

APPLICATION FOR A PREMISES LICENCE VARIATION IN RESPECT OF JUNK BAR, 12 CHURCH STREET, ORMSKIRK, L39 3AN

On the 24th January 2017 the Council's Licensing Sub-Committee (the Sub-Committee) considered an application for a variation to the Premises Licence from Burroughs & Boschetto Ltd (the applicant) submitted under Section 34 of the Licensing Act 2003 (the 2003 Act). This application was in respect of The Junk Bar, 12 Church Street, Ormskirk L39 3AN

With the permission of the Sub-Committee and in accordance with the Council's Hearing Procedure, the Licensing Officer introduced the application. The applicants acted in person. Sergeant Bushell presented the Police's case and was supported by PC Mick Gim.

Prior to the hearing the Police set out which parts of the application they had issue with and those that could be agreed. The applicant maintained that they wanted the Sub Committee to consider their application for extended hours and the amended hours suggested by the Police where not agreed.

The main area of contention were the extension of the hours allowing the sale of alcohol and regulated entertainment until 02.30 on a Friday and Saturday with the premises operating hours being extended until 03.00. The Police relied on evidence of problems that arose when the Premises had operated under a Temporary Event Notice (TEN) during freshers week. The Police indicated that they would withdraw their representation if either the terminal hours where reduced or if the applicant agreed to put two door supervisors on the door from 22.00hrs in the event licensable activities where to be undertaken until 02.00 or later.

In any event they required some of the conditions to be strengthened.

There were no other representations submitted either for or against the application.

The Sub-Committee heard evidence from the Applicant that the additional hours had been requested in order that they may operate for the same hours as other establishments within the town centre. They stated that at the moment customers were leaving their premises a lot earlier than their actual closing time to ensure that they were in other venues that opened later. They did not feel that they required door staff as the clientele did not warrant that level of security. In addition, they felt that the presences of door staff were not beneficial and that their existence often escalated a problem. They gave examples as to where they had had bad experiences with door supervisors.

As part of the hearing the Applicants confirmed that they would be happy to amend their application for Regulated Entertainment and Alcohol Sales to terminate at 02.00 with the operating hours terminating at 02.30 on a Friday and Saturday. They did not see why they should be expected to have door supervisors on the doors from 22.00hrs when they could currently open until 01.30 without the need for door staff. They stated that to employ two door supervisors for the hours stated was not financially viable, would put substantial pressure on them and would result

in the price of drinks increasing to cover the cost.

The applicant felt that as owners they were better placed to control who went in and out of the venue. They confirmed that they were on site most nights it was open to the public and in any event they had a senior member of staff with considerable experience who would be present if they were not there.

The Police gave evidence that whilst the premises had operated under a Temporary Event Notice to the extended hours there had been issues in particular people leaving the venue with drinks contrary to the premise licence conditions along with broken glass outside the premises. Later that night a group of 10 persons were seen outside the premises one of whom picked up a broken bottle and had to be dealt with by staff. The Committee heard that one of the staff was SIA registered and had come on the door following queries by the Police but this had left only one member of staff to deal with customers. The applicant was reminded that he could not legally self-deploy door staff without being registered.

The Applicant stated that the glass had not necessarily come from their establishment and that it was impossible to stop people coming out of their establishment with drinks. They gave examples of other premises who also allowed customers out of their venues with drinks.

The applicant was reminded that it was their responsibility to show the Committee that they were responsible retailers and that they could operate the additional hours without undermining the four licensing objectives. The Police questioned one of the applicants about the four licensing objectives and he had difficulty in answering. In addition, the applicants were asked if they could confirm what measures they were putting in place to promote the licensing objectives. Again they appeared to have difficulty answering but after being pressed confirmed that they would agree to be part of the radio link system and would ask patrons to leave quietly.

Information was presented that the training records were not kept on the premises and although the applicant stated that they did do risk assessments as to whether door staff were needed there was no record of this. In addition, there did not appear to be any incident or refusal logs in place.

The Police outlined that all the other premises that operated later had door staff and that they were worried that if this premises didn't employ door staff there was a risk that problem clientele would naturally migrate to this establishment as they would know that there were no door staff to prevent them from going in. The Police stated that although they had given examples of other premises that had door staff these conditions had been offered forward by the applicants and they knew of other establishments who would voluntarily employ door staff if they thought the situation warranted it.

