

## Licensing Sub-Committee

Thursday, 11th November, 2010  
1.00 - 3.25 pm

Attendees	
<b>Councillors:</b>	Garth Barnes, Penny Hall and Diggory Seacome
<b>Officers:</b>	Louis Krog, Senior Licensing Officer, Sarah Farooqi, Solicitor, Rachael Sanderson, Democracy Assistant
<b>Also in attendance:</b>	Mr Michael Parrot, Solicitor Maitland Walker, Mr Michael Gibson, Councillor Barbara Driver, Mr George Green, Mr Brown, Mrs Dobson, Mr MacDonald, Mr Littlewood and Ms Rachel Scott.

### Minutes

**1. ELECTION OF CHAIRMAN**

Councillor Diggory Seacome was duly elected as Chairman.

**2. APOLOGIES**

None received.

**3. DECLARATIONS OF INTEREST**

None declared.

**4. DETERMINATION OF APPLICATION FOR A PREMISES LICENCE**

Louis Krog, Senior Licensing Officer introduced the report as circulated with the agenda. An application had been received from Headline Entertainments Limited in respect of Chemistry Gibson House St. James Square Cheltenham.

As part 1.2 of the report detailed, the applicant requested for a premises licence to permit:-

Sale/Supply of Alcohol	Monday to Saturday 10:00 – 02.00 On & Off
Performance of Dance	Monday to Saturday 10:00 – 02.00 indoors
Exhibition of Film	Monday to Saturday 10:00 – 02.00 indoors
Performance of Live Music	Monday to Saturday 10:00 – 02.00 indoors
Performance of Recorded Music	Monday to Saturday 10:00 – 02.00 indoors
Prov'n of Facilities for Dancing	Monday to Saturday 10:00 – 02.00 indoors
Prov'n of Facilities for Making Music	Monday to Saturday 10:00 – 02.00 indoors

Late Night Refreshment	Monday to Saturday 10:00 – 02.00 indoors
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Part 2.4 of the report detailed the applicant's steps to promote the four licensing objectives.

Louis Krog, Senior Licensing Officer confirmed that there had been no representations regarding the application from the Police. No objection had been received from Environmental Health but the Environmental Health Officer sought agreement on the following conditions:

- 1) All doors and windows, except the main entrance, are to be kept closed during any entertainment, except momentarily for the purposes of normal access and egress or in an emergency.
- 2) Fire escapes shall be kept closed at all times and shall only be used to vacate the building in the event of an emergency.
- 3) A noise limiting device shall be used between any amplifier and loudspeaker whenever live or recorded entertainment occurs to ensure that noise from such activities is inaudible inside nearby noise sensitive premises. The device shall be set at a level approved by the Council's Environmental Health Officer. In addition, control measures to prevent the breakout of noise shall be present and maintained.
- 4) There will be an extended winding down period commencing with slower music at a reduced volume at ten minutes prior to the terminal hour changing to walkout music at a quieter volume than before until the building is cleared.
- 5) On days when the premises are open, litter shall be removed at the end of each trading session from areas to which the public have access as of right within the area designated on the plan.
- 6) In the event of a new Manager being appointed to the premises, a 'handover' meeting between the Council's Public Protection Division, the existing Manager and the new Manager shall be arranged to ensure an understanding of the particular circumstances relating to the premises.
- 7) The designated premises supervisor shall ensure effective overall management of live or recorded entertainment, such as by monitoring noise levels outside the premises, to ensure that noise from such activities is inaudible inside nearby noise sensitive premises.
- 8) No music shall be generated in the upper bar area without the provision of an acoustic lobby being installed, to the satisfaction of the Licensing Authority, to the fire door to the North East of that bar area.

Louis Krog, Senior Licensing Officer confirmed that 43 representations had been received from interested parties and that copies were included at Appendix B of the report. He explained that Interested Parties had

objected to the application on the grounds of crime & disorder, public safety, the protection of child from harm and prevention of public nuisance.

Mr. Krog explained that in summary the concerns raised by Interested Parties were as follows:

- 1) Concern over noise emanating from the premises as a result of people attending the night club, the premises itself and people smoking outside which will disturb sleep.
- 2) Concern over crime and disorder resulting from drunken revellers such as damage to property and abusive behaviour.
- c) A possible increase in traffic and congestion in the surrounding areas. There is also a concern that the early opening hours of the premises and the possible increase in road traffic will result in an increase risk to the safety of children attending school and nursery in the area.
- 3) Concern over drunken behaviour such as vomiting and urinating in the streets and gardens.
- 4) A repeat of past experiences relating to noise, nuisance and anti-social behaviour emanating from the club as a result of cars revving, fornication in the surrounding gardens and rubbish left scattered.
- 5) Crowding outside the premises will result in people having to walk into the road to get past.
- 6) Concern over a possible increase in business insurance as a result of the potential of damage.
- 7) Concern that granting the licence will exacerbate existing problems in the area such as noise, anti-social behaviour, rubbish etc.
- 8) Concern that granting this application will damage to property prices in the area.
- 9) Neighbouring properties being subject to vibrations and the "beat" as a result of the bass.
- 10) Concern that granting this licence can effect the growth and the regeneration of the general area.
- 11) Concern that granting this licence will impact the quality of life with some residents having to get up early in the morning for work and late night noise will disturb their sleep.
- 12) Noise emanating from early morning deliveries and refuse collection.

