

LICENSING PANEL

FRIDAY, 15 SEPTEMBER 2017

PRESENT:- Councillors Caryl Sydney-Smith, Vera Tomlinson and Nadine Watts.

73. Appointment of Chair

Resolved - That Councillor Vera Tomlinson Chair this meeting of the Panel.
(Councillor Tomlinson took the Chair.)

74. 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.

75. Application to Vary a Premises Licence to specify an individual as a Designated Premises Supervisor in respect Fantasy Lounge, 37-38 Fleet Street, Swindon,

The Panel considered (a) a report of the Council's Licensing Manager setting out details of an application to specify an individual as a Designated Premises Supervisor in respect of Fantasy Lounge, 37-38 Fleet Street, Swindon, (b) written representations from Wiltshire Police opposing the application, (c) oral submissions opposing the application for a review received from Sian Kalynka (Police Licensing Officer), (d) oral supporting the application received from Mr Angelo Rossi (Premises Licence Holder) and Liam O'Neill (applicant), (e) questions from Members to the applicants and officers and answers received, (f) the Council's procedure for licensing hearings, the Secretary of State's Guidance and the Council's Statement of Licensing Policy, and (g) advice from the Panel's legal advisor that (9) on page 18 of the agenda papers should not form part of the Panel's deliberations as no prosecution was currently being undertaken.

The Council's Licensing Manager introduce the report noting that:

- There was currently no Designated Premises Supervisor for the premises.
- The options available to the Panel in respect of determining the application.
- That the application had been submitted to the Licensing Authority in May but had been delayed in order to resolve legal issues.
- The administrative and legal processes involved in progressing the application received.
- Evidence submitted by the Police in support of their objection as set out in the agenda papers.
- That the Premises Licence had been transferred to Mr Angelo Rossi earlier in the year.
- The revocation of the Premises Licence in force at the property in 2012.
- That the applicant's former solicitor, referred to in the agenda papers, was no longer involved in the application.
- The withdrawal of the application by the solicitor was not valid as Mr Rossi confirmed no such instructions had been issued by him.

- A copy of the current Premises Licence as set out in the agenda papers.
- The event in February 2015 that led to the applicant being cautioned was due to it not being submitted in time. Once the Licensing Team were aware of the event progressing they were obliged to inform the Police.

The Police case for a review and a summary of points raised can be broadly summarised as follows:

- The objection to the application had been made by Wiltshire Police because of their concerns as to the applicant's ability to operate a premises within a Night-time Economy Area.
- That the Police had regular contact with the applicant over the previous three years as he had submitted a number of Temporary Event Notices since 2014.
- That these Temporary Event Notice applications have primarily been for late night dance/disco events involving the sale of alcohol.
- That venue involved was located in an area of high risk of alcohol offences.
- Their opinion that despite obtaining a personal licence that the applicant's knowledge and understanding of the Licensing Act 2003 had not improved and neither had his ability to run a late night time economy venue.
- Police objections to the most recent Temporary Event Notice application submitted by the applicant.
- That in their opinion the application had shown a propensity to operate outside licensing laws and had been cautioned in 2015 had been cautioned for operating an event without the correct authorisation.
- The applicant's history of running events in Swindon's late night economy area.
- The Police's objection to the grant of a number of Temporary Event Notice applications.
- Their contention that the application lacked the ability to ensure the venue's compliance in upholding the Prevention of Crime and Disorder Licensing Objective.
- That on 26th November 2016 there were a number of breaches of the Licensing conditions attached to a Temporary Event Notice event organised by the applicant.
- That the venue, a former lap dancing club had a number of conditions attached to the Premises Licence that the Police felt would not be upheld due to the applicant's inexperience and poor history of organising and running events with similar conditions .
- A summary of breached of licensing objectives relating to previous events organised and run by the applicant (pages 28 and 29 of the agenda papers).
- The Police's view that the applicant lacked the understanding to operate and successfully run a night club.

Responses to questions to Wiltshire Police from Panel Members and the applicant and his representative can be broadly summarised as:

- That the Police had serious concerns that the Licensing Objectives would be undermined if the application were granted.
- That a list of breaches of licence conditions in relation to previous events held

by the applicant were set out on pages 25 to 29 of the agenda papers.

- That although there was no specific condition for written records regarding searching the premises inside and outside for suspicious packages at an event held on 26th November 2016 this condition was fairly standard in the locality of the event. There was no proof provided by the applicant that such action had been undertaken.
- That no proof was provided to confirm that a door admissions policy was in place and operational for the event held on 26th November 2016.
- Although no written policy regarding the prevention of drugs and weapons be brought to the event on 26th November 2016 due diligence was expected by the Police.
- Posters and staff training records were expected to show compliance with the challenge 25 policy at the event held on 26th November 2016. This was a condition proposed by the applicant who could not subsequently produce the necessary records of compliance.
- That relevance of incidents 3, 4, 5, 6, 7 and 9 set out on pages 28 and 29 of the agenda papers and whether these were confirmed breaches of licence conditions.
- Canister containing NOS (legal highs use this substance were found at Havelock Square in premises operated by the applicant.
- The caution against the applicant was seen by the Police as a means not to unduly hinder his ability to operate future offences. The Police did not judge the applicant's events in a manner that differed from their consideration of other events.
- The documentation tabled by the Police had not been seen by the Police; had they seen it they would have initialled the entries.

