

LICENSING SUB COMMITTEE

14 SEPTEMBER 2018

Present: Councillor Mackie (Chairperson)
Councillors Murphy and Jacobsen

23 : DECLARATIONS OF INTEREST

No declarations of interest were received.

24 : APPLICATION FOR A TEMPORARY EVENT NOTICE - THE DEPOT,
DUMBALLS ROAD

Applicants: Nicholas Saunders represented by Justin Davies

Responsible Authority: Gillian Jones, Neighbourhood Services

The Application

A Temporary Event Notification was received on 5 September 2018 from Mr Nicholas Saunders for authorisation of a temporary event at The Depot, Dumballs Road, Cardiff.

The notification was in respect of an event which is to take place between 17:00 hours on 21 September and 01:00 hours on 22 September 2018. The TEN is proposed to allow the sale by retail of alcohol for consumption on the premises, the provision of regulated entertainment and the provision of late night refreshment in respect of an awards ceremony.

An objection has been received from the Noise Pollution team and a copy of the objection was attached to the report. The Sub-Committee was required to determine if a Counter Notice, which would prevent the licensable activity from being authorised, should be issued.

Responsible Authority Representations

Gillian Jones addressed the Sub Committee. Members were advised that Environmental Health objected to the Temporary Event Notice based on the licensing objective the prevention of public nuisance.

Gillian Jones stated that she was the main case officer dealing with complaints regarding The Depot. The premises was granted temporary use of the building until July 2018 and the beneficial use of the premises should have ceased. The officer had a number of concerns regarding the application.

Noise from the premises has impacted on local residents and there have been a number of complaints relating to amplified music, singing, banging and anti-social behaviour. In May 2016 officers attended residents homes during events and witness statutory noise nuisance. A Noise Abatement Notice for amplified music was served on the premises. In June 2016 the noise abatement notice was breached,

again for amplified music and the management were advised that legal proceedings would begin. In October 2016 there was a second breach of the Noise Abatement Notice.

Following advice from the Council's Legal Team, a caution was offered and accepted by The Depot for two offences.

A third breach was witnessed by officers in June 2018 and a second prosecution report is being prepared and is awaited by the Magistrates Court. Ms Jones read excerpts from witness statements from Environmental Health Officers which stated that the lyrics of songs, words of a person using a microphone and bass tones were audible. Concerns were also raised regarding the management and the nature of the activities taking place at the premises, which was originally licenced as a restaurant, and has seen an intensification of use, hosting events attracting with large numbers of people.

The Temporary Event Notice was for an award ceremony for 300 to 400 people. Patrons would be leaving the event later in the evening but complaints were already being received about customers leaving at the normal terminal hour. Ms Jones suggested that if patrons were granted extended opening for the sale of alcohol, then it was likely more alcohol would be consumed and noise from people leaving the premises would be exacerbated. Members were advised that the structure of the building was poor in terms of sound insulation. It was also in close proximity to residential properties, the nearest being approximately 80 metres away. Most people could reasonably expect to be in bed at 2300 hours.

Ms Jones closed by saying the not every premises has a noise abatement notice served on them. In her 7 years working in Cardiff she has serve 2 noise abatement notices and 1 of these was on the Depot.

Applicants Representations

Justin Davies presented the application. Mr Davies stated that Members of the Sub Committee have heard concerns primarily related to events that took place in 2016. There has been an absence of any noise related problems between 2016 and June 2018. It was also important to draw distinction between events that have amplified music and those that do not.

The Temporary Event Notice applied was intended for the Wales Start Up Awards – an awards ceremony of national significance for young businesses from all over Wales. It was the responsibility of the management to ensure that the event was well managed and did not cause any problems. This was the third year that The Depot has hosted this event. The two previous years were identical in nature and were objection-free. This is relevant because the complaints that resulted in the noise abatement notice being served pre-dated the two previous awards ceremonies.

Mr Davies stated that it was anticipated that the event would conclude at around 2300, but the extension hours would allow an opportunity for people to network after the awards ceremony has concluded. The event was ticketed with around 300 people attending.

Mr Davies circulated copies of the Dispersal Procedure and the Neighbour Charter operated by the Depot. Dispersal was said to be managed and gradual. Members also received a summary of the works carried out at the premises intended to mitigate any noise breakout from the building.

