on Victoria Street, which was where customers were directed to in order to find a taxi. Using the Windsor town centre radio system, staff remained outside the premises until Thames Valley Police informed staff that they could leave. Lollipops were also given to customers as they left the premises to discourage customers from shouting or being loud. ATIK had a 'we care' policy to safeguarding which made sure that customers felt safe and were looked after. Management had recently received training from Debbie at Thames Valley Police on safeguarding and vulnerability. ATIK had its own medical room which could be used for a number of different purposes to help.

The applicants representative moved on to discuss and address some of the concerns which had been made by residents in representations made in objection to the license. Management at ATIK wanted to engage with residents and ensure that any concerns they had were addressed. Windsor had a population of around 37,000 and the license had received 9 representations. Therefore, it was a significantly small number of people in Windsor who had objected to the application. The applicants representative said that the 'silent majority' needed to be considered, those residents that were either neutral or were supportive. Bad behaviour in the area had always been blamed on ATIK but for the last year the majority of the night time economy had been shut. Residents had got used to the town centre being quiet during lockdown, but young people did not want to live in a ghost town. On 13th June 2021, management at ATIK had taken pictures of the area around the premises, where it was clear there were empty beer bottles, other litter and evidence of urination. However, due to lockdown restrictions ATIK had not been open and therefore none of the litter had been caused by its customers. Customers from other local bars often used the kebab shop and walked past ATIK, again this meant that not all of the noise produced was by customers of ATIK. At the conclusion of club nights, staff took part in a litter pick of the surrounding area, but most of this was not from ATIK. A phone number was provided to all residents which allowed them to make direct contact if there were any issues that needed to be sorted but no calls had been received. ATIK had a neighbours charter, which set out how management would respond to any reported issues and ensured that complaints were dealt with.

The applicants representative summarised by pointing out that the premises license was not permanent, it was conditional depending on the operation of the venue when compared to the four licensing objectives. This application was simply reinstating a license that was already there and the applicants representative asked that the applicant was given a chance to succeed.

Questions to the applicant from Members

Councillor Luxton asked what search policy was in place for searching female customers.

The applicant explained that female security staff would search female customers. This would take the form of a pat search along with airport style metal detectors.

Councillor Luxton asked what Covid safety measures ATIK had in place.

She was informed that all legal guidance would be followed as set out by the government. The ventilation at the premises was particularly good, with all air being recirculated every five minutes which would help to slow the spread of the virus.

Councillor Luxton asked how management and staff dealt with any incidents that occurred on the premises.

The applicant explained that any incidents were recorded in the incident log book and were also marked on the electronic system. Management met with Thames Valley Police regularly, it was important that the venue had a good relationship with the police.

Councillor Luxton asked how people banned from the venue were prevented from entering and things like fake IDs were spotted and dealt with.

The applicant said that there was a scanning system in place where IDs were checked to see if they were fake. Bans could be imposed on individuals and this would be flagged up on the system. If the incident was serious, the Pub Watch scheme could be informed in which case a blanket ban from all venues in the area could be enforced on an individual.

The Chairman asked what the search procedure was for drugs. He asked for clarification as the applicants representative had said that all the licensing authorities had 'supported' the application.

The applicant said that a pat search was performed, which was usually fairly effective. The licensing authorities were under a duty to object to any applications which they felt did not promote the four licensing objectives. Thames Valley Police had put in a representation which was then withdrawn, which suggested that the police were happy with the license.

The Chairman commented on the commercial liability of closing at 3am and whether customers would still move on to other venues once ATIK had closed.

The applicant said that there would be little time for customers to migrate to other bars and venues, therefore there would not be an issue.

The Chairman noted that 2am was the recommended closing time according to the RBWM framework hours. He asked what the applicants rationale was for staying open later.

The applicants representative explained that it was the economic impact that closing at 2am would have on the business. The framework hours were a guide and RBWM was not bound by that policy. If the correct online form had been filled in, this Sub Committee would not have needed to take place.

The Chairman asked if the online form had been filled in correctly, would there not have been an opportunity for residents to make representations.

The applicants representative said that the license had been considered in 2019. Soon after, the premises had received praise from the police before the premises was closed due to lockdown.

Councillor Luxton commented on the representations made by residents in Mulberry House. She asked if the applicant had considered having security outside this area.

