

## LICENSING SUB COMMITTEE

2 MARCH 2015

Present: Councillor K Crout  
Councillors I Brown and J Connal

Also present: Detective Sergeant Rachel Brown, Hertfordshire  
Constabulary  
Mr Alexander Greaves, Applicant's Representative  
Mr Ali Kosele, Applicant's Agent  
Ms Catherine Trollope, Environmental Health  
Ms Joanne Tomkins, Hertfordshire Constabulary  
Mr Cengiz Erpolat, Applicant  
Mr Hamdullah Erpolat, Applicant  
Mr Julian Skeens, Observer

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

### 19 **COMMITTEE MEMBERSHIP/ ELECTION OF A CHAIR**

The Committee and Scrutiny Support Officer confirmed that the Sub-Committee would comprise Councillors I Brown, Connal and Crout.

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

RESOLVED –

that Councillor Crout be elected Chair for this Hearing.

### 20 **DISCLOSURE OF INTERESTS (IF ANY)**

There were no disclosures of interest.

### 21 **APPLICATION FOR A NEW PREMISES LICENCE: WOODY EXPRESS, 103 THE PARADE, HIGH STREET, WATFORD**

The Sub-Committee received a report of the Head of Community and Customer Services setting out details of an application for a new licence at the above premises.

The Licensing Officer introduced the report. The application was for a new licence for a takeaway serving late night refreshments until 0400 Monday to Saturday and 0100 on Sunday. He noted that the reference to a restaurant in

paragraph 9.1 of the report should read 'takeaway'. He highlighted the representations which had been received and advised that no representations had been withdrawn. The premises was located within the town centre and paragraph LP3 of the Licensing Policy advised that applications should be granted subject to conditions as the sale of alcohol had not been requested. Conditions had been suggested by Environmental Health as well as by Licensing to address the concerns raised. The hours requested were outside those recommended in policy LP2 and the Sub-Committee could limit the hours if they felt it was appropriate for the promotion of the licensing objectives. He reminded the Sub-Committee that they were not bound by the policy and that they should give reasons if they departed from it.

Ms Catherine Trollope presented the objection on behalf of Environmental Health. She advised that the representation was centred on the prevention of public nuisance in the forms of noise and litter. She noted that there were residential dwellings both above the premises and in the immediate vicinity. Planning permission had been granted for a further 64 residential units on the Parade above commercial premises and permission was pending for an additional 18 units. She had circulated a paper which included a map of the location of the premises, other late-night premises and the residential dwellings. Environmental Health was concerned that a substantial number of residents could be affected by noise from the premises. It was likely that there would be customers in the area after 0400.

Ms Trollope highlighted the other late-night premises in the area on the map and their closing times. Most premises closed between 2330 and 0300 with the exception of Oceana which closed at 0400 four nights a week. The closest late-night premises to Woody Express was Yates which closed at 0200 three nights of the week. She also referred to the closing times of other licensed takeaways in the vicinity, the latest closing times of which were 0330 on Fridays and Saturdays, but which were situated further away from residents.

Environmental Health had also compiled a list of complaints. The flats located at 101 the Parade were located above Woody Express. There had previously been two complaints including that the extractor fan had caused a disturbance while the premises was open. There had been a number of complaints about Yates which demonstrated problem with noise levels in the vicinity. There had also been complaints about the noise from the hairdressers located next door to Woody Express. She said that this demonstrated that the flat above did hear noise from the premises. Complaints had also been received about other takeaways in the area.

Ms Trollope advised that if Woody Express was open until 0400 it had the potential to become a focus point which would increase public nuisance. This potential could possibly be reduced by bringing the closing time earlier. This would reduce the potential for congregation and align more closely with the closing of other premises.

There was a discussion about music in the premises and the applicant confirmed that they were happy not to have any music playing.

Environmental Health also had concerns about litter: these could be addressed by the conditions suggested in the representation. Ms Trollope added that litter could be a problem whenever the premises closed.

Following a question from Councillor Brown about the hairdressers next door, Ms Trollope confirmed that the complaints had been received during the day. There had been enough noise breakout through the structure to cause a statutory noise nuisance. Woody Express was located within the same building.

Mr Alexander Greaves asked whether Ms Trollope was aware that other premises were open until 0330 or 0400. Subway was open 24 hours although they were not licensed to sell hot food after 0330. The Licensing Officer confirmed the situation and noted that Planning consent was required for this. The Solicitor advised that opening hours were different to hours when no licensable activities were allowed to take place. Mr Greaves highlighted that this would mean there were still people in the area at this time. Ms Trollope responded that this may mitigate the issue of people congregating; there were, however, more residential dwellings near Woody Express.

Mr Greaves highlighted a takeaway open until 0400 located on Clarendon Road. He suggested that this may cause people to walk there and back to the taxi rank so they would be in the area longer. Ms Trollope responded that this information did not affect the impact of the application in question.

