

LICENSING SUB COMMITTEE

20 JANUARY 2014

Present: Councillor J Brown (Chair)
Councillors J Brown, G Derbyshire and M Meerabux

Also present: Mr Jonathan Smith, Solicitor for Applicant
Mr Alex O'Reilly, Designated Premises Supervisor, Oceana
Mr Mark Molton, Regional Manager, Oceana
Ms Rebecca Cullum, Licensing Officer, Oceana
Councillor Ian Brown, Observer
Mr Adam Binnie, reporter, Watford Observer

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

28 COMMITTEE MEMBERSHIP/ ELECTION OF A CHAIR

The Committee and Scrutiny Support Officer confirmed that the Sub-Committee would comprise Councillors J Brown, G Derbyshire and M Meerabux.

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

RESOLVED –

that Councillor J Brown be elected Chair for this Hearing.

29 DISCLOSURE OF INTERESTS (IF ANY)

There were no disclosures of interest.

30 VARIATION OF PREMISES LICENCE APPLICATION: OCEANA, 127 THE PARADE, HIGH STREET, WATFORD (13/01439/LAPRE)

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

The Licensing Officer introduced the report. She advised that the application had been made by the premises licence holder, Luminar Ltd, to extend the hours of licensable activities at Oceana on six special days as set out in the report as well

as Sundays preceding bank holidays. She outlined the changes to the hours requested for different licensable activities. Two representations had been received, both of which related to public nuisance. She added that on the special days requested the sale of alcohol would be for consumption on the premises only.

Mr Jonathan Smith, Solicitor for Oceana, noted that the request in respect of Sundays preceding bank holidays only related to extending the hours for regulated entertainment by half an hour. There would be no extension in opening hours, sale of alcohol or late night refreshment.

Mr Smith presented the case for the Applicant. He clarified his explanation of the change requested for Sundays preceding bank holidays. He referred the Sub-Committee to page 20 of the agenda which provided a copy of Oceana's licence and the relevant paragraph outlining the hours. The premises were seeking the extension of their hours by 30 minutes for regulated entertainment which was the performance of live music, recorded music and performance of dance.

He explained that the Applicant was also seeking to extend their hours on six notable days: Halloween, Christmas Eve, St Andrew's Day, St David's Day, St George's Day and St Patrick's Day. The new terminal hours sought on these days were as follows:

- Sale of alcohol - 0300
- Regulated entertainment - 0330
- Premises open to the public and late night refreshment - 0400

If the six notable days fell on a Monday, Thursday, Friday or Saturday, there was no extension required as the premises already had those hours on the licence. If the six notable days fell on a Tuesday or a Wednesday, the sale of alcohol would be extended by an additional hour. If the days fell on a Sunday, the terminal hour for the sale of alcohol would be extended by two and a half hours. Under the application, there would be a maximum of six extensions a year to the hours. It depended on which day of the week the notable days fell. He advised that the next time Halloween would fall on a Sunday would be 2021. He summarised that on the six days in question, where they fell outside Monday, Thursday, Friday or Saturday, the premises would like to be able to operate to the same hours. He noted that on average, the variation would allow the premises to open for an additional three hours per year.

He reported that Oceana had had a temporary event notice (TEN) on Christmas Eve in 2013 to allow the hours requested under this application. There were no objections and the event passed without incident.

Mr Smith reported that a mediation meeting had been arranged but the interested parties had not attended.

He highlighted that the Moon under the Water also had extended hours on these notable days. The Chair highlighted that Oceana's had considerably longer hours.

Mr Smith referred to the representation from Mr Laycock, and he reiterated that the extension was only for the six days outlined. The representation also included concerns about the noise of the air-conditioning units. No complaints had been received prior to this application but Mr Smith advised that part of the fencing around the units required repair and a quote had been received to address this. There had been a complaint about staff leaving the car park noisily, they were reminded about showing courtesy to their neighbours in their monthly training and it was a disciplinary issue. He informed the Sub-Committee that any glass was disposed of after 10am and the venue mostly used polycarbonates. He referred to the suggested condition relating to litter and confirmed that Applicant would be happy to accept this. He described how the queues were managed.

Mr Smith informed the Sub-Committee that Oceana had been operating for six years and had between 25 and 30 door staff on duty on the busier nights. He advised that 90 percent of customers were searched on entry and the Scan Net system was in operation. There were six personal licence holders on duty and he said that Oceana had a well-established dispersal policy which he outlined. Mr Alex O'Reilly, the DPS, was Chair of the local Pubwatch, had been involved with the Purple Flag application and the Best Bar None awards. The premises contributed to the taxi marshal system. Rebecca Cullum, the Licensing Officer for the Luminar Group, kept in contact with the authorities to discuss any issues.

Mr Smith highlighted that there had been no objection to the application by the Police. The Guidance to the Licensing Act 2003 advised that all relevant and proportionate representations should be accepted. Watford's Statement of Licensing Policy expected operators to trade for at least 12 months before varying their licence; Oceana had been trading for six years.

The Chair asked Mr Smith to outline the current and proposed terminal hours. Mr Smith referred to Page 20 of the agenda and highlighted the relevant section of the existing licence for Sundays preceding bank holidays. He outlined the request for the extension of the hours of regulated entertainment on those nights.