The Applicant openly admitted he knew he was breaching his licensing conditions when allowing customers outside the venue with drinks but stated that it was impossible to stop. He stated that the Sub-Committee was "not in the real world" if they felt that they could be stopped or that door supervisors would prevent this

from happening.

Decision

When considering whether any of the four Licensing Objectives would be undermined by the application, the Sub-Committee concluded that on this occasion the “Prevention of Crime and Disorder” was potentially an issue.

The Prevention of Crime and Disorder

The Sub-Committee considered the issue of crime and disorder and the issues raised by the Police. The Sub-Committee noted that there had been problems when the premises had operated later hours under a TEN and that they Police had been required to offer assistance.

The Sub-Committee accepted the Police’s evidence that there may be issues with the migration of problem customers if Door Supervisors were not employed in this premises when they were required elsewhere and although the applicant had confirmed that they would be on the premises whenever late night activities were taking place they did not think this was sufficient to prevent the licensing objectives being undermined.

The Sub-Committee felt that better practices should be employed and training records, incident logs and refusal books should be in place and made available on reasonable request.

They had serious concerns about the applicant’s ability to properly manage the premises in light of their inability to recall the licensing objectives and/or disregard or inability to adhere to the licensing conditions already in place. The Sub-Committee did not accept that the Applicant could not stop people leaving the venue with glasses if proper provision was put in place.

The Sub-Committee did accept the Applicant’s argument that to employ Door Supervisors from 22.00 hrs would place a unreasonable financial burden on them when taking into account their current operating hours and there being no requirement for door supervisors.

The Sub-Committee considered paragraph 9.12 of the Guidance as well as paragraph 2.1, which states that a Licensing Authority should look to the Police as the main source of advice on crime and disorder. This was considered alongside the case of *Thwaites* and the examples of crime and disorder stated in the representations. The Sub-Committee considered the offer to use the Radio Link and the current conditions on the licence to see whether these proposals went far enough to ensure that the Prevention of Crime and Disorder Licensing Objective would not be undermined.

When taking into account all of the above, the Sub-Committee concluded that they gave greater weight to the fact that there had been evidence of issues of crime and disorder when the premises operated to a later hour under a TEN.. They believed that conditions already on the licence needed to be strengthened and that the

employment of Door Supervisors would be necessary to operate to the later terminal hours to ensure the Crime and Disorder objective would not be undermined.

They were minded to the fact that if there was evidence of problems in the future the Review procedure dictated by the 2003 Act could be used to reassess the effectiveness of the licence.

In considering this matter the Sub- Committee had regard to its Licensing Policy and the guidance issued under S.182 of the Licensing Act. It considered the relevant Licensing Objectives on this occasion was 'the prevention of crime and disorder'.

On hearing evidence from the Applicant and Lancashire Constabulary the Sub – Committee:-

RESOLVED:

- A. That the sale of alcohol shall be permitted between 10.00 hours and 01.00 hours Sunday to Thursday and 10.00 hours to 02.00 hours Friday and Saturday.
- B. That the premises shall be open to the public between 09.00 hours and 01.30 hours Sunday to Thursday and 09.00 hours to 02.30 hours Friday and Saturday.
- C. That the provision of films shall be permitted between 10.00 hours and 01.00 hours Monday to Sunday.
- D. That the provision of recorded music shall be permitted between 10.00 hours and 01.30 hours Sunday to Thursday and 10.00 hours and 02.00 hours Friday and Saturday.

Annex 3 will be amended as follows:-

E. That the condition attached to Annex 3, stating that the operation of the premises be undertaken by a Designated Premises Supervisor with the minimum of 12 months experience in control of a Licensed Premises shall be removed.

F. That all staff shall be trained in relation to the licensing objectives and that this shall be documented, this document shall remain on the premises at all times and made available to any responsible authority upon request.

G. That on a Friday and Saturday or any other time the premises provides licensable activity until 02.00 hours or later there will be a minimum of 2 door supervisors on duty on duty from 12.00 Midnight until the premises is closed to the public.

H. That on any other trading night the provision of door supervisors will be on a risk assessment basis taking into account the nature and type of operation being conducted on that night. The risk assessment will be documented, retained on the premises and produced for inspection upon the request of any responsible authority.

The Sub – Committee added the following condition to Annex 3:-

I. That the premises will operate an incident log, which shall be retained on the premises at all times and be made available for inspection to any responsible authority upon reasonable request.

All other conditions at Annex 3 shall remain.

The Applicant agreed to the addition of the following condition to Annex 2:-

J. That the premises shall operate the radio link scheme whenever the premises are open to the public.