Mr Greaves stated that it was better to keep people in one area as Woody Express was located close to Oceana. Ms Trollope said that from an Environmental Health perspective she would not wish to see pooling in any one area.

In response to a question from Councillor Connal, it was confirmed that Oceana had a capacity of 2700.

Mr Greaves asked whether Ms Trollope was aware that the premises had been open until 0315 until December 2014. He felt this provided a comparison of the impact on local residential properties. Ms Trollope confirmed that she was aware of this and noted that the closing time had been 0315 not 0400 and there had been some complaints in the past.

Mr Greaves asked if it was fair that the majority of the complaints had related to noise rather than people. He added that only one complaint had been received since 2001 which was quite seldom. Ms Trollope confirmed that the complaints related to the extractor fan and other noise in 2001 and 2013.

Mr Greaves referred to the planning permission for 64 units at JSA House. He asked if she was aware that a noise assessment had been submitted as part of the application. Mr Greaves referred to a condition on the planning permission which meant that a scheme could only be put forward when the issue of noise had been satisfied. Ms Trollope responded that if this were put in place this would alleviate some concerns.

Mr Greaves referred to concerns about litter and confirmed that the applicant was happy to implement the conditions suggested. He added that he litter pick could be carried out within 50m of the premises rather than the 15m suggested.

Ms Trollope clarified that the Environmental Health concern was that the premises would be open until 0400 six days per week which would increase the potential for complaints and impact on residents.

In response to a question from Mr Greaves, Ms Trollope confirmed that in her view an additional hour of opening would have a greater impact on residents. She noted that residents needed to recognise that living in the town centre would mean a higher level of noise. However, this application would mean a further hour of residents being disturbed during the night.

Mr Greaves asked whether the presence of a door supervisor would mitigate some concerns. Ms Trollope responded that this would be beneficial. The Licensing Officer provided the Sub-Committee with the times that a supervisor was required to be on duty under the previous licence. Mr Greaves confirmed that the applicant would be happy to replicate the condition.

Detective Sergeant Rachel Brown presented the representation on behalf of Hertfordshire Constabulary.

Detective Sergeant Brown read the representation at appendix 5. With regards to the effect of the most recent Licensing Policy, she referred to the introduction of Scan Net systems in licensed premises which had also had an impact. The hours contained in the latest Licensing Policy had capped an increase in any further disorder and antisocial behaviour. Takeaways did not operate the Scan Net system.

Regarding the question of how people dispersed from the town centre, Detective Sergeant Brown advised that Oceana had a number of door supervisors and they were very engaged and made a proactive contribution to dispersal. She added that, in her view, intoxicated persons would prefer to go home then walk up and down the High Street to get a takeaway. The Police officers officially went off duty at 0300 and after that there was forced overtime. Oceana did make contributions to these costs. The Police officers left the town by 0515. In the past, there had been 18 officers on shift, this was now eight or nine. Police resources were stretched.

Detective Sergeant Brown referred to the Public Spaces Protection Order in Sainsbury's car park which was at the rear of the premises. She explained the terms of the PSPO.

The Chair asked about the impact of arrests on the number of officers out on patrol, Detective Sergeant Brown explained that an arrest could take out three or four officers depending on the circumstances. She explained how Section 35 dispersal notices operated.

In response to a question from Mr Greaves, Detective Sergeant Brown said that customers tended to leave Oceana from 0300 and most had left by 0415-0430.

Mr Greaves asked whether, in light of the numbers in Oceana, this application would make a significant difference to the numbers in the town centre. Detective Sergeant Brown replied that she felt it would contribute and that the period between 0200 to 0400 was a common time for there to be disorder. This was not due to the management of the premises but the nature of the people inside.

In response to a question by Mr Greaves about the impact of additional premises on the problem of people congregating, Detective Sergeant Brown advised that it would not assist as the Police were already stretched to cover the zones. She felt that having door supervisors would assist if they engaged with the Police.

The Sub-Committee adjourned to allow officers to clarify the status with the planning permission for the 64 residential units and the pending planning permission for the 18 units.

The Sub-Committee reconvened.

The Licensing Officer reported that the planning permission for 64 units contained a condition requiring a noise assessment to be submitted and approved before development could commence. This condition had not yet been discharged. Mr Greaves commented that this meant that the planning commission could only be implemented once the Council was satisfied that appropriate measures would be taken to avoid harmful effects of noise. Ms Trollope outlined the process from an Environmental Health perspective.

The Licensing Officer further reported that the 18 units at 112-14 The Parade had not yet been given planning permission. The application was pending as Environmental Health were dissatisfied that the measures put forward to protect residents were appropriate.

The Sub-Committee confirmed that they were happy for Ms Trollope to leave at this point in order to attend another meeting.

