

LICENSING PANEL

MONDAY, 10 JULY 2017

PRESENT:- Councillors Eric Shaw, Nadine Watts and Peter Watts

54. Appointment of Chair

Resolved – That Councillor Peter Watts Chair this meeting of the Panel.
(Councillor Watts took the Chair.)

55. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

56. The Mailcoach and Locomotive - Temporary Event Notice - Consideration of an Objection Notice

The Panel considered (a) a report of the Council's Licensing Manager setting out details of an Objection Notice opposing the grant of a Temporary Event Notice for The Mailcoach and Locomotive, (b) written representations from Wiltshire Police in support of the objection notice, (c) oral submissions from PC Michael Diffin, M.B.E., (Police Licensing Officer) in support of the Objection Notice, (d) oral submissions in respect of the application from Swindon Borough Council's Environmental Health Team, (e) comments from Mr Martin Jones (applicant) in support of the application for a Temporary Event Notice, (f) information tabled at the meeting by the applicant in support of his application for a Temporary Event Notice, (g) oral submissions in support of the application for a Temporary Event Notice, (h) questions from Members to the applicants and police and answers received, and (i) the Council's procedure for licensing hearings, the Secretary of State's Guidance and the Council's Statement of Licensing Policy.

The Council's Licensing Manager advised the hearing that she was in attendance to present the views of the Council's Environmental Health Team in respect of the application. Ms Alison Waine, Swindon Borough Council Licensing Team, was in attendance to represent the Licensing Authority and would present the report.

The Council's Licensing Officer introduced the report noting that:

- The Temporary Event Notice Application was for the period 28th to 30th July 2017.
- The Counter Notice received from Wiltshire Police was on the grounds the application would undermine the Prevention of Crime and Disorder and the Protection of Children from Harm Licensing Objectives.
- A representation from the Council's Environmental Health Team in respect of noise issues was set out in the agenda papers.
- A copy of the Premises Licence for the Mailcoach and the Locomotive was set out within the agenda papers.
- The Pride event had been operating for six years.
- The Temporary Event Notice application had been received by the Licensing

Authority on 30th May 2017 and was for 00:00 – 01:30 hours on Friday 28th July and 00:00 – 06:00 hours on Saturday 29th July 2017 and was for the sale of alcohol and regulated entertainment.

- The event as requested would require a road closure order for Queens Street which had yet to be considered by Swindon Borough Council's Highways Department.
- The options available to the Panel in reaching its decision.

The representations from Wiltshire Police and points raised can be broadly summarised as:

- There was a serious offence of Grievous Bodily Harm against a seventeen year old male at the premises on 20th May 2017 at 03:50 hours which resulted in the victim being hospitalised.
- The victim had confirmed that he had been sold alcohol at The Mailcoach prior to the incident leading to his injuries when he shouldn't have been on the premises if he had been asked for proof of age or if the challenge 25 policy had been enforced.
- Evidence that the door supervisors on duty at the time of the incident had been slow to respond and had been ineffective when doing so.
- On 20th May 2017 the premises had failed an Underage Test Purchase and the member of bar making the sale confirmed that she had received no formal training from management.
- The bar manager could not produce training records when requested to do so by Wiltshire Police.
- The Police had concerns about the current management structure and about staffing should the event proceed.
- The event being proposed was not part of the official Pride event.

Responses to questions to the Police from the applicant and Panel members and points raised can be broadly summarised as follows:

- That the incident involving the serious injury to the seventeen year old should have been prevented through his refused entry to the premises as the parties involved were on the premises immediately prior to the event in questions and the victim would otherwise not been in the vicinity. In the opinion of the police it was poor management that contributed towards it occurring.
- The Police also expressed an expectation that there should have been more effective door security measures in place at the time of the incident with only one door supervisor on duty. It was taxi marshals that dealt with the problem and not the door staff employed by The Mailcoach.
- The situation outside the Mailcoach was also allowed to develop as they had been no attempt to disperse people congregating outside the premises.
- The Police gave evidence that they did not believe the current management to be competent to run the event proposed under the Temporary Event Notice.

The Applicant's case and points raised can broadly be summarised as follows:

- The injury to the young man on 20th May was regrettable and something no-one at the venue wanted.

- All bar staff were trained and the failure of the underage test purchase was a mistake and they should have asked for identification.
- This incident was the first in seven years, and whilst accepting the incident should never have happened, Mr Jones felt this was a good record.
- There were two door supervisors on duty one at the Mailcoach the other at the Locomotive.
- The event on the evening in question was more popular than expected otherwise more door supervisors would have been on duty.
- The door supervisor on duty at the Mailcoach had worked there before and would not have been working that night if Mr Jones had not been out of the country.
- Mr Jones noted that this type of incident could have occurred at any venue in the town and should be put in context however regrettable the incident was.
- Since the incident management had agreed changes including to security, including to the licence, which should prevent any similar incident occurring in the future.
- Mr Jones was to take over responsibilities as the Designated Premises Supervisor.
- The plan for managing the event set out in the Temporary Event Notice had been tabled for member's information.

