

LICENSING PANEL HEARING

A record of a Licensing Panel hearing held on Tuesday 31 January 2012, at the Town Hall, Royal Leamington Spa at 10.00 am.

PANEL MEMBERS: Councillors Mrs Bromley, Coker and Guest

ALSO PRESENT: John Gregory (Council's Solicitor), David Davies (Licensing Services Manager) and Amy Carnall (Committee Services Officer).

1. APPOINTMENT OF CHAIRMAN

RESOLVED that Councillor Coker be appointed as Chairman for the hearing.

The Chairman introduced himself, other members of the Panel and Officers, and asked the other parties to introduce themselves.

They were; the applicant, Miss Signourney Gowlett, her barrister, Mr Evans and his colleague, Mr Andrew Potts both from Wright Hassall Solicitors.

The interested parties present were local residents Mr and Mrs Gifford, their representative Ms Sarah Clover and Dr Andrew Cave, local resident.

2. DECLARATIONS OF INTEREST

Minute Number 4 – Application for a Premises Licence under the Licensing Act 2003 for Signourney Gowlett, G's Bar, 27 Augusta Place, Royal Leamington Spa

Councillors Mrs Bromley, Coker and Guest declared personal interests because one of the interested parties, Mr Gifford was a fellow District Councillor.

The Council's Solicitor read out the procedure that would be followed at the meeting.

3. APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR SIGNOURNEY GOWLETT, G'S BAR, 27 AUGUSTA PLACE, ROYAL LEAMINGTON SPA

A report from Community Protection was submitted which sought a decision on a premises licence for Signourney Gowlett, G's Bar, 27 Augusta Place, Royal Leamington Spa.

The Licensing Services Manager, David Davies, outlined the report and asked the panel to consider all the information contained within the report and determine if the application for a premises licence should be approved.

Mr Davies apologized for the final page attached to the agenda which was distributed in error and had no relevance to the hearing. He also advised that officers from Environmental Health were present to provide

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clarification on issues if necessary and were not attending as interested parties.

The report referred to those matters to which the Panel had to give consideration, the statutory guidance issued by the Secretary of State, the Council's Licensing Policy Statement and the Licensing objectives.

The report from Community Protection which was submitted to the Panel presented an application to permit the following:

The sale of alcohol (on the premises)	Sunday to Thursday 10:00 to 00:00 (midnight) Friday and Saturday 10:00 to 01:00
The sale of alcohol (off the premises)	10:00 to 23:00 Seven days a week
Live Music, recorded music, performance of dance, anything similar to the previous; the provision of facilities for making music and dancing, anything similar to making music and dancing (all indoors only)	Sunday to Thursday 10:00 to 23:00 Friday and Saturday 10:00 to 01:00
Late night refreshment	Sunday to Thursday 23:00 to 00:00 (midnight) Friday and Saturday 23:00 to 01:00
Opening hours	Sunday to Thursday 10:00 to 00:30 Friday and Saturday 10:00 to 01:30
All above (except alcohol off sales and late night refreshment) to be extended from New Year's Eve until commencement of permitted hours New Year's Day.	

An operating schedule, which would form part of any licence issued was also submitted which explained any steps the applicant proposed to take to promote the four licensing objectives; Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and Protection of Children.

Representations against the application had been received from Environmental Health and fifteen interested parties, mostly local residents. The premises had previously held a licence which had lapsed when the prior licence holder was made bankrupt. The report reminded members that this was therefore a new application and the previous hours and conditions of the lapsed licence were to be used for reference only.

The premises was located in the Council's Cumulative Impact Area and the burden of proof was with the applicant to convince members that the application would not increase any impact on the Cumulative Impact Area.

The Council's Licensing Policy Statement provided that the Authority would take an objective view on all applications and would seek to attach appropriate and proportionate conditions to licences, where necessary, in order to ensure compliance with the four licensing objectives. Each application would be judged on its individual merits.

Mr Davies advised the panel that a number of new conditions had been agreed with officers from Environmental Health including a change to the

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opening hours. The applicant had agreed to alter this to show a reduction in the opening hours Thursday to Sunday to close at 23:30 instead of 00:30.

