

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held on Monday 15 January 2018, at the Town Hall, Royal Leamington Spa at 10.00am.

Present: Councillors Davies, Illingworth and Mrs Stevens.

Also Present: Mr Howarth (Council's Solicitor), Mrs Barnes (Senior Committee Services Officer), Miss Cox (Committee Services Officer) and Mrs Dudgeon (Licensing Enforcement Officer).

1. **Appointment of Chairman**

Resolved that Councillor Illingworth be appointed as Chairman for the hearing.

2. **Declarations of Interest**

There were no declarations of interest.

3. **Application for a premises licence issued under the Licensing Act 2003 for The Assembly and Zephyr Lounge, Spencer Street, Royal Leamington Spa, CV31 3NE**

The Panel considered a report from Health and Community Protection which sought a decision on an application for a premises licence from Alchemy Leamington Limited for The Assembly and Zephyr Lounge, Royal Leamington Spa.

The Chairman asked the members of the Panel and the officers present to introduce themselves. The other parties then introduced themselves as:

- Mr Christopher Beetham – Operations Manager, The Assembly;
- Mr Benjamin Newby – Director of Operations, The Assembly;
- Mr Andrew Potts – applicant's solicitor; and
- Ms Tina Chander – trainee solicitor (observing).

There were no interested parties present.

The Council's Solicitor explained the procedure for the hearing.

The Licensing Enforcement Officer distributed the following documents at the hearing:

- A plan of the proposed layout of the premises, provided by the applicant.
- Colour copies of the plans submitted with the application.
- Copies of correspondence between the objector, Mr Kenny, and the applicant's Solicitor.
- Photographs of the premises and neighbouring buildings provided by the applicant's solicitor.
- A copy of the current premises licence.

The Chairman confirmed with all parties that they had received a copy of the agenda and supporting documents.

The Licensing Enforcement Officer outlined the report and asked the Panel to consider all the information contained within it, in order to determine if the application for a premises licence should be approved and, if so, whether the licence should be subject to any conditions.

The application was for a multi-function venue encompassing the Zephyr Lounge, which comprised a bar and stage with a separate bar at the rear of the venue; the first floor, known as The Assembly, comprising a large dance floor, stage and three bars; and a gallery with a further small bar above The Assembly. The application was submitted on 22 November 2017 and details of the licensable hours applied for were as follows:

	Plays, Films, Indoor Sporting Events, Boxing or wrestling, Performance of dance, Anything of a similar description to that falling within Live Music, Recorded Music and performance of dance (All indoors)	Live and Recorded Music (both indoors only)*	Late night refreshment	Sale of Alcohol for consumption on the premises	Sale of Alcohol for consumption off the premises	Opening Hours
Monday to Wednesday	10:00 to 02:00	10:00 to 02:00	23:00 to 02:00	10:00 to 02:00	10:00 to 23:00	10:00 to 02:30
Thursday to Saturday	10:00 to 03:00	10:00 to 03:00	23:00 to 03:00	10:00 to 03:00	10:00 to 23:00	10:00 to 03:30
Sunday	10:00 to 00:00	10:00 to 00:00	23:00 to 00:00	10:00 to 00:00	10:00 to 23:00	10:00 to 00:30

Variation for all the above except Opening Hours:

On Sundays before a Bank Holiday Monday Zephyr Lounge and The Assembly may be open and used for licensable activities to 02:30 hours. On New Year's Eve until the start of permitted hours on New Year's Day.

Variation for Opening Hours:

On Sundays before a Bank Holiday Monday Zephyr Lounge and The Assembly may be open until 03:00 hours. On New Year's Eve until the start of permitted hours on New Year's Day.

* Between the hours of 08:00 and 23:00, when amplified live music is taking place to an audience of less than 500 people and the premises is licensed for the sale of alcohol for consumption on the premises; or when unamplified live music is taking place to any number people on any premises, all licensing conditions applicable to the control of live music on this licence are deemed not to be in operation.

Between the hours of 08:00 and 23:00, when recorded music is taking place to an audience of less than 500 people and the premises is licensed for the sale of alcohol for consumption on the premises, all licensing conditions applicable to the control of recorded music on this licence are deemed not to be in operation.

Last Entry Times for The Assembly and Zephyr Lounge

Sunday 00:00

Monday to Wednesday 01:30

Thursday to Saturday 02:00

Details of the hours applied for were attached as Appendix 1 to the report, and plans of the venue submitted by the applicant were attached as Appendix 2 to the report. An operating schedule, which had been submitted by the applicant and would form part of any licence issued, was set out in section 3.3 of the report.

