

Licensing Sub-Committee – Meeting held on Thursday, 28th June, 2012.

Present:- Councillors Sohal (Chair), Mittal and Wright.

Officers Present:- Mrs Kauser (Democratic Services) and Miss Okafor (Legal Services)

PART 1

6. Declarations of Interest

Councillor Sohal declared that he was a member of the Licensing Sub-Committee that had granted the Premises Licence for Rabz Nightclub. Councillor Sohal stated that he would consider the matter with an open and clear mind.

7. Minutes of the Meeting held on 26th April 2012

The minutes of the meeting held on 26th April 2012 were approved as a correct record.

8. Review of Premises Licence - Rabz Nightclub, 305 High Street, Slough.

The Chair welcomed all parties to the meeting. The Democratic Services Officer informed Sub-Committee Members that Mr Hussain, the Premises Licence Holder was not in attendance. The Chairman requested details as to whether any contact had been made by Mr Hussain regarding the hearing and or requesting an adjournment. Mrs Rumney, Senior Licensing Officer, outlined the contact attempts that had been made with Mr Hussain since the review application had been made as follows:

- 02.05.12 – Mr Sims, Licensing Manager, emailed RABZ regarding displaying statutory notices regarding the Review Application – no response.
- 02.05.12 – Mr Sims telephoned both mobile numbers for Mr Hussain and left messages – no response.
- Numerous telephone messages left after that with no response.
- 08.05.12 – Mr Sims sent email again to RABZ and Mr Hussain's personal email address re the Review – no response.
- 09.05.12 – Mr Sims wrote to Mr Hussain at RABZ and his home address regarding notices being displayed and taken down – no response.
- 11.05.12 – Licensing Officer put new notices up at the premises and took photographs.
- Further messages left on Mr Hussain's mobiles – no response.
- 17.05.12 - Letters sent to RABZ and Mr Hussain's home address re the Review and that the Premises Licence may be surrendered – no response.

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- 29.05.12 – Mr Sims emailed Mr Hussain's personal email asking for him to contact Mr Sims urgently - no response.
- 07.06.12 – Mr Sims wrote further letter to Mr Hussain at RABZ and hand delivered to his home address – no response and no reply.
- 08.06.12 – Mr Sims emailed notice of hearing to RABZ email and Mr Hussain's personal email addresses – no response.
- 08.06.12 – Mr Sims sent hard copies of hearing notices to RABZ and Mr Hussain's home address – no response.

The Sub-Committee then adjourned to consider whether to proceed with the hearing. Following a short adjournment all parties were asked to re-join the meeting.

Members of the Sub-Committee decided that, given the numerous attempts that had been made to contact Mr Hussain, information that had been circulated as part of the review application and the fact that no request for an adjournment was submitted by Mr Hussain; they would proceed with the review hearing.

Introduction by the Council's Licensing Officer

Mrs Rumney reminded Members that the premises licence was held by Mr Majad Hussain, who was also the Designated Premises Supervisor (DPS) at the venue. Licensable activities at the venue were outlined and it was noted that these activities were authorised Friday to Sunday 2100 hours to 0200 hours.

On the 2nd May 2012, Thames Valley Police submitted an application for the review of the premises licence on grounds of the prevention of crime and disorder and public safety. Representations were also received from the Council's Neighbourhood Enforcement Team and a local resident regarding noise disturbance. There were no further responses from any other responsible authority.

The relevant guidance and policies were detailed for Members consideration.

Questions to Licensing Officer

None.

Representations on behalf of Thames Valley Police

Mrs Pearmain, Thames Valley Police Licensing Officer, stated that a review of the premises licence had been made as there were serious concerns with regard to crime and disorder and public safety. On the opening night of the venue, a Section 19 Closure Notice was issued as the CCTV had not been installed. Details of various meetings that had been arranged between Licensing Officers, Thames Valley Police and the DPS were outlined, in an attempt to resolve a number of licensing issues. It was noted that Mr Hussain

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had not attended all meetings that had been scheduled and of those that he had, agreed measures at the meetings had not been implemented.

Members were informed that on the 16th February 2012, flyers were being distributed regarding a forthcoming event at the premises, where the capacity of the venue was advertised as 700 even though the maximum capacity as stated on the premises licence was 650.

Details of crime and disorder incidents were highlighted, including a fight that took place inside the premises on 24th February 2012. Although CCTV footage was requested, the DPS stated that he could not download the footage as he did not have the password to hand. It was noted that to date no CCTV footage had been provided.

Police officers attended the premises on the 24th March 2012 following an assault at the premises involving customers. Upon being ejected from the venue, it was alleged that the SIA door staff had punched the individuals concerned. It was highlighted that door staff did not have a radio, and therefore had no way of communicating with other SIA staff. Smokers were exiting and re-entering the premise at will with no searches and with what appeared to be bottles of alcohol. When questioned with regard to why door staff did not have a clicker to count patrons in/out of the venue, officers were informed that the supervisor had the clicker, who was not at the door at present and that they were having to estimate the number of occupants.