Mr Smith explained how the hours in the application would operate for the six notable days.

Councillor Derbyshire referred to LP2 and LP3 of the Council's Statement of Licensing Policy and noted that Oceana's hours already exceeded the hours in the policy. He asked why the Sub-Committee should exercise discretion. Mr Smith responded that the premises already traded to those hours four days a week. The Police would have made an objection if they had concerns. Oceana had had TENs to the hours requested without incident. He referred to the Thwaites and Brewdog court cases which demonstrated the need for each case to be considered on its merits. The extension was minimal and would aid dispersal from the town centre.

In response to a question from Councillor Derbyshire about the potential for increased public nuisance, Mr Smith underlined that the increase on Sundays

preceding bank holidays would only be for regulated entertainment. He advised that he had addressed the public nuisance concerns set out by Mr Laycock. Few Sundays would be affected by the application.

After taking instructions, Mr Smith confirmed that the Applicant would be happy to use TENs to extend the hours for the six notable days when they fell on a Sunday. The extension would therefore only apply when the six notable days fell on a Tuesday or a Wednesday.

Councillor Meerabux asked how the application would help promote a family-friendly town centre. Mr Smith responded that the Council's policy should never be absolute. He added that while the application was not intended to promote a family-friendly town centre, neither would it detract from it either as families would not be in the town at the times applied for. Mr O'Reilly advised the Sub-Committee that sales of alcohol tended to decrease during the last hour of trading.

The Chair referred to LP3 and noted that the Applicant was required to demonstrate why they should be considered an exception to the policy. She was not convinced by the argument about aiding dispersal. Mr Smith advised that on Tuesdays and Wednesdays Oceana and Cameo closed at the same time. There had been no incidents on Christmas Eve. He referred the Sub-Committee to the proportionality of the application. The extension would be used for approximately one and a half hours a year.

The Chair asked why the application was necessary if it would only allow for such limited additional opening hours. Mr Smith answered that on those six notable days there was demand from their customers and there had been TENs in the past.

The Chair noted that the four saints days were rarely celebrated and she supposed that it was the extended hours rather than the occasions which would attract customers. Mr Smith responded that his client would be happy to exclude St Andrew's Day, St David's Day, St George's Day and St Patrick's Day from the application. Only Halloween and Christmas Eve would remain which were the busiest of all the days in question.

Mr Smith explained that the problem with submitting TENs was that there was a maximum capacity of 500 people for each room in the nightclub which required a lot of TENs.

The Chair quoted paragraph 1 of LP3 which stated that where representations had been received to this kind of application, the Council's starting point would be to refuse it. Mr Smith noted that the policy was not absolute as demonstrated by the Brewdog case and each application should be considered on its own merits. The policy also stated that variations would be considered after the applicant had traded for 12 months. The operators had a good relationship with the Police and the Council. He referred to the proportionality of the application and asked the Sub-Committee to consider Christmas Eve and Halloween specifically on Tuesdays and Wednesdays only. He noted that the Thwaites

case required the Sub-Committee to consider the evidence before them and in particular the lack of Police representation.

Following a question from the Chair, Mr Smith explained that the Thwaites case and the Brewdog case were appeal court cases heard in the High Court and were binding in law.

Mr O'Reilly added that Oceana tried to work with residents and he had personally witnessed the dispersal policy working well. Following a question from Councillor Meerabux, Mr O'Reilly replied that he was not aware of any proposals from residents which had been dismissed. If they were aware of any issues they addressed them as soon as possible.

The Sub-Committee retired to consider its decision.

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

RESOLVED –

Having considered the provisions of the Licensing Act 2003 and the government guidance thereon, the Council's Statement of Licensing Policy November 2013-2018, the representations of the interested parties and the representations of the applicant, the Committee agrees as follows:

1. To extend the terminal hour for regulated entertainment on Sundays preceding a Bank Holiday from 0300 to 0330.
2. To extend the terminal hour for the sale of alcohol on Halloween and Christmas Eve when these fall on a Tuesday or a Wednesday from 0200 to 0300.
3. To extend the terminal hour for regulated entertainment on Halloween and Christmas Eve when these fall on a Tuesday or a Wednesday from 0300 to 0330.
4. To extend the terminal hour for late night refreshment on Halloween and Christmas Eve when these fall on a Tuesday or a Wednesday from 0300 to 0400.
5. To extend the time when the premises are open to the public on Halloween and Christmas Eve when these fall on a Tuesday or a Wednesday from 0300 to 0400.

The following condition is to be put on the licence, applying only during the additional hours granted:

All litter to include discarded flyers, cigarettes, fast food packaging and any other litter, whether caused by the venue or not, to be cleared from the area delineated below, such waste to be disposed of as trade waste by the premises.

The area to be cleaned is:

- A. the entire footway on the western side of Albert Road South between The Parade and Beechen Grove,

- B. the boundary to Elm Court fronting Albert Road South and Beechen Grove
- C. the footway on The Parade between the frontage to Oceana and the pond, a distance of approximately 10 metres.

Advisory

The Chair added that the Sub-Committee hoped that the fence around the air-conditioning unit would be repaired quickly.

Chair

The Meeting started at 10.30 am
and finished at 12.10 pm