

## **REPORT TO LICENSING PANEL SUB COMMITTEE**

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

LICENSING PANEL SUB COMMITTEE: 18<sup>th</sup> January 2016

OFFICER REPORTING: Alan Barwise Team Leader - Licensing

#### **A) THE APPLICATION**

APPLICANT: Samuels Management Ltd T/A Studio 15

PREMISES: Studio 15, Goswell Hill, Windsor

The application relates to a variation of the existing premises licence as follows:-

All licensable activities are to be extended from 02:30 to 03:00 on Friday and Saturday nights only. This will include the opening hours of the premises.  
All other licensable activities to remain as on the current licence.

#### **Designated Premises Supervisor**

Harry Hicks-Samuels

#### **B) RELEVANT REPRESENTATIONS**

##### **Responsible Authorities:**

a) Police

See note of 10<sup>th</sup> December 2015

b) Environmental Health

See letter of 11<sup>th</sup> December 2015

c) Fire Officer

None

d) Planning Officer

None

e) Child Protection Agency

None

## Interested Parties

Attached are emails from local Ward Members.

### **C) IT IS CONSIDERED THAT THE FOLLOWING POLICIES HAVE A BEARING UPON THE APPLICATION**

The following is taken from the Council's Licensing Policy:

The Council maintains that licensing is about the control of licensed premises, qualifying clubs and temporary events with the terms of the 2003 Act and any terms and conditions attached to licences will be focused on matters which are within the control of individual licensees and other granted relevant permissions, centring on the premises and their vicinity.

Licensing is not the primary mechanism for controlling anti-social behaviour away from premises and beyond the control of operators. However, it is a key aspect of such control and the licensing law is part of the holistic approach to the management of the evening and night-time economy in town and city centres.

The Council will only grant a licence or extend the hours of operating of an existing licence where this would not result in unreasonable disturbance to neighbours.

In considering the affect on neighbours, the Authority will take into account:

1. The nature of the activity
2. The character of the surrounding area
3. Measures for limitation of noise emissions from the premises. This may include as appropriate;
  - Noise limitation devices,
  - Sound insulation,
  - Whether windows are to be opened
  - The installation of acoustic lobbies
  - Double glazing
  - Measures to deal with queuing, where necessary
  - Use of outdoor areas
  - Measures to deal with dispersal of customers from the premises as necessary, including the employment of door supervisors, use of dedicated Hackney Carriage/Private Hire firms, notices in the premises requesting customers to respect neighbours.
  - Winding down periods, particularly in public houses and night clubs, etc.

The licensing authority will normally expect to see proven protective measures included in the operating schedule. Applicants are encouraged to consider the measures set out in this policy and the schedule in forming their operating schedules.

## **D) NATIONAL GUIDANCE**

National guidance regarding crime and disorder is as follows:

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

National guidance regarding public nuisance is as follows:

- 2.14 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.15 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.16 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.17 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.18 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may

be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

2.19 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

2.20 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

## **E) OBSERVATIONS**

The Sub Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance
- The protection of children from harm

In making its decision, the Committee is also obliged to have regard to national guidance and the Council's own Licensing Policy.

Of course, the Committee must have regard to all of the representations made and the evidence it hears.

The Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- a) Grant the application as asked
- b) Modify the conditions of the licence, by altering or omitting or adding to them
- c) Reject the whole or part of the application

If members are minded to grant this application then they are respectfully requested to impose the conditions suggested by the environmental protection officer in her note.