

LICENSING SUB-COMMITTEE

10 November 2009

Attendance:

Councillors:

Baxter (Chairman) (P)

Howell (P)

Jackson (P)

Officers in Attendance:

Mr J Myall (Licensing and Registration Manager)

Mrs C Tetstall (Property and Licensing Solicitor)

Miss C Stefanczuk (Assistant Licensing & Registration Officer)

1. **APPLICATION FOR GRANT OF PREMISES LICENCE – ARTY'S WINE BAR AND RESTAURANT, KNOWLE**
[\(Report LR310 refers\)](#)

The Sub-Committee met to consider an application to grant a premises licence for Arty's Wine Bar and Restaurant, Knowle.

Present at the meeting were Mr Malec (the applicant) and four local residents who spoke as interested parties.

Miss Stefanczuk introduced the Report to the Sub-Committee. She explained that the Head of Environment had raised concerns regarding possible noise disturbance to local residents from the outside seating area, which formed part of the premises application, and the applicant's intention to provide regulated entertainment (live and recorded music). However, in response to these concerns, the applicant had agreed to reduce the proposed operating hours of the outside seating area (to 2000 hours Sunday to Thursday and 2100 hours on Fridays and Saturdays) and to withdraw the application for regulated entertainment. As a consequence, the Head of Environment withdrew his representation.

Miss Stefanczuk explained that the original application (which proposed longer hours) had generated 12 relevant representations from interested parties, in objection to the proposals. She had notified the interested parties of the applicant's intention to amend the application and to reduce the proposed hours. In response, the interested parties had welcomed the amendments, but still held concerns regarding the application and had therefore attended the Sub-Committee to express these to Members.

Members noted that the Police had made a representation to the application, but that this had been withdrawn following the applicant agreeing to additional

conditions. These conditions included the provision of CCTV and the Sub-Committee noted that door staff were not considered necessary.

During the Sub-Committee's questions to Miss Stefanczuk, she clarified that the applicant had undertaken the necessary level of public notification, as required by the Licensing Act 2003.

Mr Malec then addressed the Sub-Committee in support of his application. In summary, he explained that he had been a resident of Knowle for 24 years and had previously been Chairman of Knowle Residents' Association. The application site had been, in planning terms, designated A3 use and, prior to his taking responsibility of the site, had been marketed unsuccessfully for five years. He explained that his proposals sought to reinstate a social focus to the village, which had been lacking since the loss of the former social club as part of the re-development of Knowle approximately ten years ago.

Mr Malec commented on his surprise at the number of objections that the application had generated. He advised that he sought to run a family business, whose patrons were likely to be local residents or walkers and cyclists visiting the village. He added that the bar would also provide space to display and sell the work of local artists.

In recent months, Mr Malec had undertaken works at the site to satisfy fire regulations and, during this time, he had received support for the proposed business from 140 people.

In response to Members' questions, Mr Malec explained that, whilst he no longer intended to provide regulated entertainment (live and recorded music), there would be background music at the premises. The Sub-Committee noted that the volume of this would be controlled by the applicant and that the noise levels had been checked by the Head of Environment. Mr Malec explained that, although the premises had no double glazing (which may have helped to contain noise,) the music would be played at a low volume to permit conversations between patrons.

Mr Malec also confirmed that the residents' management committee administered maintenance of the Square during the week on behalf of its owners, Berkeley Homes. However, at the weekends, he anticipated that he would be responsible to clear the area of litter etc as part of the general good housekeeping of the premises.

In response to the Sub-Committee's questions regarding the sale of alcohol to young people, Mr Malec explained that premises would operate the Challenge 21 Scheme and that the premises would be staffed by his daughter as well as himself (both of whom were personal licence holders) and a chef. Additional staff would be employed and trained if required as the business grew. The Sub-Committee also noted Mr Malec's comments that he had been employed in the entertainment industry for the majority of his working life, holding a grey licence from the Gaming Board as a casino manager and that he had assisted in the development of new licensed premises in Southampton and Southsea. Miss Stefanczuk highlighted that the Police had raised no objection regarding

Mr Malec's suitability to manage the premises, as the Designated Premises Supervisor.

