

REGULATORY COMMITTEE

At a meeting of the Regulatory Committee on Tuesday, 17 August 2010 in the Civic Suite, Town Hall, Runcorn

Present: Councillors Philbin (Chairman), Loftus (Vice-Chairman), M. Fry, D. Inch, A. Lowe, McDermott, E. Ratcliffe and Wallace.

Apologies for Absence: Councillors Bryant, Howard and Murray.

Absence declared on Council business: None

Officers present: G. Ferguson, K. Cleary and J. Tully.

Also in attendance: Stephen Lawlor, Denis Riley, Stephen Gibbons, Martin Stafford Mrs J Clarke, Ian Seville, P C Chris Carney, Chief Inspector John Ward and Bill Seabury. Plus one member of the Press.

ITEMS DEALT WITH UNDER DUTIES EXERCISABLE BY THE COMMITTEE

REG5 APPLICATION TO VARY A PREMISES LICENCE THE ESTABLISHMENT OLD TOWN HALL VICTORIA SQUARE WIDNES

Action

The Committee met to consider an application which had been made under Section 34 of the Licensing Act 2003 to vary the above premises licence.

The hearing was held in accordance with the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005.

In attendance were the applicant Stephen Lawlor, Denis Riley DPS and Stephen Gibbons Head Doorman who were represented by Martin Stafford (DWF Solicitors).

Cheshire Constabulary ("the Police") were represented by Ian Seville Police Licensing Officer, also in attendance were P C Chris Carney, Chief Inspector John Ward and Bill Seabury, Licensing Enforcement Officer Safer Halton Partnership

The Council's legal advisor, John Tully, introduced

the parties, outlined the procedure to be followed, summarised the nature of the application and the relevant representations which had been made. The Committee was advised that other representations had been made by local residents but had not been made within the statutory time limit: consequently, no details were provided in respect of these invalid representations.

Details of the existing premises licence

The premises licence authorised the following licensable activities:-

Categories B - Exhibition of films (Indoors), E – Live Music (Indoors), F – Recorded Music (Indoors) and J – Dancing (Indoors) between the following times:-

Monday and Tuesday	10.00 to 01.30
Wednesday	10.00 to 02.30
Thursday Friday and Saturday	10.00 to 03.00
Sunday	10.00 to 02.30

Category M – Supply of alcohol (On Licence) between the following times:-

Monday and Tuesday	10.00 to 02.00
Wednesday to Sunday	10.00 to 03.00

Category O – Hours Premises are open to the public between the following times

Monday and Tuesday	10.00 to 03.00
Wednesday to Sunday	10.00 to 03.30

Details of the application

The application comprised nine components as follows [with some explanatory text added in square brackets]:-

1. 'To vary existing hours for all named activities' **[i.e. Categories B,E,F,J, and O];**
2. 'To apply for late night refreshment' **[Category L];**
3. 'To apply for Facilities for Making Music' **[Category I];**
4. 'To request an amendment on the condition under the heading 'Door Supervisors' for Door Supervisors to be employed from 23.00' **[the current requirement being from 22.00];**
5. 'To extend the opening hours' **[Category M];**
6. 'To apply K facilities for entertainment of a similar description' **[i.e. similar to Categories I or J];**
7. 'To apply for the performance of dance' **[Category G];**

8. 'To apply for Deregulation from 10.00 on New Years Eve until terminal hour on New Years Day' **[in respect of Categories B,E, F, G, I, J, K, L, M and O];**
9. 'To apply for alterations to the layout to include the outside area at the front of the premises for the consumption of alcohol as per layout on the attached drawings (subject to the approval of a Street Café Licence)' **[This refers to a licence under Part VIIA Highways Act 1980].**

The variation application requested the following licensable activities:-

Categories B – Films (Indoors), E – Live Music (Indoors), F – Recorded Music (Indoors), G – Performance of Dance (Indoors), I – Making Music (Indoors), J – Dancing (Indoors), K – Similar to I or j (Indoors) and M – Supply of Alcohol between the following times:-

Monday and Tuesday	10.00 to 01.30
Wednesday	10.00 to 04.30
Thursday to Saturday	10.00 to 05.00
Sunday	10.00 to 04.30

(NOTE: Volunteered condition - No alcohol will be consumed in any outdoor area of the premises after 23.00 on any day).