The applicants representative said that ATIK had a good dispersal policy in place, which meant that security staff were in the vicinity all the way along William Street. The premises had been closed since March 2020, litter and disturbances along the street since then were

caused by customers from other venues. The applicants representative said that they were happy to add the area around Mulberry House to their dispersal policy.

Councillor Luxton asked about the balcony which was used as a smoking area.

The applicants representative clarified that there was a large balcony which was covered in netting. The area would have a reduced capacity and alcohol was not permitted in the balcony area.

The Chairman said that security staff did not have any power in terms of physical force which they could use.

The applicants representative said that security staff could use reasonable force to make an arrest, where it was justified.

The Chairman asked what ATIK's policy was when dealing with anti-social behaviour.

The applicants representative said that it was not a 'hands on' approach. Staff were polite and helped to guide people on their way home. Escalation was dealt with in an orderly fashion.

Objectors Case

Martyn McLachlan explained that his main concern with the license being granted was crime and disorder. The dispersal policy was good but there were problems in the vicinity of the premises which usually drew significant police attention. It was unfair to blame ATIK for all the litter in the surrounding streets but loud noise was still caused by customers. ATIK had been promoting events such as a 'straight out of lockdown' party which Martyn McLachlan felt was irresponsible given the rising Covid rates. The applicants representative had mentioned the number of jobs that were provided to local people, but it was not clear how many were actually based in Windsor. Martyn McLachlan felt that the committee report which had been included in the report pack by the applicant was inappropriate as it was funded by the night time industry. He welcomed a residents meeting with the management team at ATIK. He asked what plans the management team had to speak to residents in advance of events this coming weekend.

The applicants representative said that the management team would be happy to arrange a meeting with residents before the premises opened. Thames Valley Police had withdrawn their representation, which showed that they had no objection to the application for the license.

Councillor Hill asked Martyn McLachlan how long he had lived in the vicinity of ATIK.

Martyn McLachlan explained that he had lived in the area since early 2019. The dispersal policy funnelled customers into the side streets which is where the issues occurred.

The meeting was adjourned at 12.20pm and resumed at 13.30pm.

Penny Banham said that she had been impacted by the crime and disorder which had been linked to ATIK. Customers often used Victoria Street car park to 'pre load' before heading to the club. Between 3-4am, Penny Banham was often woken up by loud noises which were caused by customers from ATIK. She had spent £15,000 on double glazing but this did still not prevent all the noise that was caused. The police had been called on numerous occasions to deal with incidents at the club, with a rape incident linked back to customers who had attended ATIK. There had also been a reported stabbing in the area linked to the club. Penny Banham believed that ATIK was a crime generator for Windsor, it had been lovely over the past year to not have any issues due to the club being shut. ATIK had in the past done advertising

campaigns like '£1 a shot', which encouraged people to drink excessively. ATIK had a duty of care which they were not abiding by.

Penny Banham continued by explaining that the club was close to residential areas and woke residents up who needed to get up early. It was not acceptable and Penny Banham was against ATIK being allowed longer opening hours for special events. She believed the phone number given out by the management was a false sense of security and that many of the incidents that occurred were police matters. Considering the safeguarding aspect, she asked if the Sub Committee had seen the strategy which underpinned the poster. Penny Banham concluded by saying that ATIK was of no benefit to Windsor and drained local resources every weekend. It was unacceptable to local residents that it was allowed to continue.

Councillor Hill asked how close Penny Banham lived to ATIK.

Penny Banham said that she had lived on Russell Street for around 5 years.

Councillor Luxton asked about the previous historical incidents and whether they could be considered by the Sub Committee.

Anthony Lenaghan, legal advisor, said that the police had not raised any objections to the application.

Penny Banham said that it was a different business but run by the same people, so she did not think anything would change and therefore felt that historical incidents were relevant.

The Chairman commented that Penny Banham had lived in the area for less time than ATIK had been open.

Penny Banham said that she did not expect to be woken by the clubs activities every weekend.

The applicants representative clarified that management had removed the £1 shot promotions, the structure had been changed and improved. Regarding the sexual assault incident, ATIK sent door staff to the scene where they assisted police. There was no knowledge of any stabbing in the area being connected to the club. There was a strategy underpinning the safeguarding poster and staff had recently received safeguarding training from Thames Valley Police.

Councillor Luxton asked Penny Banham if customers from ATIK went down her road after they had left the premises.

Penny Banham said that customers often parked and pre loaded in the area, there was a correlation with the opening and closing time of ATIK.

