

LICENSING SUB COMMITTEE

19 FEBRUARY 2016

Present: County Councillor (Chairperson)
County Councillors Murphy, Goddard and Walsh

38 : DECLARATIONS OF INTEREST

No declarations of interest were received.

39 : REVIEW OF PREMISES LICENCES - FLOYDS AND FLOYDS CAFE BAR,
23 HIGH STREET

CCCP/00180 & 01543 FLOYDS & FLOYDS BAR AND CAFÉ – APPLICATION FOR
PREMISES LICENCE - REVIEW

NAME OF PREMISES: FLOYDS & FLOYDS BAR AND CAFÉ

WARD: Cathays

Applicants: Cardiff Council, Pollution Control Team

Responsible Authority: PC Tim Davies – Licensing Officer – South Wales Police

Other Persons: Rebecca Williams Pollution Control CCC
Carl Williams Barrister (9 Park Place) representing Mr Zak
Edwards (The Rubber Tree- formerly Floyds Bar Café
01543)
Mr Kelvin Evans (Floyds 00180)

The Application

It was understood that an agreement had been reached with regard to some conditions on the licence, however there remained one condition that was not yet agreed. Mrs Rebecca Williams outlined the conditions as:

Installation of a noise limiter on all power points in the premises and that recorded music and regulated entertainment would cease at midnight Monday to Thursday.

No amplified music to be played at any time in the premises.

It was noted that there was disagreement on a further condition of no recorded music played between midnight and 2am Friday and Saturday.

Officers from Pollution Control at Cardiff Council had arranged to visit the premises on Thursday 25th February 2016 with a view to settling on an agreed noise limit; if this limit was not agreed then this condition would come back in front of the Sub Committee.

Mr Carl Williams stated that the condition in relation to noise limiters being fitted to all power points in the premises was still being discussed due to the cost implications,

however he hoped that the visit on Thursday 25th February would provide a suitable noise limit that all parties were happy with.

The Chairperson requested that the meeting be adjourned until Friday 26th February to allow the results of the meeting on Thursday 25th to be brought in front of the Sub Committee; in the meantime it was agreed that the other conditions be carried out in good faith.

The Chairperson also requested that the case in relation to Mr Kelvin Evans be adjourned to the same meeting.

Reconvened meeting on 26th February 2016

CCCP/01543

At the reconvened meeting on 26th February 2016, the sub committee were advised that in relation to license 01543, Officers from Pollution Control had visited the premises and agreed to a set level with a limiter sealed accordingly so that the level cannot be adjusted.

The Sub Committee resolved to attach the conditions to the licence accordingly:

No amplified music at any time;

Recorded music hours Sunday to Thursday 10am to Midnight

Recorded music hours Friday & Saturday 10am to 02.00am

All recorded music must be played through a specified limiter (noise) RODEC audio level controller single 19" unit connected to a SERATO Pioneer Professional mixer, set to a level which is agreed by the Local Authorities' Pollution Control Department which ensures that the music will not cause a public nuisance.

CCCP/00180

Rebecca Williams for Pollution Control advised the Sub Committee that this was a longstanding and complex noise complaint case which had been ongoing since 2011. There were two premises licences attached to the building; License 00180 had been held by Mr Kelvin Evans since 2011; having two licences adds to the complexity as actions have to be taken simultaneously against both licences.

Rebecca Williams advised that there was vast evidence regarding noise disturbances to residents from 23 High Street. Enforcement action had been taken regarding CCCP/00180 including a warrant from the Magistrates Court to remove equipment; the Crown Court had also been involved.

License CCCP/01543 had been transferred to Mr Evans' son, Mr A Boucher, but Mr Evans still owns and pays for Licence CCCP/00180.

Since the end of 2015 there had been 8 abatement notices with no communication from Mr Evans back to Pollution Control.

Rebecca Williams referred to section 7.4C of Cardiff's Statement of Licensing Policy, which states that 'applicants are expected to have regard to their proximity to residential properties, and how they intend to promote the licensing objective of prevention of public nuisance'.

Paragraph 11.10 of the Section 182 Guidance was also referred to and states: 'Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co operation.'

Rebecca Williams considered that Mr Evans had failed to manage the premises in line with the Guidance

In summing up, Rebecca Williams confirmed that loud music emanating from 23 High Street had been witnessed from several different residential properties and 32 breaches of the abatement notice had been witnessed by officers. She also stated that premises licence holder and/or DPS had changed usually after enforcement action.

Rebecca Williams suggested the following conditions be applied to the license in order to promote the licence objective of 'prevention of public nuisance':

- No Live Music, and
- Removal of Regulated entertainment
- Or as a minimum to mirror the conditions placed on licence CCCP/01543.

Mr Kelvin Evans (Premises Licence Holder and DPS)

Mr Evans advised the Sub-Committee that he had been a business man in Cardiff for 35 years. This was a long standing issue, he had been to court twice and only found guilty of non-compliance to the abatement notice.

He stressed that the licence CCCP/00180 was not running with licence CCCP/01543; one was for the whole three floors and the other for the top two floors. He advised that he would attempt to obtain A3 use planning for the ground floor in the future.

The Licensing Officer asked whether Mr Evans would he be happy to accept the conditions that had been placed on Licence CCCP/01543; Mr Evans stated that he would not. Mr Evans stated that the residents properties next door should be soundproofed; and he felt that there was an issue with the planning permission of the flats.

Officers from Pollution Control asked Mr Evans if he was aware of the four Licensing objectives and he was not.

After adjourning to deliberate their decision the sub committee advised all parties that they had heard from the applicant and listened to all the evidence and submissions and had reread the material again. They had also considered the Licensing Act 2003 the Section 182 Guidance and their own Statement of Licensing Policy.

They had also heard the representations made today by the premises licence holder/DPS.

They had given weight to the written and oral submissions made by Pollution Control, that local residents have been disturbed by noise from the premises. They therefore felt that the licensing objective of 'prevention of public nuisance' had been undermined.

From his lack of co-operation with the Pollution Control section and from his oral submission today they felt that the licence holder and DPS had a complete disregard and understanding of the licensing objectives. Mr Evans was not willing to adopt measures to mitigate the noise problems at the premises and promote the licensing objectives and therefore:

RESOLVED: The Sub Committee Resolved to revoke the license 00180.