

NEW FOREST DISTRICT COUNCIL

LICENSING ACT 2003

APPLICATION FOR REVIEW OF A PREMISES LICENCE: BUTLERS BAR & GRILL, FORDINGBRIDGE

Decision of the Licensing Sub-Committee hearing held at Appletree Court, Lyndhurst on Friday, 8 November 2013 at 10.00am

1. Members of the Licensing Sub-Committee

Councillor S Clarke
Councillor J Heron
Councillor P R Woods - Chairman

2. Parties and their Representatives attending the Hearing

PS Plascott, PS Towler, PC Deniz & PC Harris – Hampshire Constabulary,
Applicant for Review
Mr J Butler – Premises Licence Holder

3. Other Persons attending the Hearing

Cllr Miss Sevier – Observing

4. Parties not attending the Hearing

Department of Health – Supporters of the Applicant for Review
Mrs L Butler – Premises Licence Holder

5. Officers attending to assist the Sub-Committee

Amanda Wilson – Legal Advisor
Melanie Stephens - Clerk

6. Decision of the Sub-Committee

The Licensing Sub-Committee considered it appropriate for the promotion of the licensing objectives that the following amendments should be made to the Licence for the Premises:

- a) That the current Designated Premises Supervisor should be removed,
- b) That the sale of alcohol must finish at 23:00 hours Monday to Sunday;

- c) That the closing hours of the premises be reduced to 23:30 hours Monday to Sunday;
- d) That the playing of recorded music must finish at 23:00 hours Monday to Sunday;
- e) That facilities for making music are removed from the licence;
- f) That entertainments of a similar description to that falling within (i) or (j) are removed from the licence;
- g) That the seasonal variations on the licence be retained;
- h) That the following conditions be attached to the licence:

CCTV

1. The premises shall have sufficient cameras located within the premises to cover all public areas including outside of the premises covering the entrance and exit. The system will be able to cope with strobe lighting (where used) and all levels of illumination throughout the premises as well as outside areas.
2. CCTV warning signs shall be fitted at prominent positions at the premises.
3. The CCTV system must be operating at all times whilst the premises are open for licensable activity. All equipment shall have a constant and accurate time and date generation.
4. The recording system will be able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
5. Records must be made on a weekly basis and kept for inspection to show that the system is functioning correctly and that data is being securely retained.
6. The DPS or premises manager must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with, i.e. password protected. There shall be sufficient members of trained staff at the premises during operating hours to be able to provide viewable copies immediately to police on request when investigating allegations of offences or criminal activity. Any images recovered must be in a viewable format on either disc or VHS. Footage supplied in a digital format on CD or DVD will also have a copy of the CCTV system software enabled on the disc to allow playback.
7. In the event of technical failure of the CCTV equipment the Premises Licence Holder/DPS must report the failure to the Hampshire Western Police Licensing Unit within 24 hours.

Incident Book

8. An incident book will be provided and maintained at the premises. It will remain on the premises at all times and will be available to any responsible authority for inspection upon request.

9. Any incidents that include physical altercation or disorder, physical ejection, injury, id seizure or drug misuse will be recorded in the incident book. The entry is to include an account of the incident and the identity of all person(s) involved (or descriptions of those involved if identity is not known). Should there be any physical interaction by members of staff and the public the entry will include what physical action occurred between each party. The entry shall be timed, dated and signed by the author.
10. If the member of staff creating the entry has difficulties reading or writing then the entry may be written by another staff member. This should however be read back to the person creating the entry and counter signed by the person who wrote the entry. At the close of business on each day the incident book will be checked by the manager on duty where any entries will be reviewed and signed. If incidents have occurred the duty manager will de-brief door staff at the close of business. Should there be no incidents then this will also be recorded at the close of business in the incident book.

Refusals Book

11. A written log shall be kept of all refusals including refusals to sell alcohol. The Premises Licence Holder shall ensure that the refusals log is checked, signed and dated on a weekly basis by the premises manager. The refusals log will be kept and maintained at the premises and will be available for inspection immediately upon request by any responsible authority.
12. The record of refusals will be retained for 12 months.

Challenge 25

13. There will be a Challenge 25 policy operating the premises. Challenge 25 means that the holder of the premises licence shall ensure that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises, shall produce identification proving that individual to be 18 years of age or older.
14. Acceptable identification for the purposes of age verification will include a driving licence, passport or photographic identification bearing the "PASS" logo and the person's date of birth.
15. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.
16. 'Challenge 25' posters shall be displayed in prominent positions at the premises.

Training

17. The Designated Premises Supervisor will complete either the BIAB Level 2 National Certificate for Designated Premises Supervisors or the Level 3 Award for Designated Premises Supervisors (ADPS) within 3 months of the date that the determination of the review of the premises Licence (held on 8 November 2013) takes effect or in any other case within 3 months of appointment to the role of Designated Premises Supervisor
18. Staff will be trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and symptoms of drunk persons and the refusal of sale due to intoxication. Records will be kept of

such training which must be signed and dated by the member of staff who has received that training.

19. All training records will be made immediately available for inspection by Hampshire Constabulary and any responsible authority upon request. Training records will be kept for a minimum period of two years. Training records will be kept on the licensed premises to which they relate to.

Dispersal Policy & Door Staff

20. There will be a Dispersal Policy operating at the premises. This policy shall be recorded in writing and will be available for inspection immediately upon request by any responsible authority.