Category L – Late Night Refreshment (Indoors) between the following times:-

Monday and Tuesday	23.00 to 00.30
Wednesday	23.00 to 03.30
Thursday to Saturday	23.00 to 04.00
Sunday	23.00 to 03.30

Category O – Hours the premises are open to the public between the following times:-

Monday and Tuesday	10.00 to 02.00
Wednesday	10.00 to 05.00
Thursday to Saturday	10.00 to 05.30
Sunday	10.00 to 05.00

Details of the application as varied at the hearing

At the start of the Hearing Mr Stafford stated that the application was amended as follows (with the additions and corrections confirmed by him shown in square brackets):

1. Proposed Hours

There be no change to the existing hours for [Mondays to] Thursday[s]

That the variation of hours on Sunday / Monday morning to 05.00 shall only apply on those Sundays that are adjacent to public or bank holidays including the Sunday immediately before Christmas Day. On all other Sundays the terminal hour [for Category O] shall [be] 03.00 [(and be 02.30 for all other purposes)].

2. CCTV Suite

On Fridays and Saturdays and those Sundays where the additional hours are in operation, the premises shall ensure that the CCTV suite located at the entrance of the premises is staffed.

3. External Areas

That the seated capacity of the external area does not exceed 60 persons.

[That the supply of alcohol shall be restricted to customers sat at the seating areas and while they remain seated at the seating areas].

That the area will be closed at 22.30 at which point all furniture shall be removed and stored away from the public. Whilst the area may be used by smokers after this time, they shall not be allowed to carry drinks into the area.

The boundaries of the external area be substantially and effectively delineated so as to prevent pedestrian access through the area.

The external area shall only be used once the applicant has obtained the written approval of the Highway Authority for the proposed furniture and usage.

Technical Issues

The Council's Legal advisor highlighted three technical issues as detailed in the printed agenda and requested the applicant to deal with them as part of his presentation.

The hearing

Mr Stafford presented the case on behalf of Mr Lawlor. He agreed that the application of the existing premises licence

to the first floor of the premises was incorrect (because the area was not completed) and that the licence should be amended to remove the first floor designation. Mr Stafford considered that the other technical issues (apart from confirming that the ground floor maximum permitted number of 800 should continue) should be left for consideration as part of a future variation application.

Mr Seville presented the case for the Police and called PC Carney to give evidence relating to the documents previously supplied by the Police. The Police did not object to item 8 of the application (the New Years Eve etc extension) but were firmly opposed to any other increase in hours of operation.

The three local residents who had made relevant representations did not appear at the hearing but the Committee was advised that their representations should be given full consideration.

The Police and the Applicant were then invited to sum up their cases.

The Committee asked a number of questions of the parties and retired to consider the matter.

RESOLVED: That having considered the application in accordance with Section 4 Licensing Act 2003 and all other relevant considerations the Committee granted the application subject to the following:-

1. The first floor area of the premises shall be deleted from the premises licence.
2. The application to extend the area of the premises outside of the building be refused (this relates to Item 9 of the application).
3. The application for Deregulation from 10.00 on New Years Eve until terminal hour on New Years Day be approved (this relates to item 8 of the application).
4. The requested amendment to the condition under the heading 'Door Supervisors' relating to the hours for Door Supervisors to be employed be approved: specifically, there shall be substituted for any reference to "22.00" a reference to "23.00" (this relates to item 4 of the application).
5. With respect to items, 1, 2, 3, 5, 6, and 7 of the application the matters specified and the hours associated therewith on the existing premises licence shall be varied as follows:

Strategic Director
Resources

Categories B – Films (Indoors), E – Live Music (Indoors), F – Recorded Music (Indoors), G – Performance of Dance (Indoors), I – Making Music (Indoors), J – Dancing (Indoors), K – Similar to I or j (Indoors) between the following times:-

Monday	10.00 to 01.30
Tuesday	10.00 to 01.30
Wednesday	10.00 to 02.30
Thursday	10.00 to 03.00
Friday	10.00 to 04.30
Saturday	10.00 to 04.30
Sunday	10.00 to 02.30 * See 6 below

Category L – Late Night Refreshment (Indoors) between the following times:-

Monday	23.00 to 01.30
Tuesday	23.00 to 01.30
Wednesday	23.00 to 02.30
Thursday	23.00 to 03.00
Friday	23.00 to 04.30
Saturday	23.00 to 04.30
Sunday	23.00 to 02.30 * See 6 below

M – Supply of Alcohol (Indoors) between the following times:-

Monday	10.00 to 02.00
Tuesday	10.00 to 02.00
Wednesday	10.00 to 03.00
Thursday	10.00 to 03.00
Friday	10.00 to 04.30
Saturday	10.00 to 04.30
Sunday	10.00 to 02.30 * See 6 below

Category O – Hours the premises are open to the public between the following times:-

Monday	10.00 to 03.00
Tuesday	10.00 to 03.00
Wednesday	10.00 to 03.30
Thursday	10.00 to 03.30

Friday	10.00 to 05.00
Saturday	10.00 to 05.00
Sunday	10.00 to 03.00 * See 6 <i>below</i>

NOTE: 1. These variations include new categories of regulated entertainment (G, I, K) and late night refreshment (category L).