Responses to questions from Panel Members and the Police and points raised can be broadly summarised as:

- Measures to maintain order of the proposed crowd should approval not be forthcoming for the closure of Queens Street.
- That the event would hold up to 499 people, including staff, and that if it were restricted to the Mailcoach and the Locomotive this might mean that up to 180 would be waiting outside to enter.
- The event would operate on a one in and one out system once capacity had been reached.
- That in previous years the average attendance had been 400 people and management had never needed to call the police.
- Staffing and safety issues had been agreed with the Event Safety Group.
- Door Staff would be in place from 22:00 to 06:00 hours with one door supervisor at each entrance.
- Fencing and netting would be in place to prevent any unauthorised access to the out-door area.
- The Designated Premises Supervisor or personal licence holder would be available through the planned event.
- Drinks would be sold in polycarbonate receptacles.
- Music in the outdoor area would cease at 04:00 hours.
- Arrangements for a large cover were in place in case of bad weather.
- There would be six bars (including the outside area) operational during the event.
- Management was content that plans were in place to manage any queues arising from the event.

Representations made by the Council's Environmental Health team and points raised can be broadly summarised as follows:

- Noise problems associated with the premises had been monitored for some time.
- There were issues arising from last year's event including public safety, fire exits, open cellar doors and poor management.
- Last year witnessed a lot of noise complaints which were addressed throughout the evening and which occurred until 05:50 hours.
- There had been recent noise complaints from people living 70 meters from the venue and officers had considered the use of a Noise Abatement Order at the premises.
- There were issues of uncontrolled access at last year's event at the venue.
- Bass beat music including from the outside stage were a major concern to officers.

Responses to questions asked by the applicant and members of the Panel can be broadly summarised as:

- Mr Jones concern that noise complaints from last year's events were made known to him earlier so that he could address them.
- That Mr Jones had put in some noise retention measures to reduce noise problems for local residents.
- That the end time for the event could be renegotiated to lessen the impact of noise.
- The problem in retaining noise, especially that emanating from outside the fabric of the venue building due to dissipation patterns and the urban setting.
- That if a counter notice to the Temporary Event Notice was served the event could still continue within The Mailcoach and the Locomotive until 04:00 hours.

Resolved – That having carefully considered (i) the application for a Temporary Event Notice and representations in relation to the objection from Wiltshire Constabulary and Swindon Borough Council's Environmental Health Team, (ii) and taking into account the Secretary of State's Guidance and the Licensing Authority Licensing Statement, and (iii) having in mind the promotion of the Licensing Objectives in particular the prevention of Crime and Disorder, Prevention of Public Nuisance, the Protection of Children from Harm and Public Safety, the Panel has decided to issue a counter notice against the temporary event notice covering the period Friday 28th July to Sunday 30th July 2017. It was not satisfied that Licensing Objectives in respect of the Prevention of Crime and Disorder, Prevention of Public Nuisance, Protection of Children from Harm and Public Safety would be upheld if the temporary event notice was permitted to proceed.

Reasons

1. The Panel heard evidence from the Council's Environmental Health team in respect of serious noise issues currently emanating from the premises together with evidence that six complaints were received from residents regarding the after pride event in 2016. This included one complaint being received at 05:50 hours due to the excessive noise. The applicant confirmed that he was communicating with a resident in respect to on-going noise issues but the panel considered he had taken insufficient steps to remedy the situation. The Panel was not satisfied that management of the premises had plans in place to prevent noise nuisance from either the buildings or the open area used to host a stage. The Panel noted that

access and egress to the buildings would be increased through the anticipated number of attendees and that the premises in question would be in use for additional hours in the early morning. There appeared to be no plan offered to reduce noise emanating from the stage area in the open space adjacent to the buildings. The applicant informed the Panel he had taken advice from a sound engineer as to the proposed positioning of speakers in the stage area but the Panel was not convinced that given the existing issues of noise nuisance from within the building the noise from the stage area would be effectively managed. Officers provided evidence that they were currently considering serving a Noise Abatement Notice on the premises.

2. The Panel was concerned that there appeared to be a lack of management at the premises. This was evidenced by recent incidents involving a serious assault and sales of alcohol on two occasions on two consecutive nights at the premises. The Panel was not satisfied that the Licensing Objectives would be upheld based upon evidence presented to it relating to the employment and training of staff. The reason given by the applicant for the failure of the test purchase was due to the lack of training but no evidence was provided as to the training of staff nor how door staff were managed.

3. The Panel heard evidence from the Police and Environmental Health Team that they had a number of concerns relating to the operation of last year's after party event.

4. The Panel did not consider that either the current Premises Licence conditions or evidence from the applicant persuaded it that the Licensing Objectives would be upheld should the event as planned proceed.

The Chair reminded both parties that they have the right of appeal to the Magistrates Court against the decision and that any such appeal should be made within 21 days of the receipt of the written determination and no later than five days before the scheduled event.