

LICENSING SUB COMMITTEE

3 FEBRUARY 2015

Present: Councillor G Derbyshire (Chair)
P Jeffree and M Mills

Also present: Sergeant Simon Mason, Hertfordshire Constabulary
Sergeant Rachel Brown, Hertfordshire Constabulary
Mr Matthew Phipps, Solicitor for Applicant
Mr Naresh Mal, Applicant
Mr Alastair Weatherstone, Applicant
Mr Michael Taylor, Applicant
Ms Joanne Tomkins, Hertfordshire Constabulary

Officers: Solicitor
Licensing Officer (AY)
Committee and Scrutiny Support Officer (JK)

16 COMMITTEE MEMBERSHIP/ ELECTION OF A CHAIR

The Committee and Scrutiny Support Officer confirmed that the Sub-Committee would comprise Councillors Derbyshire, Jeffree and Mills.

The Sub-Committee was asked to elect a Chair for the Hearing.

RESOLVED –

that Councillor Derbyshire be elected Chair for this Hearing.

17 DISCLOSURE OF INTERESTS (IF ANY)

There were no disclosures of interest.

18 APPLICATION FOR THE EXTENSION OF PERMITTED HOURS: DIAMONDS AND STRINGS, 9 MARKET STREET, WATFORD, WD18 0PA

The Sub-Committee received a report from the Head of Community and Customer Services setting out details of an application for the extension of the permitted hours during which the above premises could offer licensable activities.

The Licensing Officer introduced the report. The premises was currently known as 'Beavers' but it would be changing its name. He outlined the changes in hours sought which were detailed at paragraph 3.6 of the report. Representations had been received from the Police and the Licensing Authority. Their concerns related to the licensing objectives of the prevention of crime and disorder, public nuisance and public safety. The premises was located in the Town Centre and policy LP3 of the Licensing Policy stated that the Sub-Committee's starting point should be to refuse the application. The requested hours fell outside those recommended in the Council's licensing policy LP2. Further, only 30 minutes, rather than the recommended 60 minutes, was requested for drinking-up time. The responsibility was on the applicant to demonstrate why the premises should be an exception to the policy. A mediation meeting had taken place but no resolution had been reached. Members were not bound by the policy and it was for the Sub-Committee to decide which action available to them was appropriate to promote the licensing objectives.

The Licensing Officer added that the Licensing Enforcement Officer would not be attending to present the Licensing Authority's representation. The concerns were similar to those of the Police and he could also answer any specific queries.

Sergeant Mason presented the representation on behalf of Hertfordshire Constabulary. The grounds for the representation were the likely effects on the night time economy in Watford. He highlighted the key points of the written representation. The Police's concerns regarding the increase in hours were centred around the potential increase in crime and disorder as the premises would have the latest hours in the town centre for alcohol sales and the latest entry in the town centre. The Police were concerned about potential issues at 0400, the proposed closing time for licensable activities, when policing resources would be required at the other end of the High Street when other large premises closed. The potential increase in customers would affect the sustainability of the policing operation. The Police believed that by granting the application, the public could see the venue as a destination to continue a night out after other premises closed. The majority of premises in the vicinity closed before last entry at Diamond and Strings. The venue could be seen as a location for late-night drinking rather than a sexual entertainment venue. He surmised that the concerns were about the impact on revellers as a whole and how the premises could be used to extend nights out.

In response to a question from Councillor Jeffree about last entry times, Sergeant Mason advised that Oceana had the latest last entry time. The other bars in the area closed prior to Diamonds and Strings' last entry time. This was a concern to the Police. The current hours for licensable activities at the premises did not present any issues as people did not look to extend their evening in the premises once alcohol sales finished.

The Chair asked about the capacity of the premises and the impact on dispersal. Sergeant Mason advised that Oceana, the largest venue, had a capacity of thousands. However, policing was only provided until 0300 after which time the Constabulary paid overtime. After 0300 the policing resources were centred on the Parade. He recognised that the capacity of the applicant premises was not

large but emphasised that numbers were not always the issue: the behaviour of small numbers of individuals could have a significant impact on police resources. He was concerned about the risk posed by having to relocate policing resources away from the Parade to accommodate the proposed extension of hours.