13) Houses in the area are listed (i.e. St Georges Terrace) and as a result these properties cannot get permission to replace windows with double glazing which causes a problem with noise.

14) With the addition to several new residential blocks, the noise can no longer dissipate naturally as it did previously when the residential blocks were not there.

15) In addition to new residential buildings, there has also been a new Waitrose supermarket, new office blocks and attractive new walkways and cycle ways been built and the grant of this application will make the area less appealing.

16) There is also a school, church and day nursery in the immediate vicinity of the premises. The school, church and nursery are open early in the morning with the church staying open in the evening and being used over the weekend. There is concern over that the grant of the application will encroach on the activities of schools and church.

17) Since the club has closed, the problems associated with the club have disappeared.

18) The normal opening hours for the premises has historically been associated with crime and disorder and this causes concern for the children and parents who attend the nursery during the day.

19) Invalid public notice by virtue of it not listing the applicant's head office address and address of the applicant.

20) Town Centre has reached saturation point and there are plenty of other premises who offer the same experience.

21) South side of St James Square is outside the sight of club security stewards and CCTV. The resulting nuisance and anti-social behaviour will therefore be beyond the club's surveillance.

22) Anticipated that there will be drinks promotions that will exacerbate the situation.

23) Planning permission has been granted by Cheltenham Borough Council for additional flats which imply that it wishes to turn the area into a primarily residential area.

24) The North Gloucestershire Education Improvement Partnership, Burton House St. James Square has expressed concern that the grant of this application will have a negative effect on their students and operations. There is concern that the students will have access to alcohol and cigarettes and there is a possibility that the students will come into confrontation with customers from the premises. There is also concern that noise emanating from the premises will affect classes and exams.

25) The Monkey Puzzle Day Nursery, Ivanhoe House St. James Sq has expressed concern that the grant of this application will affect the operation of the nursery. Historically, the early opening of the premises has resulted in crime and disorder issues which will have an effect on the use of the nursery during the day. The nursery also expressed concern for the safety of their equipment left outside over night and the possibility of theft and vandalism.

26) Concern has been raised over the fact that older properties such as Gibson House do not have effective sound insulation which will have an effect on noise levels.

27) Finally, there are a high number of elderly residents living in the area. Granting this application will cause them to be fearful of going out during the operating hours of the premises.

Louis Krog, Senior Licensing Officer advised the Committee that this application must be determined on its individual merits and in view of promoting the licensing objectives which are:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

Louis Krog, Senior Licensing Officer detailed the licensing comments as shown in part 7.2 to 7.13 of the report. He advised the Committee that they must have regard to all of the representation made and the evidence it hears. The Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives which can include:

- Granting the application as requested;
- Modifying the conditions attached to the licence; or
- Rejecting all or part of the application.

The Chairman asked the applicants to introduce themselves to the Committee.

Mr Michael Parrot, the applicants Solicitor was in attendance along with the applicant, Mr Michael Gibson.

The Chairman advised Members that this was their opportunity to ask Louis Krog, Senior Licensing Officer questions.

The following questions were asked:

- Councillor Penny Hall referred to section 1.2 and 1.3 of the report which referred to non-standard timings and asked what would happen if New Years Eve fell on a Sunday.
- Louis Krog, Senior Licensing Officer confirmed the premises would be unable to open if New Years Eve fell on a Sunday unless a Temporary Event Notice was submitted. This was because the premises did not open on a Sunday.

- Michael Parrot, Solicitor said he felt it would be unusual for a Sunday to be differentiated from any other day of the week. He felt this matter would not be greatly affected at today's meeting and an understanding could be sought.

Michael Parrot, Solicitor then spoke on behalf of the applicant, Mr Gibson and in support of the application.

Mr Parrot detailed that the premises had been closed for 5 years after the holders of the licence became insolvent. Those responsible failed to get a reinstatement of the licence within in the 7 day requirement resulting in the premise licence to lapse. Mr Parrot stressed the applicant was anxious to hold an identical premises licence to that which was in force before. He explained there were no immediate plans to trade straight away but merely wanted a premises licence to be in force.