The meeting was adjourned at 13.55pm and resumed at 14.30pm.

Jessica Ainley asked for her house number to be removed from the document pack, along with reference to her living at the same address as another individual, James Ainley, who had also made a representation. She wanted both representations to be considered individually.

Jessica Ainley said that she had lived in the area for six years and had regularly seen fighting and other anti-social behaviour. Revving cars, external music and silver cannisters were often common and it was having a detrimental impact on her life at the weekend. Jessica Ainley asked that the Sub Committee applied common sense, every Friday and Saturday there was an offer of a reduced entry fee which meant a significant number pre loaded in the local area before heading to the venue. The noise and other issues then reoccurred at 3am when the venue shut. Jessica Ainley did not believe that customers coming from other businesses would make as much noise because since lockdown, residents had no issues at all. It had

been a worrying time for residents as now that restrictions were relaxed, ATIK would be opening and the same issues were likely to happen. She believed that ATIK was no longer for local people as many customers travelled from outside the town. The club had changed and Jessica Ainley did not feel that it fitted in with the other establishments in the town.

Jessica Ainley continued that it was a new application, owned by a multinational business, implying that it was not a local business. Individuals did not reflect the company, therefore if the management team left the reputation could change. It had been requested in the past that management held meetings with residents. Jessica Ainley urged the Sub Committee to consider not granting the license.

Councillor Luxton asked about the timings of incidents.

Jessica Ainley confirmed that there was a link to events being held at ATIK and incidents occurring outside the premises.

Councillor Hill asked where Jessica Ainley lived, she confirmed that she lived in Russell Street.

Councillor Luxton noted that Jessica Ainley had requested that customers from ATIK were prevented from coming down Russell Street. She asked what Jessica Ainley would like to see instead and how this would work.

Jessica Ainley said that the club being closed would sort any issues, so that would be her preference.

The Chairman clarified that Jessica Ainley was asking for no license to be granted for ATIK.

Jessica Ainley confirmed that she would like to see no license granted. However, if a license was granted by the Sub Committee, it was preferable to be woken up earlier in the night so she would like to see ATIK have an earlier closing time than had been requested.

Summary from the Reporting Officer

Greg Nelson said that the management team was largely the same, if the correct form had been submitted in time there would have been no need to apply for a new license. The written submissions should be taken into account by the Sub Committee as should the oral representations which had been made. Greg Nelson restated the options available to the Sub Committee and that they had five working days to submit their decision to the applicants and all interested parties.

Summary from applicant

The applicants representative said that the hours that ATIK were applying for were not unique to Windsor. Some incidents which had been referenced in representations were made by customers but not granting a license would not change other anti-social behaviour. The RBWM framework hours were a guide and did not apply in this exceptional case. The management team had been with the company for a long time and had been improving the reputation of the club, it was important to note that a lot of representations made focused on incidents that happened pre-2019 when the club was under different management. A 2am condition being placed on the license would not be financially viable and Windsor would likely lose its only dedicated nightclub. Thousands of young people in Windsor would then lose out. None of the licensing authorities had objected to the application, it was only a small minority of local residents.

The applicant was happy to extend the dispersal policy to include the Russell Street junction, to help stop some of the issues which had happened in this area. The management team were also happy to have a residents meeting before opening and wanted to ensure that when issues arose, they would be dealt with. ATIK was important for Windsor's recovery after the pandemic and often bars and venues relied on the club to bring in additional late-night trade. The applicants representative asked that the Sub Committee granted the license with the original opening hours that had been applied for.

Decision

After careful consideration of all the evidence, the Sub-Committee decided to allow the application as applied for, subject to the undertaking that was freely given by the applicant in regard to dispersal on Russell Street.

The Sub-Committee considered the written submissions provided by the applicant, Officers of the Council and Objectors. The Panel also heard oral evidence provided from the following:

- Greg Nelson (Reporting Officer at the Royal Borough of Windsor & Maidenhead)
- Gary Grant (Barrister), Anthony Gorbett (Operations Director), Alex O'Reilly (Regional Director), Stephen Fleury (General Manager) and Rio Kader (General Manager and DPS)
- Professor Martyn McLachlan, Ms Penny Banham and Ms Jessica Ainley (Objectors)

In making their decision, the Sub-Committee had regard to its duty to promote the four licensing objectives.

The meeting, which began at 10.15 am, finished at 3.15 pm

CHAIRMAN.....

DATE.....