Mr Matthew Phipps presented to the Sub-Committee on behalf of the applicant.

Mr Phipps highlighted the nature of the premises and underlined that it was a sexual entertainment venue (SEV). This was the premises' niche and no other activities were conducted or intended. His view was that the Police's concern that the premises could become a venue for late-night drinking demonstrated that it was well run. There were no concerns expressed in either representation about the management of the premises. He questioned whether people would visit the premises operating as a SEV in order to continue drinking. He stated that it would not become a venue for late-night drinking.

Mr Phipps confirmed that he felt that the application should be considered as a whole. He outlined the changes requested.

Mr Phipps referred to the premises enforcement history which related to the SEV licence, which was renewed annually, and not the alcohol licence. He gave a brief overview of the events and highlighted that there had been a change of management since then. The report stated that there had been no recorded issues since June 2014. He said that there had been no issues since October 2013 when the previous management had left.

He noted that no representations had been received from interested parties. The representations from responsible authorities were based on the Council's policy, rather than concerns related to the venue. He felt that if concerns related to the policy could be addressed there was no reason to refuse the application.

Mr Phipps provided further details about the operation of the premises as follows:

- During the 6 days of operation last week, 209 customers visited the premises in total.
- There were often 30 to 40 customers in the premises at one time and this was why the drinking-up time was only 30 minutes.
- Customers were typically men in their 30s, 40s or 50s.
- The door staff vetted all customers in terms of conduct, age and dress and ID was required for entry.
- There was an entry fee of £5 during the week and £10 at the weekend.

He underlined that the business model was based on a smaller number of customers spending well, not on high volumes. A typical drink in the premises cost £9; alcohol was not discounted. The bar tariff for the premises had been circulated prior to the hearing.

He stated that the determination needed to be evidence-based. He referred to the Police representation and informed Members that there had been no

incidents at the premises. He said that there was not necessarily a link between more customers and higher levels of disorder. The management was more important.

Mr Phipps referred to page 5 of the Council's Statement of Licensing Policy and highlighted factors which the Sub-Committee should take into account which included: entertainment aimed at over 25-year-olds and the controlled and safe sale of alcohol. He said the premises met both these criteria. He underlined that applications needed to be considered on their own merits. He asked the Sub-Committee to consider whether the premises would cause problems.

Mr Phipps referred to premises definitions contained in the policy. The premises was defined as a 'nightclub' in the report. The applicant did not accept this categorisation. He noted that another category was 'other entertainment venues' which he felt was more appropriate. The reason that customers came to the premises was for the sexual entertainment rather than the alcohol, which was ancillary. Alcohol sales were not a strong feature. Customers paid an entry fee and the dancers also paid a fee to the management. The premises also took commission from the dancers.

Mr Phipps addressed policy LP2 which listed 'nightclubs (including lap-dancing clubs)'. He supposed that this was the basis for defining Diamonds and Strings as a nightclub. Other entertainment venues in LP2 were generally granted the hours applied for. He highlighted that the premises' application must be considered on its own merits.

He drew the Committee's attention to LP3 which stated that applications for entertainment rather than alcohol-led premises would be encouraged. He advised that neither the applicant nor the responsible authorities had proposed any conditions. The operating schedule was sufficient. The Police's primary concern related to late-night drinking and Mr Phipps felt that this could be addressed by a condition which only granted the variation for as long as the premises operated as a SEV. This would prevent the premises becoming a bar.

He also advised that the premises had been operating well for over 12 months, addressing a point in policy LP3. He offered that the premises could conduct table service for alcohol on Fridays and Saturdays. The premises was not a high-volume, vertical drinking establishment which the policy sought to avoid. There was an effective dispersal plan, a CCTV system, a Pubwatch radio and an electronic ID system.