Mr Evans addressed the panel and introduced members of the public also in attendance as Miss Gowlett's parents, family and Ian Hemingway who would be employed as the bar manager.

Mr Evans explained the circumstances surrounding the previous licence holder, who had been declared bankrupt in April 2011. He stated that in the time that followed, Miss Gowlett had operated the premises for a period of eight weeks without a licence. None of the parties involved in the business had realised that the premises no longer had a licence but when it was discovered, the premises was closed and this application was submitted.

Mr Evans explained that this was not a 'new' premises opening for the first time but the applicant appreciated that it was situated in a sensitive location and she had actively liaised with Environmental Health and the Police to agree minimum conditions.

He explained that Miss Gowlett was 22 years old with four years management experience in the licensing trade. In addition, he advised that the business was very much a family effort with her mum being heavily involved in the administrative side of the business and her father who also had experience of the licensing trade. He stated that Miss Gowlett had invested her own money in the premises, had made improvements to the interior and was determined to make a success of the business. He added that Miss Gowlett understood the concerns of the residents but had the advantage of being aware of the complaints and was aware that she could be called back for a review of the licence.

In the applicant's opinion, there were two significant issues to be taken into account. Firstly, that the area to the front of the premises was managed properly to reduce disturbance to the flats opposite. Secondly, Mr Evans requested that when members viewed the video evidence that they bear in mind that the door supervisors should have done their job better. He also stated that they had met with Mr Jenkins from the Council's Environmental Health department on 6th January and had discussed further improvements to the glass roof at the rear of the premises, to assist with containing any noise within the building.

Mr Evans concluded by proposing that Miss Gowlett would be drawing up guidelines for door staff to adhere to, had applied for Challenge 21 packs and would not open until the conditions were in place and all parties were satisfied.

The Panel asked questions regarding the cost implications of the work to the glass roof and in response were advised that this was hard to determine as precise plans had not yet been agreed. Access to the roof space had only been gained that week and further advice was needed from Environmental Health.

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Dr Cave, one of the interested parties present, asked if loud music had been played whilst the officer from Environmental Health was present and was the applicant aware that noise limiters were often overridden in premises in Leamington Spa. Mr Evans advised that loud music had not been played during the meeting but that the officer's opinion had been based on an informed hypothesis. With regard to noise limiters, Mr Evans agreed that conditions needed to be abided by or the applicant could have her licence reviewed.

Councillor Guest asked Miss Gowlett which premises she has previously worked at and if she had managed similar problems at them. She replied that she had worked in a supervisory capacity at the Willoughby, Evolve, KoKo's and Shades and that issues with door staff were common. When asked why this would be different at G's Bar, Miss Gowlett advised that she had a meeting arranged with a new security company, would be discussing her policy with them and would insist on a minimum of two door staff.

The Chairman asked Sarah Clover to outline her representation on behalf of Mr and Mrs Gifford.

Ms Clover reminded members that the premise was located in the Cumulative Impact Area and that the Policy on this had been based on evidence from the Police and must be observed. She did not feel that to apply the Policy 'lightly' was lawful and that any previous licences were irrelevant. The Policy applied consistently to any new application in the impact zone and she was disappointed that the Police had not focused on this issue.

Ms Clover made reference to a recent case involving Weatherspoons vs. Guildford, which made a clear distinction between the impact that a premise had on the Cumulative Impact Zone compared to the impact on the Licensing Objectives. This case highlighted the importance of the applicant persuading the objectors that a premises' business would not add detrimentally to the Cumulative Impact Zone.

She reminded the Panel that there was a clear ten year history to this premises and felt that it would not matter who operated the licence because the problems would remain. She stated that the building was not designed or built to contain sound and created a tunneling effect resulting in noise escaping through the front of the building when people entered or exited. In addition, Ms Clover felt that assurances regarding proposed work to the glass roof were insufficient because no technical report had been provided and 'suitable sound insulation' was not an acceptable condition.