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

He provided the Sub-Committee with the context of the application. The premises had previously had a late night licence which had been surrendered in error by the previous operator. The licence had allowed the premises to serve late night refreshments until 0300 Monday to Thursday and 0315 on Fridays and Saturdays and 2400 on Sunday. The licence had been surrendered in December 2014 and this gave the Sub-Committee evidence of the premises operating recently with few problems.

Mr Greaves referred to the Licensing Policy and underlined that this was only a framework for decisions and the Statutory Guidance stated that each application must be considered on its own merits. He noted that as the premises had been licenced until recently, the application did not constitute additional premises in

the vicinity. The impact on the surrounding area could therefore be known. The decision had to be pursuant to the licensing objectives but licensable activities should not be restricted where it was not appropriate to promote the licensing objectives.

Mr Greaves addressed the question of public nuisance. He noted that other premises were open in the vicinity serving late night refreshment until 0330. There was one isolated complaint when the premises was operating under the previous licence. This was caused by noise in the kitchen rather than people. Other complaints relating to premises in the area tended to focus on the music. The development at JSA house would not begin until the noise assessment had been agreed by Environmental Health. The applicant was happy to accept the conditions suggested by the Licensing Officer in the report. He wished to have door supervisors as this would also ensure the safety of his staff and customers in his premises. He set out the times that the applicant was happy to have a door supervisor. He underlined the benefit of keeping people in one area after they had left Oceana.

With regard to litter, the applicant accepted the conditions suggested and would undertake litter picks in a 50 metre radius of the premises rather than suggested 15 metres. This would allay the concerns of Environmental Health related to litter.

Mr Greaves turned to the question of crime and disorder. He said that there did not appear to be any evidence to suggest that imposing shorter hours would help prevent crime and disorder. He highlighted the additional benefit of the door supervisor and another premises being open prevented people congregating in one or two locations. He referred to paragraph 5 of policy LP6 which recognised the benefit of staggered closing times.

Mr Greaves referred to the number of incidents between 0200 and 0400; he felt that these incidents would take place, irrespective of opening times but the additional door supervisor would benefit the situation. The applicant was happy to provide CCTV and all staff would be trained. The applicant had a number of businesses across London and in Watford and was a respectable operator who would work with the Police.

Mr Greaves stated that the business would not be viable without at least the hours which the previous licence permitted. No alcohol would be served and the provision of late night refreshment and soft drinks could assist in sobering up intoxicated people.

Mr Greaves stated that the hours requested would not have a negative impact on the licensing objectives and any concerns could be allayed by conditions. It was his submission that the application should be granted as requested.

The fall-back position for the applicant would be the hours permitted under the previous licence. These were confirmed as:

Monday to Thursday – until 0300

Friday and Saturday – until 0315

Sunday – until 2400

The Licensing Officer asked Mr Greaves to clarify his statement about the proximity to Oceana. Mr Greaves responded that if there was going to be late night refreshment it was best for it to be near the latest opening venue. The premises would not add to the number of people in the vicinity.

In response to a further question from the Licensing Officer about dispersal, Mr Greaves said he felt it would aid dispersal as there were taxi ranks located close to both Woody Express and Oceana.

It was confirmed that there would be no music played at the premises.

The Licensing Officer questioned the statements made that more premises open would discourage people from congregating, but also that the location of the premises, close to Oceana, would aid dispersal. Mr Greaves responded that it was desirable to have customers congregating in this area because customers would be exiting Oceana nearby in any case, and the premises did not encourage customers to go elsewhere.

There was a discussion about the hours when a door supervisor would be present, Mr Ali Kosele confirmed that a door supervisor could be on duty on Sunday if required. Following a question from the Solicitor, Mr Greaves clarified the times when the door supervisor would be on duty if the application was granted until 0400 were: Monday to Saturday 2300 – 0430

Detective Sergeant Brown noted that the premises had been serving late night refreshments until 0300 on 27 and 28 February without a licence. She asked whether a door supervisor had been on duty. The applicant confirmed that this was the case.

The Chair asked for confirmation that the premises had been open in excess of their permitted hours. The Licensing Officer advised that this would be legal under the planning regime but not under the licensing regime, unless they were not selling hot food or hot drinks. The applicant confirmed that hot food was being sold. Mr Greaves advised that he had been unaware of this information and that this was regrettable. There had been some confusion about the licence and money had been spent on the renovation of the premises. Mr Kosele added that they had not been able to transfer the licence as it had been surrendered. No one had benefited from the licence being surrendered.

The Licensing Officer outlined the sequence of events following the surrender of the licence.

The Sub-Committee retired to consider their decision.

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

RESOLVED –

Having heard the evidence of the interested parties, the responsible authorities and the applicant, the Sub-Committee rejects the application on the grounds that if the application was granted it would undermine the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. In reaching this decision, the Committee has taken into account the provisions of the Licensing Act 2003, the Secretary of State's Guidance and the Council's Statement of Licensing Policy 2013-2018.

Chair

The Meeting started at 10.30 am  
and finished at 1.10 pm