Referring to the breach of the noise abatement notice in June 2018 referred to be Gillian Jones, Mr Davies stated that this complaint was an allegation and was not yet proven. The Depot have received no documentation related to the alleged breach and therefore the Sub Committee should not attached any weight to this.

Members were advised that the management team at the Depot were very aware that the spotlight was on them and it is clear that this event must run with fidelity and in accordance with the licensing objectives. Failure to do this may result in a review of the premises licence or the confiscation of equipment.

Mr Davies presented a noise assessment report undertaken by an independent acoustic consultant. The report demonstrated a reduction in noise emanating from the premises. Members were asked to assess whether the proposed event would have a negative impact upon the licensing objectives.

RESOLVED – That the Sub Committee agreed not to issue a Counter Notice.

25 : APPLICATION FOR THE VARIATION OF A PREMISES LICENCE - THE PAVILION, ASHCROFT PLACE

Applicants: represented by Brendan McAloon, Fairwater RFC

Responsible Authority: PC Tim Davies and Claire Dewhurst South Wales Police
Simon Thayer, Pollution Control

Interested Parties: Councillor Lisa Ford
John Walton

The Application

An application for variation of a Premises Licence was received from Fairwater Rugby Football Club in respect of The Pavillion, off Ashcroft Crescent, Fairwater, Cardiff.

The premises licence currently permits the following:

The sale by retail of alcohol for consumption on and off the premises:

Friday: 17:00 to 19:00
Saturday: 16:00 to 19:00
Sunday: 12:00 to 15:00

The applicant has applied to amend the licensable hours as follows:

The sale by retail of alcohol for consumption on and off the premises:
Monday to Sunday: 12:00 to 23:00

An amendment to the approved plan to extend the external area permitted for the consumption of alcohol (a copy of the plan is attached).

Responsible Authority Representations

PC Tim Davies addressed the Sub Committee. Members were advised that South Wales Police objected to the application on the grounds of the prevention of crime and disorder, the prevention of public nuisance and public safety,

Claire Dewhurst stated that the original premises licence was applied for in 21 August 2017. At that time Claire Dewhurst attended the premises with Sgt Justin Hardwicke. Representations were made and accepted by the applicants. These representations included the requirements for CCTV to be installed, Challenge 25 scheme to be in place and an incident book, etc. The licence was granted in November 2017. A closure notice was issued in December 2018 for breach of the licence conditions, primarily that there was no CCTV in place and no incident book.

On 5 February 2018 PC Tim Davies attended the premises and was advised that the lack of a CCTV system was rectified. However, the system did not comply with the requirements of the premises licence condition. The closure notice was eventually lifted on 15 February 2018.

In 5 March 2018 PC Davies attended the premises following complaints of disorder and other incidents made to the Licensing authority. Officers checked CCTV of a Temporary Event Notice on 24 February 2018. Members were advised that the event started 7 minutes earlier than permitted and the Designated Premises Supervisor (DPS) was advised accordingly.

PC Davies attended a meeting with Councillor Ford and other residents where concerns were expressed regarding anti-social behaviour, noise and alleged drink-driving. Residents were advised to telephone South Wales Police should the wish to report criminal activities. A report of drink driving offences taking place was subsequently received. Police attended the premises but there were no vehicles in the car park.

In May 2018 a Temporary Event Notice event was held. The premises were busy with a large number of people attending. PC Davies raised concerns regarding people leaving the premises with alcohol. The DPS stated that he was powerless to prevent people leaving the premises. PC Davies requested that two additional CCTV cameras be installed at the premises covering the external area and car park. PC Davies was advised that these works would be carried out as part of the refurbishments of the premises.

PC Davies subsequently received an enquiry from the DPS regarding process for the varying the premises licence. The DPS was referred to Cardiff Council Licensing. At a subsequent meeting with the DPS, PC Davies asked why the application was made for 2300 hours 7-days per week. PC Davies was advised that the applicants applied

for 2300 hours terminal hour as a bargaining tool and that they actually wanted 2100 hours.

The DPS was also asked about the management of the external area. PC Davies was advised that the applicants intend to erect temporary removal barriers that would take up room in the car park. PC Davies was concerned that such barriers would offer insufficient protection to people standing in the area from cars moving in the car park. The barriers cannot stop a moving vehicle. This proposal, therefore, posed a risk to public safety.