Mr Parrot went on to say that the national guidelines were there to balance the needs and impact the licence would have on the residential and commercial interest and also needed to be balanced against the interested party.

Mr Parrot referred to part 7.4 of the report which referred to the premises being closed for a number of years and on its individual merits, Members must decide what weigh to add to comments relating to problems associated with the premises when it was last in operation.

Mr Parrot referred to the letters from the Interested Parties and detailed that since the premises closed in 2005 the flats had been built obviously with relevant planning permission and that although the premises was not trading the premises it had remained there and information about this premises would have been available to those who had purchased properties.

Mr Parrot talked about the implementation of the smoking ban which had come in to force after the premises ceased trading. He suggested an area could be roped off outside of the premises for smokers and that this area would be properly supervised in order to ensure minimum disruption to residents.

Mr Parrot reminded the Committee about the mandatory conditions that had come in to force in April and October of this year concerning irresponsible alcohol promotions. He hoped these conditions offered a measure of support to concerned residents and that the conditions were capable of being enforced.

Finally Mr Parrot added that the applicant wanted to restore the premises licence that was lost through an administrative oversight.

The Chairman advised the Committee that it was know the opportunity for Members to ask the application questions.

The following responses were given by the applicant to questions raised by Members:

- Mr Gibson advised the smoking ban inside the premises would be enforced and an area outside at the side of the premises would be a designated as a smoking area. He hoped a shell within a shell structure would be an option.
- Mr Gibson confirmed that this was close to a residential property.
- Mr Gibson confirmed it was not his intention to sell alcohol as off sales.
- Mr Gibson stated that door staff would insure that customers did not take their drinks outside of the premises.
- Mr Gibson said he was willing to bring in an example of polycarbonate or toughened glasses to the Police and Licensing to ensure they were satisfied.
- Mr Gibson said he felt there was enough room in the outside area to accommodate smokers and if this was not the case he could extend it.
- Mr Gibson confirmed that he would discuss and agree patrolling the outside area with the Police and Licensing.
- Mr Gibson stated he would use SIA registered door staff.
- Mr Gibson advised that his intention for the application was to get the premises licence back and was considering reopening or to remarket the premises for a new lease.
- Mr Gibson confirmed the premises was not currently on the market. He also explained that his idea for a smoking area would consist of a shell within a shell; the windows of the internal shell would be close insuring noise would not emanate from the premises. The external windows of the shell would be open.

The Chairman asked which Interested Parties would be speaking in support of their representation. The Chairman reminded the Interested Parties not to repeat items already mentioned and that Interested Parties could only raised points contained within their original representation. The following Interested Parties spoke in regarding their representations:-

- Mr George Green
- Mr Brown (on behalf of Mr and Mrs Brown)
- Mrs Dobson
- Mr MacDonald
- Mr Littlewood
- Rachel Scott (on behalf of Mr Norman)

Mr Green voiced his concern over cheap drinks being sold on Mondays to Thursday. He felt this would encourage students to binge drink.

Mr Parrot referred Mr Green to page 5 of the report which detailed steps to promote the four licensing objectives. He stated these did not reflect the new mandatory condition regarding selling discounted drinks. It was not the intention of the applicant to sell discounted drinks.

Mr Brown stated he was concerned about Mr Gibson's flippant response to the issues relating to the smoking area. He confirmed the suggested area was by the fire exits and was not appropriate.

A discussion then took place about the sighting of the smoking area. Mr Gibson showed the area suggested on the plan attached to the agenda. Concern was raised with regard to the style of the smoking shelter and felt that the shelter within a shelter idea was not possible or legal.

Mr Littlewood voiced concern over the patrolling of the outside area and the number of doorstaff that would be present to do this.

Mr Gibson stated it was not his intention to change the existing number of 6 door staff to patrol the area. He confirmed the original conditions would be adhered to.

Rachel Scott spoke on behalf of her client Genie Toys Ltd. She asked why there was no formal dispersal policy and how were people going to be moved away from the area at closing time.

Mr Parrot, Solicitor Maitland Walker confirmed the conditions of the last licence would be replicated. He stated the Police had not objection to this application and had not requested a dispersal policy be included in conditions of the licence. If the Police did request this the applicant would be happy to approve it.

Mr Green then read a long statement voicing his concerns about the proposed application.

Mr Brown also read a statement voicing his concerns. Sarah Farooqi, Solicitor reminded the Chairman of the Committee that Interested Parties and those representing Interested Parties that they should only address those matters contained within their representation.

Mrs Dobson stated she was a resident from Somerset House and was speaking on behalf of some of the residents. During the time the premises was open security guards were employed to remain outside of the house to ensure no disorder or public nuisance occurred when the premises had closed. Mrs Dobson went on to say that if the licence was granted, a robust procedure needed to be in place 24/7 to enable residents to contact staff and get a quick response.