With regard to the exceptions to LP3, he accepted that that any late-night application was unlikely to be family-friendly. However, he said the proposed revision of hours for the premises reduced alcohol sales as there was a diminution in the hours earlier in the week to off-set the increase later in the week. He emphasised that that customers in the premises were seated.

He addressed the representations received. He said that there was no evidence in the Police's representation that the application would generate an increase in

crime and disorder or that later hours would create a conflict with the rest of the Town Centre. The difference in clientele would mean there would be no conflict.

The location of the premises was highlighted in the Licensing Authority's representation. Mr Phipps felt that it was a good location as it was a departure point from the town centre. The potential for conflict at last-entry was there for all premises and not a problem only experienced at these premises. He underlined that customers arrived at the premises throughout the evening. The purpose of the Council's licensing policy was to guide the Sub-Committee rather than restrict it.

The Chair asked how the sale of alcohol could be considered only ancillary to the premises operations when it was being presented as the main feature of this application. Mr Phipps responded that the application was intended to meet customer expectations. The applicant felt that there was no good reason for the alcohol sales to end earlier than the amended hours now requested. He recognised that there would be obvious commercial benefit to the premises operators. However alcohol was not the reason that customers visited the premises.

In response to a question from the Chair about the role of the Police in dispersal, Mr Phipps accepted that Sergeant Mason's comments about staggered dispersal were fair. However he did not think the application would have a detrimental impact on dispersal.

Councillor Jeffree asked what effect the proposed extension of hours could have on the customer profile. Mr Phipps responded that there was no proposed change to the last entry time nor was the applicant seeking to change the customer base.

Councillor Jeffree asked about the impact of the variation on the door policy if there were increasing numbers of customers wishing to enter the premises. Mr Phipps replied that there would be no relaxation of standards, the SEV licence had to be renewed annually and the last entry time would remain the same. There was also the power of review.

Councillor Jeffree disputed that the application amounted to a reduction in capacity as Mondays to Wednesdays were much quieter than the weekends. Mr Phipps noted that the venue had a capacity of 165 and they would be prepared to reduce it to 155 if required. There were never 165 customers in the premises.

In response to a question from Councillor Mills about revellers passing the premises on their way home, Mr Phipps referred to a hotel-bar located on the same street which traded well. The doorstaff did not permit entry to people who were boisterous.

Sergeant Mason underlined that the Police representation was based on the likely impact of the proposed variation.

Sergeant Mason asked if Mr Phipps understood the demographics of those who visited the night time economy. Mr Phipps said that general concern seemed to be that the premises would be used as a bar and he had asked the councillors to assess the likelihood of this happening.

Mr Phipps summarised the application. The Licensing Policy, guidance and law was intended to identify the type and style of premises which were likely to lead to issues contrary to objectives of the Licensing Act. He said that Diamonds and Strings did not fit this category. His view was that the retention of the current last entry and the existing operating schedule would not lead to an adverse impact. He said there was no evidence of the premises causing problems and it could be reviewed at any time. He reiterated that the condition linking the variation with continued trading as a SEV would allay concerns.

The Sub-Committee retired to consider their decision.

On the Sub-Committee's return, the Chair announced the decision.

RESOLVED –

Having considered the representations of the applicant and the responsible authorities and having taken into account the provisions of the Licensing Act 2003, the Guidance thereon and the Council's Statement of Licensing Policy November 2013 to 2018, the Committee refuses this application.

The Committee is of the opinion that the operation of these premises can reasonably be described as those of a night-club and notes that its current hours for licensable activities already exceed those laid down in LP2 of the Council's policy in respect of nightclubs (including lap-dancing clubs). The Committee considers the concerns of the Police regarding the potential impact that agreeing the hours sought under this application would have on the desired staggered dispersal of town centre customers are reasonable and proportionate and would have the potential of undermining the prevention of crime and disorder.

Chair
Licensing Sub-Committee

The meeting started at 10.30 a.m.
and finished at 1.10 p.m.