In addition, conditions had been agreed with Warwickshire County Council's Children's Services and Environmental Health. These conditions would form part of any licence issued and were detailed in section 3.5 of the report.

The Licensing Department had received a representation from a local resident, Mr Kenny, in objection to the application, and this was attached as Appendix 3 to the report. No other representations had been received from notifiable authorities.

A map of the area was attached as Appendix 4 to the report, photographs of the area were attached as Appendix 5 and the Council's Statement of Licensing Policy was attached as Appendix 6 to the report.

The Assembly had been licensed with Warwick District Council since 2007. This licence was surrendered in 2014 when a new premises licence application was submitted to incorporate The Zephyr Lounge. The premises had been operating as The Assembly and Zephyr Lounge since January 2014.

The Licensing Enforcement Officer reminded the Panel that the premise was located in the Cumulative Impact Zone and that the onus of proof was on the applicant to show that the application would not impact on any of the four licensing objectives.

The Chairman asked the Licensing Enforcement Officer to clarify the difference between the terms of the existing premises licence held by The Assembly and Zephyr Lounge and the new licence applied for. The Licensing Enforcement Officer advised that on Sundays before a Bank Holiday Monday, the new application requested an extension in opening hours to 03:00, and an extension in hours for licensable activities to 02:30, as set out on page 10 of the report. The applicant had also requested an extension to last entry times for both The Assembly and Zephyr Lounge, as set out on page 11 of the report. There was no change with respect to the licensable activities.

The Licensing Enforcement Officer advised that the conditions in the Public Safety section of the operating schedule were previously incomplete because a fire risk assessment had not been undertaken. This risk assessment had now been completed and the proposed condition would be amended.

Mr Potts addressed the Panel on behalf of the applicant. He stated that the premises had been in operation since 1926 and it had been a bingo hall prior to becoming an entertainment venue in 2007. He explained that the reason for applying for a new premises licence, rather than a variation, was so that the applicant could 'fall back' on the old premises licence if the terms of any licence granted today were deemed onerous. Following a visit made by enforcement in September or October last year, a minor variation had been made to the existing premises licence. The Caravan and Zephyr Lounge were not set out in detail on the old plan but this had been amended. In addition, there was duplication in the current licence which had been rectified.

Furthermore, Mr Potts advised that following discussions with Environmental Health, conditions had been agreed. A new clause relating to Child Sexual Exploitation had been included in the operating schedule following discussions with the relevant officer and all licence holders had attended Child Sexual Exploitation training at the venue. Conditions 1 to 3 set out in section 3.5 of the report had also been agreed. This ensured that all staff attending children's events at the premises, such as 'Big Fish, Little Fish' which took place on a Saturday afternoon, had a Disclosure and Barring Service (DBS) check.

In addition, a fire risk assessment proposing maximum numbers had now been undertaken; the maximum capacity of the premises was 1240, with a capacity of 940 upstairs in The Assembly and no more than 200 in the Zephyr Lounge and 100 in the caravan bar.

Mr Potts stated that no representations had been received from any of the notifiable authorities listed in section 3.6 of the report and Mr Kenny was the sole objector. He advised the Panel that the opening hours for the nightclub, Neon, which was adjacent to the block of flats in which Mr Kenny resided, had for years been Monday to Thursday until 03:00; Friday and Saturday until 04:00 and Sunday until 02:00. Mr Potts referred members to the photographs of The Assembly, Neon and the vicinity that had been distributed at the start of the meeting.

In response to a question from the Chairman, Mr Potts clarified that Mr Kenny was the sole objector out of 20 residents from the block of flats adjacent to Neon, and that Environmental Health had received a further representation from a resident of another block of flats, Manor House.

Mr Potts explained that he had written a letter to Mr Kenny on 15 December 2017 which he had hand-delivered on 18 December 2017, but he had not received a response. He then wrote a second letter to Mr Kenny on 19 December 2017 which he subsequently received back with Mr Kenny's written comments on. Mr Potts had also rung Mr Kenny's doorbell when he was taking photographs of the vicinity on 9 January 2018. He stated that someone had answered the door, asked who he was and declined to speak to him. He highlighted to Members that he felt the applicant had made every reasonable attempt to meet with Mr Kenny to discuss the application.