As an interested party, Reverend Simpson (a local resident) spoke against the application. In summary, he raised concerns regarding disturbance to neighbours. He explained that there were 26 flats and houses surrounding the Square (the location of premises), and that the use of outdoor seating was likely to cause a significant public nuisance, increase demands on Police time and that the noise from bottle recycling and patrons (and, later on, staff) leaving the premises was likely to interrupt residents' sleep.

Reverend Simpson also highlighted the high proportion of families in the village and that granting the premises license would bring an unwelcome awareness of alcohol and cigarette use to children using the Square, diminish the quiet nature of the Square and be detrimental to the character of the village.

He also commented that, if the premises license was granted, it was more likely that temporary events notices would come forward for large-scale events in the Square; however Mr Myall advised that this was not a relevant consideration for the Sub-Committee.

Mrs Thompson (a local resident) also spoke against the application as an interested party. In summary, although Mrs Thompson welcomed the concept of a community facility (such as a coffee-shop), she was concerned that it would generate a noise nuisance that would disturb the sleep of her young family. She commented on the built form of the area, which amplified noise of people speaking in the Square into the rooms above, despite her installation of double glazing. Mrs Thompson also referred to Mr Malec's comments regarding a social hub for the village and explained that the existing village hall (located in the former Chapel) was not fit for purpose and would soon be re-located to a purpose built facility on the site of the Sports and Social Pavilion, away from domestic dwellings.

Mrs Smith (a local resident) spoke against the application as an interested party. She explained that her property was part of the same building as the premises and that it was difficult to insulate her property against noise, as it had large single glazed sash windows within a Grade II listed property. Mrs Smith raised particular concerns regarding noise from the bin and bottle storage areas and deliveries along the side of the building. She also raised concerns regarding light pollution from the premises.

In response to Members' questions, Mr Malec explained that deliveries to the premises would be during the day and, using sack trolleys, would access the premises from either the front or side entrances. Bottles would be stored within the premises and disposed during the day. Existing bin storage under the adjacent archway was not the responsibility of Mr Malec.

Mrs Stewart (a local resident) also spoke against the application as an interested party. In addition to echoing the points raised above, Mrs Stewart commented on the noise as a consequence of the number of possible patrons

visiting the premises and nuisance to residents from tobacco smoke (which Mr Myall advised was not a relevant consideration).

During discussion, the Sub-Committee noted the probable locations of the outside tables and chairs and Mr Malec's comment that he intended to stack them away in the evening (which Mr Myall explained could be included in the conditions). They also noted the lighting of the Square and that Mr Malec did not consider it necessary to use plastic glasses outside.

The Sub-Committee then retired to deliberate in camera.

In his closing remarks, the Chairman stated that the Sub-Committee had carefully considered the application and the representations made. It had taken into account the duties under the Crime and Disorder Act 1998, and the rights set out in the Human Rights Act 1998.

He reported that the Sub-Committee had agreed to grant the premises licence as set out below, subject to amendments to the conditions (shown in italics), which Members had agreed to further the Licensing Objectives, in particular public nuisance, and to address the concerns raised by the interested parties.

The Chairman also stated that all the parties had a right to appeal the decision within 21 days.

RESOLVED:

That the Premises Licence be granted, subject to the following conditions:

Mandatory Conditions

Under the Licensing Act 2003, the following conditions must be imposed on the Premises Licence in any event:-

1. No supply of alcohol may be made under the Premises Licence (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence, or (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. Every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence.
3. Where individuals are required on premises to carry out security activities, they must be licensed by the Security Industry Authority.