A requirement of the premises licence was that the DPS also attend Slough town centre pubwatch meetings and that he had not done so. Intelligence reports had also been received on 12 March 2012 and 14 April 2012 regarding the sale of the drugs at the premises.

It was explained that noise complaints had been received from residents on 11 March, 7 and 14 April 2012. It was noted that the Council's Neighbourhood Enforcement Officer would provide further details in relation to this.

It was brought to Members attention that an event was held at the premises on 7 May 2012. Officers were informed by Mr Hussain that he had applied for and been granted a Temporary Event Notice until 0400 hours. However, upon checking with the Licensing Team it was confirmed that a TEN application had not been applied for or granted.

Questions to Thames Valley Police Representative

Clarification was sought with regard to whether any arrests had been made with regard to drugs at the premises. Ms Pearmain stated that no arrests had made for drug offences specifically. Ms Pearmain confirmed that Mr Hussain had not made any contact since the application for a review of the premises licence had been submitted.

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Representations on behalf of the Neighbourhood Enforcement Team

Mr Blake, Neighbourhood Enforcement Team (NET) Leader, stated that a noise complaint had been received from residents living in close vicinity to the premises. Evidence diaries were given to residents to record any further details of noise nuisance. On the 27th February 2012, during a pro-active noise visit to residents flats, NET officers witnessed base music coming from the nightclub which was clearly audible within the complainants flat. Attempts were made to contact the DPS but no response was received. Based on the evidence available, an Environmental Protection Act 1990 Section 80 Noise Abatement Notice was served.

Following the Out of Hours Duty Officer having to attend residents flats on 11 March 2012, a meeting was held on 13th March 2012 at Windsor Police Station with licensing and NET officers and Mr Hussain. Mr Hussain stated that he had no understanding of noise management within the club. On the 15th March 2012 NET officers visited the venue and provided Mr Hussain with advice regarding his noise management plans and how the club could be compliant with the Noise Abatement Notice.

Noise complaints in the form of loud amplified music were received for the period between 27 April and 6th May 2012.

Questions to the Neighbourhood Enforcement Team Representative

A Member asked how many residents occupied the flats immediately opposite the nightclub. It was noted that there were approximately 100 individuals who resided in these flats. In response to whether Mr Hussain had made any attempts to improve the noise situation, Mr Blake stated that the level of co-operation from Mr Hussain had been very disappointing. Despite advice being given by officers, a noise management plan had not been implemented to address the noise concerns raised.

Representations made by a Local Resident.

Submissions regarding noise disturbance and the impact that this was having upon residents in the immediate vicinity were outlined by a local resident. Members were informed that noise and anti-social behaviour from the premises had meant that on two occasions, the resident was forced to leave her property at 3am. The impact sleep deprivation was having upon her health was also detailed.

Questions to Local Resident

None.

Decision

Having carefully considered all the information available, the Sub-Committee decided to **revoke** the premises licence. In reaching this decision, Members

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were mindful that during the short period of time the premises had been operating, namely February 2012 to May 2012, there had been a number of breaches of the licensing conditions. Breaches of the premises' licence included:

- Breach of Opening Hours: 7/5/12 event held until 4am without the required Temporary Event Notice approval in place.
- Capacity advertised as 700 on promotion flyers and Facebook – maximum capacity 650.
- Designated Premises Supervisor has not attended Town Centre PubWatch meetings.
- CCTV requested following incident on 24 February 2012. To date this has not been provided.

Members were also provided with details regarding meetings that had taken place between the premises licence holder, officers from Licensing and Neighbourhood Enforcement Teams and Thames Valley Police on 25 January and 2 February 2012. It was noted that advice was given regarding general licensing matters and adhering to the conditions of the premises licence. Further meetings were arranged for 7 and 27 February 2012 which the premises Licence Holder did not attend. Concerns in relation to a number of licensing issues were also raised at meetings held on 13 and 30 March 2012.

Members were informed that a Section 19 Closure Notice was issued on the opening night at the venue due to no CCTV at the premises. Following an incident at the venue on 24 February 2012, CCTV footage was requested and it was noted that a copy of this had not been provided.

Members also noted details provided by Mr Blake, from the Neighbourhood Enforcement Team regarding noise nuisance from the venue. On the 29th February 2012 following complaints from local residents, a Section 80 Noise Abatement Notice was served. A local resident also addressed the Sub-Committee and detailed the impact noise from the venue was having on the quality of life for residents who lived in the vicinity. It was noted that advice regarding the implementation of a Noise Management Plan was given and that this had not been put in place.

The Sub-Committee noted that as the Designated Premises Supervisor for the premises you should have been aware of your role and responsibilities to promote the licensing objectives. Members were of the view that based on the information presented at the hearing, the licensing objectives regarding crime and disorder, public safety and prevention of public nuisance were being undermined. Members of the Sub-Committee decided that for the reasons outlined above, revocation of the premises licence was a proportionate and necessary response.