Drugs Prevention

21. There will be a Drugs Prevention Policy in place which will be implemented.
22. Toilet checks will be conducted on an hourly basis and a record of such checks will be made, recording the date and time of the inspection and the initials of the staff member who carried out the inspection. The record will be kept and maintained at the premises and will be available for inspection immediately upon request by any responsible authority.
23. Any suspicious findings arising out of the toilet checks must be recorded in the incident book.

7. Reasons for the Decision

The Sub-Committee considered carefully the application by the police for the review of the premises licence along with the evidence, written and oral, supplied by the parties. The Sub-Committee noted that the police were asking for the removal of the current Designated Premises Supervisor (DPS), a reduction in licensable hours, the imposition of a number of conditions on to the licence and the temporary suspension of the licence.

The Sub-Committee concluded that three of the Licensing Objectives, namely the prevention of crime and disorder, public safety, and the prevention of public nuisance, are being undermined by the way in which the premises is currently being managed and therefore changes to the licence were required.

The Sub-Committee was concerned, in particular, that police records demonstrated that there have been several instances where the DPS (and staff) had admitted and served people who were intoxicated. There was also evidence showing that the DPS had not provided necessary training to staff and was not able to use CCTV correctly (vital in assisting the Police in their investigations). There had been a number of incidents over the course of 18 months where disturbances had occurred both inside and outside of the premises.

The Sub-Committee noted that the police had given the DPS information and guidance on how to effectively manage issues at the premises and promote the licensing objectives. However, the DPS had failed to co-operate with the police or take positive steps to improve the situation at the premises.

Having considered all the evidence, the Sub-Committee decided that the management of the premises was unsatisfactory. The Sub-Committee, therefore, determined that it was appropriate for the promotion of the licensing objectives for the DPS to be removed from her post. At the hearing the Premises Licence Holder (PLH) stated that both he and the current DPS agreed that a new DPS should be appointed and the management issues at the premises should be addressed.

The Sub-Committee heard a substantial amount of evidence from the police detailing incidents which had occurred late at night as a result of drunken behaviour. The vast majority of incidents occurred at weekends during the later opening times. The Sub-Committee, consequently, concluded that a uniform reduction in the hours for sale of alcohol and opening hours of the premises would reduce the likelihood of incidents occurring in the future. Further, the Sub-Committee heard from the PLH that he had recently been closing the premises at a self-imposed time of 11:00pm/11:30pm and there had been no incidents at the premises since this change. This was confirmed by the police.

The Sub-Committee felt that the evidence before it supported the imposition of a number of conditions on to the licence.

The Sub-Committee felt that the condition relating to the operation of CCTV should be attached to the licence as there had previously been a number of occasions where violent incidents had occurred at the premises but CCTV footage was not available to assist the police with their investigations. The presence of CCTV would act as a deterrent for anti-social behaviour and, therefore, further the prevention of crime and disorder and prevention of public nuisance licensing objectives. The imposition of the condition relating to CCTV was a proportionate response to issues that had occurred at the premises. In addition, the Sub-Committee were of the view that adequate CCTV would assist in the general management of the premises.

The Sub-Committee also concluded that other conditions consistent with those suggested by the police prior to the hearing should be placed on the licence as they were appropriate for the promotion of the licensing objectives.

In the application paperwork, the police had requested that a condition be placed on the licence requiring two SIA door staff to be present at the premises at weekends. However, the Sub-Committee did not feel that the need for door staff had been established nor did it believe that this was a proportionate or appropriate condition to impose on the licence. It was concluded the imposition of this condition would be overly burdensome. In addition, the problem which the requirement for door staff aimed to address would be adequately dealt with by the reduction in the opening hours of the premises.

The Sub-Committee heard evidence from the Police that during a drugs swab initiative the premises was swabbed on four separate occasions during December 2012. Traces of drugs, including cocaine, were found at the premises. The police advised the Sub-Committee that a request for a condition relating to this issue had been omitted from the application paperwork in error. In light of this, the Sub-Committee considered it appropriate to impose conditions on the licence requiring the premises to have a drugs prevention policy and for regular toilet checks to be carried out at the premises.

In relation to the police's request that the licence be suspended, the Sub-Committee considered that this would not be appropriate or proportionate. The Sub-Committee heard that since the PLH had become more actively involved in the management of the premises in July 2013 there had been no further incidents and therefore suspending the licence was not justified. It was also felt that the additional measures put on the licence, namely the removal of the DPS and the conditions set out in paragraph 6 of this decision would ensure that all four of the licensing objectives would be promoted.

As the hours for the supply of alcohol and the opening hours of the premises have been reduced the Sub-Committee considered that it was appropriate to bring the permitted hours for the regulated entertainment in line with this. Further, the Sub-Committee removed from the licence the licensable activities of "facilities for making music" and "entertainments of a similar description to that falling within (i) or (j)" as these are no longer activities which require a licence.

The Sub-Committee reviewed the representation made by public health but did not consider that this was specific in its nature as to public health concerns arising from these premises and therefore gave it little weight.

Should there be further problems at the premises the police may request another review of the Licence.

Date: 8 November 2013

Licensing Sub-Committee Chairman: Cllr P R Woods

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Decision notified to interested parties on 14 November 2013