Mr MacDonald voiced his objection to the application on the grounds of public nuisance. Previous occupants of Mr MacDonald's home had said the nuisance was a weekly occurrence and was very hard to sleep because the noise emanated. He also explained that urine, vomit and litter often had to be cleaned up and there was regular damage to properties.

Mr Littlewood handed a document of concerns previously raised to the Chairman. He stated his main concern was in relation to the smoking area, patrols and the safety of property and people in the area. The existing patrol did not cover around the corner which resulted in problems occurring here. The noise of glass collecting every morning was like an avalanche.

Rachel Scott stated that the applicant had indicated a high likelihood that the premises would be diverted to a lease holder so residents did not know



what was being applied for and this would not help the licensing objectives to be upheld. The existing conditions were not robust enough. Rachel Scott submitted that her client was extremely concerned about his property as it was closed at night time. Damage to the property would be risked with the number of people this premises would attract.

The Chairman confirmed that Councillor Barbara Driver was also going to speak on behalf of some of the Interested Parties. The Interested Parties were as follows:-

- Sharon Ashton
- Sonia Kular
- Ruth Cook
- Joanne Pitttock
- Julie Rae
- Dr Rebecca Nicholson
- Dr Leigh Ann Stanbury

Councillor Barbara Driver voiced serious concerns about this premise on behalf of the Interested Parties. Councillor Driver detailed the number of residential and business properties in the area as well as schools, nurseries and churches.

She indicated that one of the Interested Parties had explained that young women did not feel safe walking back home at night past the crowds of customers outside the premises.

Councillor Driver stated since the closure of the premises the area had become mostly residential and the area had improved since the premises had been closed. There were other nightclubs within the town not in a residential area with schools nearby.

Councillor Driver said if the licence was granted several conditions the Interested Parties felt that the following conditions must be in place:-

- Area cleaned by 7.45am in readiness for school children going to school
- At closing time an area blocked off and street closed to ensure effective dispersal.
- That staff from the premises must patrol the locality to stop vandalism.

Councillor Driver ended her statement by saying that residents were frightened to death about what might happen again.

Mr Parrot, Solicitor Maitland Walker made the following responses to resident's comments: -

- He suggested that residents speak to Louis Krog, Senior Licensing Officer after this meeting to clarify and discuss the mandatory conditions regarding drinks promotions.
- He suggested a residents meeting be held for residents to voice any concerns.

- He reminded residents that if the licence was granted and the conditions imposed were not being adhered to, the licence could be brought back to Committee by means of a review.
- That the applicant would be happy to discuss a dispersal policy with the Police and Licensing.
- That a telephone line for residents to contact the premises to raise any concerns would be provided.

Three further Interested Parties expressed their wish to speak.

- Mrs Boyal
- Miss Fildes
- Mr Moore stated he had asked Councillor Driver to speak on his behalf but felt this had not been done.

Mrs Boyal stated she and her family had lived in the area for 10 years and lived very close to the proposed smoking area. If 50 people were outside smoking, this smoke would go inside her property. This and the noise factor would greatly affect their standard of life. After the bins had been emptied broken glass and spilt beer was left on the pavement causing danger to children walking to school.

Miss Fildes said when the premises were open queues of people would emanate from the premises all the way down Ambrose Street.

Mr Moore confirmed he was the ward manager of Somerset House. The proposed security guards often failed to turn up. There were often syringes and needles thrown into the premises and he felt the premises was not properly managed.

Mr Parrot, Solicitor Maitland Walker summed up the application by stating it was the applicants wish to retain the previous licence and conditions but was happy to amend or impose conditions. Contact numbers would be provided for residents to use, a management meeting would be set up and a dispersal policy would be discussed with the Police.

Member retired at 15.00.

Members returned at 15.23 with their decision.

The Chairman confirmed that a decision had been reached based on the evidence presented and it was (unanimously)

**RESOLVED that the committee** refuse the application for a premises licence because of the likely effect that the grant of a licence could have on those living and conducting a business in the area in terms of public nuisance and crime and disorder.

The committee felt that the application lacked sufficient detail to enable the committee to be satisfied that the steps proposed would be sufficient to promote the licensing objectives. More specifically the committee felt there was a lack of sufficient detail relating to the steps that would be taken to prevent nuisance to residents from those using the outside of the premises to smoke. The committee also felt there was a lack of procedures relating to the dispersal of

customers, the number of people employed to oversee such a dispersal and who the applicant would reduce public nuisance.

The committee further felt that the conditions proposed in the application, and any other conditions that may be imposed on the licence, would not be sufficient to promote the licensing objectives.

**Chairman**