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9. Exclusion of the Press and Public

Resolved – That the press and public be excluded from the remainder of the meeting as the items to be considered contain exempt information relating to individuals as defined in Paragraph 1 of Part I of Schedule 12A to the Local Government Act 1972 (as amended).

10. Combined Hackney Carriage / Private Hire Driver Application Hearing (Reference 01-12)

The Chair welcomed all parties to the meeting, explained the procedure and confirmed with all parties that they had received the paperwork for the hearing.

Introduction by the Licensing Officer

Mr Idowu, Licensing Officer, stated that an application had been submitted on the 27th February 2012 for a combined Hackney Carriage / Private Hire Driver licence. It was noted that the applicant had previously held a private hire driver licence which was revoked on 15th October 2008, following a conviction for driving a motor vehicle with excess alcohol. The Appellant was disqualified from driving for a period of 24 months.

Members were reminded that the Council's policy regarding convictions and cautions stated "an application...under this category will not be considered until a period of 36 months has elapsed since the restoration of the licence." The Appellant's driving licence was restored on 15th April 2012, following a six month reduction in the disqualification for completion of a driving assessment.

Questions to Licensing Officer

Clarification was sought regarding the date when, in accordance with the Council's policy, the appellant should submit an application for a licence. The Licensing Officer stated that the 36 months would lapse by after April 2013.

Appellant's Case

Mr Badial, on behalf of the Appellant submitted the reasons as to why an application had been made. Members were informed that prior to his disqualification, the appellant had had held a private hire driver (PHD) licence for over 22 years and that there were no endorsements on his PHD licence.

The Appellant stated that he had made an error of judgement and had paid a heavy penalty for that. It was stated that he needed a PHD licence in order to financially support his son at university.

A Member asked whether the appellant was currently employed. The Appellant stated that although he had applied for a number of vacancies he had not been successful and was currently unemployed.

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Following a short summary, both parties left the meeting in order for the Sub-Committee to deliberate.

Resolved – That Appellant Reference 01-12 not to be issued with a Private Hire Driver's Licence.

11. Private Hire Driver Application Hearing (Reference 02-12)

Following introductions, the Chairman explained the procedure for the hearing and confirmed with all parties that they had received a copy of the paperwork.

Mr Idowu informed Members that the Appellant had previously held a private hire driver licence, which was suspended following notification from Thames Valley Police that the Appellant had been arrested for conspiracy to supply a controlled drug. The licence expired in November 2011 and an application for a new PHD licence was submitted in April 2012. It was brought to Members attention that the Appellant was found not guilty of the charge and that his Criminal Record Bureau (CRB) disclosure had been returned with no convictions detailed.

In confirming that the Appellant did not have any convictions on his CRB, Members were reminded that they had to determine whether the Appellant was a 'fit and proper' person to hold a PHD licence. A Member asked how long the Appellant had held a PHD prior to his suspension. The Licensing Officer stated that he had held a PHD since 1997 and that there were no other offences on his file.

The Appellants' wife explained the circumstances that had led to her husband being arrested. It was submitted that her husband had not been convicted and that prior to and after this incident, he had had no involvement with the Police. Members were informed that the impact of the pending court case had had a severe detrimental impact on the Appellant's health, with him suffering from depression. Through out this period, the Appellant had been unable to secure alternative employment and the family had to rely on the income of the Appellant's wife.

Both parties were given an opportunity to provide a summary, following which they left the meeting in order for the Sub-Committee to deliberate.

Resolved - That Appellant Reference 02-12 be issued with a Private Hire Driver Licence.

12. Private Hire Driver Application Hearing (Reference 03-12)

All parties were welcomed to the meeting. The Chairman confirmed that both parties had received a copy of the paperwork and explained the procedure for the hearing.

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Sub-Committee Members were informed that Appellant Reference 03-12 had made an application for a Private Hire Driver's Licence in January 2012. The Appellant's DVLA licence was endorsed in January 2011 with six penalty points for exceeding the speed limit on a motorway and driving without due care and attention. Furthermore, in July 2012, the Appellant received three points for exceeding the statutory speed limit on a public road.

Members were reminded that the Council's Policy stated that "applications will be refused if the DVLA licence has more than 6 current endorsement points on it." The options available to the Sub-Committee were outlined.

The Appellant explained the circumstances within which he had submitted his application. It was stated that he had verbally informed the Licensing Officer that he had nine points on his DVLA licence and that the Officer had taken the fee for the licence. The Appellant submitted that following this he was informed that due to the Council's Policy regarding endorsement points, the matter would be referred to the Sub-Committee.

Following a question from a Member of the Sub-Committee it was clarified that the policy regarding six penalty points on the DVLA licence was applicable to new applications only for a hackney carriage/private hire driver licence and that existing licensed drivers would not have their licence revoked if they accrued more than six penalty points.

The Licensing Officer and the Appellant provided a summary, following which they left the meeting.

Resolved – That Appellant Reference 03-12 not be issued with a private hire driver licence.

Chair

(Note: The Meeting opened at 10.08 am and closed at 2.10 pm)