The Applicants' case to specify an individual as a Designated Premises Supervisor and a summary of points raised can be broadly summarised as follows:

- The NOS canisters referred to by the Police at Havelock Square provided nitrogen oxide used in cream machines at the premises.
- The police visit where the NOS canisters were found was the result of a burglary which was reported by himself.
- He was aware of drug related issues and operated checks at all his events to prevent drugs being taken onto the premises in question.
- He had made some mistakes in operating events in the past but had learnt lessons from these promotions.
- Records had been kept for the event on 26th November but at the time he was updating his event policies and these were not on site during the police visit.
- He had CCTV footage of the event on 26th November and he believed this would have been sufficient to prove he was operating responsibly.
- He had not been operating events since November and this had affected him.
- He had and was continuing to try and operate a working relationship with the police.
- He had been working within the Night-time Economy since he was 18 years old.
- He was partnering with Chris Nice who was an experienced operator.
- He wanted to provide a venue that offered diversity in music which was not

provided in Swindon due to a number of public houses and working men's clubs closing down.

- He had promoted similar events in Marlborough Town Hall without any problems arising.
- He had offered to meet with Swindon police to seek support and advice but this offer had been refused.
- He wanted to offer people a legal and safe venue for music within the town.
- That he accepted a caution for promoting a Temporary Event Notice event even though he had submitted the paperwork well in advance of the date. He believed at the time that the event was authorised. He was not aware of an email from the Council's Licensing Team regarding the event until after it had been held.
- His view was that Mr Rossi's premises were the major issue for the police.
- He had substantially revised his policies for events and these were tabled for Members' information together with log books for Door Supervisors at previous events. A copy of these had been emailed to the Council's Licensing Team.

Responses to questions to the Applicant and his witnesses from Panel Members and the Police can be broadly summarised as:

- That there was confusion surrounding the event on 14th February 2015 at which he received a caution as he submitted paperwork for the event well in advance of it occurring. There was confusion about the event with temporary staff at the Council's Licensing Team (which deemed the application to be late) and a subsequent email from them was sent out late and was not seen by him prior to the commencement of the event.
- He had accepted the caution and closed the event as he felt threatened by the attitude of the Police.
- He felt the Police did not wish to see him promoting any events in Swindon.
- A Challenge 25 Policy would be operated at events at the Fantasy Lounge.
- The Policies tabled were being kept at the applicant's home address as he was not currently promoting events.
- The refusals book was always kept on the premises in question.
- That he was aware of the conditions currently attached to the premises at 37/38 Fleet Street.

Resolved - Resolved - After considering: -

1. The objection to the application to specify Mr Liam O'Neil as the Designated Premises Supervisor in respect of Fantasy Lounge, 37-38 Fleet Street, Swindon by Wiltshire Police; and
2. Representations and material put forward on behalf of the applicant and his witnesses;

And taking into account: -

1. The Secretary of State's Guidance; and

2. The Licensing Authority Licensing Statement:

And having in mind the promotion of the Licensing Objectives in particular the prevention of crime and disorder;

The Panel determined that the application to specify Mr Liam O'Neil as the Designated Premises Supervisor in respect of Fantasy Lounge, 37-38 Fleet Street, Swindon, be granted.

Reasons

1. The Panel in considering the evidence presented by the Police within their objection determined that it was not satisfied that it constituted exceptional circumstances as required by Section 37(5) of the Licensing Act or that it constituted exceptional concerns as described within Section 4.39 of the Secretary of State's Guidance on such objections.
2. The Panel in reaching its determination was mindful that a number of the alleged breaches of conditions of a Temporary Event Notice in relation to an event held on 26th November 2016 were subject to interpretation of the conditions.
3. The Panel was not satisfied that evidence in respect of other incidents, with the exception of 8, as set out on pages 28 and 29 of the agenda papers pointed to direct mismanagement by the applicant. In relation to incident 8 the Panel considered it was likely that miscommunication had occurred resulting in the breach.
4. The Panel noted that a comprehensive set of conditions applied to the premises licence and a significant breach of these in the future could result in the matter being brought before a Panel on review.

The Chair reminded both parties that they had a right of appeal against the determination of the Panel and that any such appeal should be made to the Magistrate's Court within 21 days of this determination.