Additional Conditions

Operating Hours

1. The hours the premises may be used for the sale of alcohol shall be:
 - (i) Monday to *Thursday* 1100 to 2300
 - (ii) *Friday* to Saturday 1100 to 0000
 - (iii) Sunday 1200 to 2230
 - (iv) The above hours may be extended to 0100 on New Years Eve

2. The hours the premises may open for other than Licensable Activities shall be:
 - (i) Monday to *Thursday* 1000 to 2300
 - (ii) *Friday* to Saturday 1000 to 0000
 - (iii) Sunday 1200 to 2230
 - (iv) The above hours may be extended to 0100 on New Years Eve

All Licensing Objectives

Crime and Disorder

1. A CCTV System must be installed no later than 1 December 2009 and maintained to a standard agreed with the Police crime prevention officer.
2. The CCTV system must be capable of producing evidential standard quality images on a real time basis operating in normal conditions within the public areas.
3. All public areas must be covered by CCTV. This must include the front door and bar/counter areas and must be capable of providing good quality head and shoulder images.
4. All CCTV images must be retained for 30 days and made available to an authorised officer on request.
5. There must always be a member of staff capable of operating the CCTV system whilst the premises are open for licensable activity.
6. Any CCTV images recovered must be in a format that can be readily taken away and viewed on any computer operating on any windows based program acceptable to the Police.

7. The CCTV system must be operating at all times whilst the premises are open for licensable activity.
8. All staff dealing directly with the public shall receive appropriate training in respect of the sale of alcohol to persons who appear drunk and conflict management. This must be recorded in a format that can be viewed by Police and updated with the dates when each employee has received the training.
9. There must always be at least one Personal Licence holder on duty Friday & Saturday evenings from 1900-until close of business.

Public Safety

None

Public Nuisance

1. Prominent, clear notices shall be displayed at *all of the tables, and* the entrance/exit points requesting customers to respect the needs of local residents *and* to leave the premises and the area quietly.
2. The outside seating area shall only be used during the hours of 1000 to 2000 Sunday to Thursday and 1000 to 2100 Friday and Saturdays.

Protection of Children

1. The premises shall adopt and implement the Challenge 21 Scheme.
2. The licence holder shall ensure that all cashiers are trained (and refresher trained at least once every 6 months) to ask any customer attempting to purchase alcohol, who appears to be under the age of 21 years (or older if the licence holder so elects) for evidence of age.
3. Evidence of proof of age shall be photographic, such as passport or photographic driving licence or identification including the PASS logo until other effective identification technology (for example, thumb print or pupil recognition) is introduced.
4. All cashiers will be instructed, through training, that a sale shall not be made unless this evidence is produced.
5. Prominent notices will be displayed in the *premises* advising customers that they may be asked to provide evidence of age.
6. All cashiers shall be instructed, through training (and refresher trained at least once every 6 months) to enter in a refusal book (or electronic equivalent) details of any refusal to make a sale of alcohol to a customer such refusal book (or electronic equivalent) to be monitored by the licence holder on a regular basis and at least once every 2 weeks.

Reason for Decision:

The Sub-Committee considered that the conditions attached to the licence will address the licensing objective of preventing public nuisance and to address the concerns raised by the interested parties.

2. **EXEMPT BUSINESS**

RESOLVED:

1. That in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

2. That the public be excluded from the meeting during the consideration of the following items of business because it is likely that, if members of the public were present, there would be disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

<u>Minute Number</u>	<u>Item</u>	<u>Description of Exempt Information</u>
##	Review of Hackney Carriage and Private Hire Driver's Licence) Information relating to any individual (Para 1 Schedule 12A refers)
) Information which is likely to reveal the identity of an individual (Para 2 Schedule 12A refers)
) Information relating to any action taken or to be taken in connection with the prevention, investigation of prosecution of crime (Para 7 Schedule 12A refers)

3. **REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE**

The Sub-Committee considered a report which set out a Review of Hackney Carriage and Private Hire Driver's Licence (detail in exempt minute).

The meeting commenced at 9.30am and concluded at 1.00pm.

Chairman