

**LICENSING AND REGULATION COMMITTEE**

**5 November 2004**

Attendance:

Councillors:

Johnston (Chairman) (P)

Allgood (P)  
Baxter (P)  
Bennetts (P)  
Coates  
Cook (P)  
Evans (P)  
Hammerton (P)

Lipscomb (P)  
Maynard  
Mather (P)  
Pearson  
Pines (P)  
Sutton (P)  
Wagner

Deputy Members:

Councillor Cooper (Standing Deputy for Councillor Coates)  
Councillor Hiscock (Standing Deputy for Councillor Maynard)

Others in Attendance who addressed the meeting:

Councillor Beveridge

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433. **APOLOGIES**

Apologies were received from Councillors Coates, Maynard, Pearson and Wagner.

434. **MINUTES**

RESOLVED:

That the minutes of the previous meeting of the Committee held on 5 October 2004 be approved and adopted.

435. **PUBLIC PARTICIPATION**

There were no statements made or questions asked.

436. **APPLICATION FOR THE RENEWAL, TRANSFER AND VARIATION OF A PUBLIC ENTERTAINMENT LICENCE – MOLOKO BAR, THE SQUARE, WINCHESTER**

(Report LR112 refers)

Members considered the above licensing application in accordance with the procedure note approved by the Licensing Sub Committee on 18th September 1995 (minute 95 refers).

Counsel for Moloko Bar addressed the Committee and requested a deferral for the following reasons;

- a) the involvement of Mr Myall (Licensing and Regulation Manager), as his previous occupation as Police Licensing Officer for the Winchester area heavily involved him in investigations into licensing issues at Moloko Bar, including instigation of the prosecutions of the Licensees and revocation proceedings,
- b) the Police Log, attached at Appendix 1D to the above report, contained references which tended to blacken the image of Moloko Bar and the way it was run.
- c) many references within the Police Log were irrelevant to this application as they dated back to 2002, although Mrs Heath, one of the Applicants, did not become the Licensee until May 2004.
- d) the Council had recently received correspondence from Mrs Heath's solicitor stating that she had been defamed, in Committee papers circulated publicly prior to this meeting. The Council had been asked to withdraw all public papers.

Counsel for the Police addressed the Committee and stated that they neither supported nor opposed the request for deferment.

The City Secretary and Solicitor explained that in his view the hearing was open and fair, and that Mr Myall's background knowledge was not influential in determining the recommendation within the above report.

Neither Counsel for the Applicants nor Counsel for the Police had any objection to the City Secretary and Solicitor retiring with the Committee to provide legal advice only, provided that any advice given was made known to the other parties.

The Committee retired to deliberate in camera.

The Committee considered the submission for deferral on the grounds given by Counsel for the Applicants and decided to proceed. The Chairman explained that in arriving at its decision, the Committee had carefully considered the test of fairness, the contribution of Mr Myall, the report of the City Secretary and Solicitor, Article 6 of the Human Rights Convention, and the other matters raised. This decision was made without prejudice to any consideration of the merits of the application.

The Committee adjourned at 12.30pm and reconvened at 1.30pm.

At the invitation of the Chairman, Counsel for the Applicants addressed the Committee and asked questions of the Licensing and Registration Manager regarding the relevance of the information within the Police Log, which covered a period when Mrs Heath was not a Licensee of the premises, attached at Appendix 1D to the above report. Counsel continued that the report suggested that Mrs Heath was not a fit person to hold the Licence as she was related to Mr Heath by marriage and in business. The Licensing and Registration Manager explained that he believed that although Mrs Heath was not a Licensee until recently, she had been involved with the running of Moloko Bar since November 2003.

Counsel for the Police addressed the Committee and highlighted several entries in the Police Log which related to underage drinking, door-staff not wearing ID badges, and the owner allowing people in via an emergency fire exit. It seemed that either the door staff were not doing their job correctly or were being overruled by Mr Heath. Counsel continued that, in all probability, the transfer of the Public Entertainment Licence to Mrs Heath would not alter the way in which the premises were run.

Members questioned Police Sergeant French regarding the information he had provided within the above report. Sergeant French advised that since the last meeting of this Committee in July 2004, and the transfer of the Justices Licence to Mrs Heath, there had been no significant reduction in the number of reported crimes linked to Moloko Bar. He explained that the information within the Police Log had been received from a variety of sources, some anonymously. Many people had been reluctant to make statements for fear of repercussions, such as civil proceedings. He also advised that he had dealings with Moloko Bar in his capacity as a patrolling officer since January 2004, and that he had not been aware of Mrs Heath's involvement with the premises until her application to be added to the Justices Licence in April 2004.

Counsel for the Applicants addressed the Committee and explained that Mrs Heath was a mature married woman, with children, who was in business. She was offended about the assumptions that she did not have her own mind and could not be relied upon to operate a public entertainment licence, and that as her husband co-owned the premises, he would instruct her. Counsel continued that the Police had not objected to Mrs Heath's, nor Mrs Sawyer's applications for Justices Licences. In response to a question from the Chairman, Counsel for the Applicant advised that Mr Sawyer was a 24 year old graduate and held a National Licence Certificate granted by the British Institute of Inn-keeping.

The Licensing and Registration Manager questioned Mrs Heath regarding Mr Heath's involvement with the running of the premises. Mrs Heath advised that it was no longer appropriate for Mr Heath to hold the public entertainment licence as he was committed to other business interests and therefore no longer wished to be involved with running a bar. She continued that he occasionally accompanied her to the bar, for maintenance work purposes only. She explained that she intended to be on duty at the bar on three nights per week, and that Mr Heath may possibly accompany her on one or two occasions.

In response to questions from Members, Mrs Heath advised that certain groups were not permitted entry to the bar, such as large groups of men, people wearing football/rugby shirts, and people who were drunk.

Mrs Heath explained that the target market used to be 18-25 year olds, but that she intended to change this to 20-35 year olds, as she believed attracting younger people was not a good way forward for Moloko Bar. In January 2005 a new admissions policy would be in force whereby anyone under the age of 21 would not be permitted entry to the bar on Friday and Saturday evenings. In addition, prices of drinks were already increased after 11pm on Friday and Saturday evenings to discourage excessive drinking.

Councillor Beveridge addressed the Committee and suggested that even with a change in management, the operation of the premises may remain the same, and Mr Heath may continue to influence the management as he would continue to own the premises. He believed that some of the evidence supplied by the Police had to be acceptable and true, which included underage drinking, theft, drunkenness, and administration problems with the Licence. He asked the Committee to take account of the total evidence and the pattern of problems up to the present day, including the period during which Mrs Heath had held a Justices Licence.

At the invitation of the Chairman, Mrs Read, the Warden at Morley College, addressed the Committee, and made a statement objecting to the application, on behalf of the elderly residents at Morley College. As the nearest residents to Moloko, they had suffered regular noise and disturbance late at night, despite the recent installation of secondary glazing.

The Committee retired to deliberate in camera.

In his closing remarks, the Chairman stated that the Committee had considered all of the submissions and had seen no compelling evidence from the Applicants that indicated a material change in the way the premises were managed. It had also considered the crime and disorder issues relating to underage drinking, and other incidents indicative of unsatisfactory management.

In reaching its decision the Committee considered all the submissions and representations put before it. It had also taken into account the human rights issues referred to in the report.

**RESOLVED:**

That the application be refused for the reasons set out above.

The meeting commenced at 10.00am and concluded at 7.10pm.

Chairman