2. These variations mean that there is no change in hours on Mondays, Tuesdays, Wednesdays, Thursdays and (subject as set out below) Sundays.

3. These variations mean that on Fridays and Saturdays there is an increase in hours of operation existing licensable activities of 1.5 hrs and an increase in hours that the premises are open to the public of 1.5 hrs.

4. The variation to normal hours on Sundays represent a small decrease in hours for the supply of alcohol and in hours that the premises are open to the public (30 minutes in each case).

6. All references to the terminal hours applicable to Sundays (that is, Sundays into Monday mornings) shall be subject to the following exceptions on Monday mornings which are public or bank holidays or Christmas Day: (1) for any reference to "02.30" there shall be substituted "04.30" and (2) for any reference to "03.00" there shall be substituted "05.00".
7. The following additional conditions shall apply to the premises licence:

C1. CCTV Suite

On Fridays, Saturdays and on Sundays when additional hours are in operation, the Licence Holder shall ensure that the CCTV suite located at the entrance to the premises is staffed from 23.00 hours.

C2. Controlled Dancing

In this condition "controlled dancing" means lap-dancing, striptease or any similar dancing. Controlled dancing shall not take place at the licensed premises without the written consent of the Council.

In deciding whether to grant permission for

controlled dancing the Council will take into account the suitability of the premises and the location of the premises.

If the Council grants consent for controlled dancing such consent shall be subject to the following standard conditions and to any other special conditions which may be so specified:
No person under the age of 18 shall be at the premises when controlled dancing is taking place.

The licensee shall ensure that controlled dancing shall not comprise or result in any offence arising by statute or at common law.

Performers of controlled dancing shall be provided with changing room facilities at the premises to which the public have no access and which are patrolled by an adequate number of attendants of the same sex as the performers

Otherwise than inside the premises (and from a position which cannot be seen from outside the premises) no photographs or other pictorial representation on posters at the premises or on any other advertisement or promotional material shall be permitted which relate to controlled dancing or the performers of controlled dancing if they can be seen from outside of the premises

Specific reasons for the determination

The Committee took into account all relevant considerations and made its determination on the totality of the material before it.

The evidence presented by the Police was well presented and disclosed a number of highly relevant issues. The prime concern expressed by the Police was stated to be incidents of various categories of violent crime: including serious violent crime. However, the Police confirmed that the premises were well run and that none of the incidents presented by them was attributable to poor management. The Committee also took into account the absence of any previous request for a review of the premises licence or objection to any application for a temporary event notice ("TEN"). There was no evidence of problems associated with later opening under any TEN albeit that the Committee noted that these were imperfect comparables because of the limited number of persons allowed to attend under a TEN as compared with the normal permitted occupancy. The

claimed link with the licensing objective of protecting children from harm was also somewhat tenuous when compared with the evidence submitted. The Committee took into account concerns raised about public nuisance and intimidation but did not feel that these warranted a different outcome to that imposed by the Committee.

The Committee refused that part of the application which related to the proposed outside area (item 9) in its entirety because the proposal was not properly worked through. The applicant had not demonstrated that this part of the application was consistent with the licensing objectives. The Committee would consider any future application which came before it on its merits.

The approval to the requested variation to the condition under the heading 'Door Supervisors' relating to the hours for Door Supervisors (item 8) was justified because no evidence was produced which demonstrated that any problems had been experienced prior to 23.00.

The new condition C1 was proposed by the applicant and endorsed by the Police.

The new condition C2 was designed to further reduce to risks of crime and disorder and was not objected to by the Applicant.

The actions of the Committee were taken in the furtherance of the licensing objectives of prevention of crime and disorder and prevention of public nuisance.

Time that the variations shall take effect: Forthwith

Following the announcement of the Committee decision the Chairman of the Committee advised that the area outside of the Establishment in Victoria Square already has a premises licence for regulated entertainment but not alcohol, however premises licences can co exist.

The area to the front of the premises was refused because the plans were under designed and the applicant had not demonstrated that this part of the application was consistent with the licensing objectives. The Chairman further advised that the Committee would consider any future application which came before it on its merits.

Meeting ended at 9.20 p.m.