Mr Kenny had not made a complaint to the Police or Environmental Health and Neon was situated between The Assembly and Mr Kenny's residence and was open much later. Furthermore, Mr Kenny had not responded to correspondence regarding this Panel, or from Mr Potts.

With respect to the impact of the application on the Cumulative Impact Zone, Mr Potts stated that The Assembly had been a well-run premise for more than 10 years and was a unique premise in its jurisdiction. The Police had no objection to the application, which had been 'cleaned up' following various consultations, and the operating schedule went 'the whole way' to promoting the four licensing objectives. Therefore, it was unlikely to add to the cumulative impact on the area. There were slight changes to the opening hours, but the premises had previously been open on New Year's Eve and the only addition was that of Sundays before Bank Holidays. The premise was well-managed; Mr Beetham had worked in the trade for 16 years and had eight years' management experience, and the current management company had been there for over two years and had run the venue well. The purpose of the licence was to modernise the premises.

The Chairman sought confirmation from the Licensing Enforcement Officer that Neon was a totally separate company to The Assembly and that the updated plans of the venue submitted had been accepted. The Licensing Enforcement Officer also confirmed that the conditions agreed in section 3.5 of the report would be added to the operating schedule of any licence granted.

Mr Potts highlighted an error on page 6 of the report under Public Safety which stated 'A professionally prepared fire risk assessment will be produced which will propose maximum numbers which will thereafter be agreed with Warwickshire Fire Service and West Midlands Police...'. It was agreed by all parties that this should state Warwickshire Police rather than West Midlands Police and the operating schedule would be amended accordingly.

In response to questions from Panel Members, Mr Potts and Mr Newby replied that:

- More than one member of staff would be trained in the use of CCTV equipment.
- Events held at The Assembly were not just for young people; it was a multi-purpose venue used for a plethora of events including corporate events, club nights, live music and more recently festivals, and strides had been made to work with the Leamington Business Forum.
- Neon was open longer hours until 04:00.

The Chairman highlighted to all present that although there were no interested parties present at the hearing, the representation that had been received had been noted by the Panel.

In closing, Mr Potts stated that he had nothing further to add; he had addressed the issue regarding the cumulative impact zone and the written representation and asked Members to grant this 'modernisation licence' as it was set out. He felt that there was no danger of the venue slipping back into being a pure nightclub; the corporate intention was for it to be an all-round entertainment venue.

At 10.52am, the Chairman asked all parties other than the Panel, the Council's Solicitor and the Committee Services Officers to leave the room, in order to enable the Panel to deliberate in private and reach its decision.

Resolved that the application for a premises licence be **granted**.

The Panel has considered the report and has listened to the representations made by the applicant's solicitor, Mr Potts.

The Panel notes that there is only one objection to the application which has been made by Mr Kenny who has not attended today. The Panel notes that there are no objections from any of the responsible authorities and that conditions have been agreed with Environmental Health and Warwickshire County Council's Children's Services.

The Panel notes that the premise is located in the Cumulative Impact Zone (CIZ) and, therefore, the burden of proof is on the applicant to show that the application will not impact on the four licensing objectives.

Whilst Mr Kenny has not attended today, the Panel must still take into account his written representation when determining this application. Having considered Mr Kenny's written representation, the Panel notes that whilst he objects to the application, he has not raised any specific

concerns about The Assembly or the Zephyr Lounge. The Panel has also heard from Mr Potts that Environmental Health has not received any complaints from Mr Kenny about The Assembly or Zephyr Lounge. The Panel has heard from Mr Potts that the premises are extremely well run, have been there for some time and are unique in nature as they provide for a whole plethora of events, including live music, corporate events and weddings.

The Panel heard from Mr Potts that there have been ongoing discussions with the Police, Environmental Health and Warwickshire Fire & Rescue Service, all of which are happy with the application.

The Panel has not been presented with any evidence today which would support the view that the grant of the licence would impact on the four licensing objectives.

Having listened to the representations made by Mr Potts today, the Panel is satisfied that the applicant has demonstrated that the grant of the licence would not impact on the four licensing objectives. The Panel therefore grants the licence in accordance with the report, the operating schedule with the amendments to include the maximum number of patrons attending the premises and the correction of the reference to 'West Midlands Police' to read 'Warwickshire Police', and the conditions agreed with Environmental Health and Warwickshire County Council's Children's Services detailed at paragraph 3.5 of the report.

At 11.15am, all parties were invited back into the room and the Chairman invited the Council's Solicitor to read out the Panel's decision.

(The meeting ended at 11.18am)