Members were advised that there was still no CCTV installed covering the external area and car park. PC Davies originally requested this in May 2018. South Wales Police made representations to the application which were acknowledged by the DPS. No further correspondence or consultation on these matters had been made.

Sgt Ben McQuire of the Fairwater Neighbourhood Policing Team addressed the Sub Committee. Sgt McQuire stated that concerns regarding the premises have been passed to officers attending local PACT meetings. The main concern related to parking, but anti-social behaviour, noise nuisance and drink driving were also raised. A patrol policy was in place and officers attend the premises when they are open.

PC Davies circulated photographs of the front of the premises and reiterated the objections from South Wales Police. The management of the premises had no experience operating until 2300 hours and the variation application would increase the licensable hours from 8 hours per week to 77 hours per week. This was likely to increase the risk of anti-social behaviour and disorder occurring resulting in a negative impact on the licensing objectives.

The Council's Statement of Licensing Police stated that external areas should not cause a nuisance and a 2100 hour terminal hour was recommended. Other concerns regarding glass in the public realm and the insufficient barriers proposed were also made.

The DPS has stated that he manages the premises on his own and is reliant on the support of volunteers. A request for additional CCTV has been ignored. PC Davies requested that if the Sub Committee is minded to grant the application then consideration should be given to attaching the conditions suggested in the representations from South Wales Police.

Mr Simon Thayer of Pollution Control objected to the application based on the licensing objective the prevention of public nuisance. Pollution Control objected to the use of the external area as there was potential for noise nuisance to impact on nearby residents. Mr Thayer suggested alternative hours for the use of the external area.

Interested Party Representations

Councillor Ford raised concerns regarding public nuisance and the protection of children from harm.

John Walton, a local resident, made a statement. Concerns were expressed regarding parking and the sale of alcohol until 2300 hours. Mr Walton considered that car doors, horns and raised voices would cause disturbance beyond 2300 hours if the application was permitted.

The Licensing Objectives set out the fundamental principles and the management of the premises need to demonstrate what is being done to uphold these principles. Clear policies should be in place which identify risks and mitigate them. There was no consultation between the applicants and local residents.

Responding to a question from the Sub Committee, Mr Walton stated that he has personally witnessed noise and littering problems. He considered that these problems would intensify should the application for later opening hours be granted.

Applicants Representations

Mr Brendan McAloon presented the application. Members were advised that Fairwater Rugby Club was a community-based club supporting 200 children to play rugby in every age group. There were also under-19, senior, veterans and ladies teams.

The club has been attempting to work in partnership with local schools. They have a 10-year lease on the building which is currently being refurbished. This is why the additional CCTV cameras requested by South Wales Police have not yet been installed. The club is currently negotiating a 25-year lease and to take over responsibility for the management of the park.

The club adheres to WRU protocols and alcohol is not permitted pitchside and therefore no glasses will be allowed beyond the external area. This will be managed by Committee members and volunteers.

Mr McAloon advised that the Club would accept all the conditions set out in the written representations received from South Wales Police.

Summing Up

PC Davies stated that SWP encourage community facilities but a premises run by volunteers until 2300 hours would raise concerns. The conditions suggested by South Wales Police would promote the licencing objectives. However, the barriers proposed in the external area were not sufficient in terms of public safety.

Simon Thayer reiterated that in order to prevent public nuisance Members should consider the conditions requested by Pollution Control.

Mr McAloon stated that Fairwater RFC will do their utmost to manage the premises responsibly.

RESOLVED: That the Sub-Committee, having considered all the information; and in accordance with the requirements of the Licensing Act 2003, the Section 182 Guidance and the Licensing Authority's own Statement of Licensing Policy, the Sub Committee granted the application subject to the conditions agreed. The Sub

Committee also considered that in the interests of public safety, prevention of crime & disorder, and public nuisance, to attach an additional condition, which will read:

'The use of the additional external area of the premises(as described in the Variation application submitted July 2018) will not be permitted for the consumption of alcohol until the two additional cameras requested by South Wales Police are operational, and suitable barriers in agreement with South Wales Police have been installed.'

To allow the use of the additional external area the Sub Committee resolved to remove condition 5 of Annex 2 of the Premises Licence which currently limits the size of the area.

26 : URGENT ITEMS (IF ANY)

No urgent items were received.

The meeting terminated at 12.30 pm