Ms Clover stated that the business' demographic had been its failure over the past ten years, residents had complained but had given each operator the chance to turn the business around. She also referred to the issues that a recession causes which ultimately result in residents losing out. She reminded the Panel that the premises had been trading without a licence but had managed to operate by applying for Temporary Event Notices. The residents had had to suffer much of the same antisocial behaviour under Miss Gowlett's management, who had been called into the Licensing offices to discuss such problems in November 2011. However, to date Miss

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Gowlett had made no effort to approach residents to discuss the issues and no meeting had been called before or after the representations had been received.

Ms Clover then handed over to Mrs Gifford, one of the interested parties, to talk the Panel through the video clips which evidenced antisocial behaviour, resulting from the premises. The video contained 11 separate clips resulting in over 22 minutes of footage, taken from Mr & Mrs Gifford's home since October 2005 to November 2011.

Each clip was introduced by Mrs Gifford and summarised in the papers attached at appendix 11 to the report.

Following the viewing of the video, Ms Clover questioned the practicality of individuals approaching clientele and asking them to be quiet.

In response to questions from the Panel, Mrs Gifford confirmed that it was normal procedure on a Friday and Saturday night for a regular group to congregate outside the front of the premises. This was the only area available to smokers and did not appear to be same people who could be persuaded to go elsewhere.

Dr Cave asked Mrs Gifford if, in her opinion, many of the customers had been underage. She agreed that this did appear to be the case although she was not an expert. Mr Gifford confirmed that the first video clip had been used by the Police in the past as visual evidence of underage drinking at the premises, which had resulted in the magistrates removing the licence.

Dr Cave made his representation and reiterated the comments made regarding the premises location in the Cumulative Impact Zone. He was pleased that Miss Gowlett's family were supportive of her business venture but did not feel that either the building, or its location, were suitable as a licensed premises. Dr Cave objected mainly on the grounds of Preventing Children from Harm and made reference to the video clip of a young female who appeared to be "very much the worse for wear" and the failure of any door or bar staff to assist her. He also reminded the Panel that there had been many instances of trouble, antisocial behaviour and damage to vehicles in the area. Dr Cave then read out his wife's objection which focused on the premises being located in a 'family vicinity', with the cinema and family restaurants close by. Mrs Cave did not feel that this was a suitable location for this premises and had concerns about the impact of individuals' behaviour on family life.

Mr Evans then summed up the application and reminded the Panel of the additional conditions proposed. He stated that off licence sales could be abandoned and advised that Miss Gowlett would make a contact number and dedicated email address available to residents for any complaints, to ensure a fast response to arising issues. He stated that Miss Gowlett was aware that more effort was needed to satisfy residents' concerns and that this was a clear, well thought out and constructive application. He also reminded members that no representations had been received from the Police who were well aware of who would be in charge and the location of the premises.

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The Chairman asked the applicant, her representatives, the licensing manager and the interested parties to leave the room at 12.20 pm to enable the Panel to deliberate and reach its decision.

The Panel listened carefully to all the representations made and considered the written representations made in respect of the application. The Panel also considered the video evidence provided by Mr and Mrs Gifford.

They had regard to the provisions of the Licensing Act 2003, the guidance issued under section 182 of that Act and the Council's own Licensing Policy.

The Panel saw and heard evidence that the operation of G's Bar had been the cause of public nuisance over the past few years. The Panel saw video evidence, and received written evidence from neighbouring residents, that the nuisance had continued whilst the current applicant was in control of the premises.

The fact that there had been problems with public nuisance caused by the premises was conceded by the applicant, although it had been submitted on her behalf that she was now aware of the problems and would have measures in place which, along with the proposed conditions, would prevent similar problems in the future.

However, the Panel were not satisfied that the conditions proposed would be sufficient to prevent the premises causing public nuisance. This was because much of the nuisance seemed to be caused by people standing outside the front of the premises. Whilst a condition preventing re-entry may help to alleviate this late at night, the Panel took the view that there was still a likelihood that nuisance would be caused by people leaving the premises, and at earlier times of night when the re-entry condition would not apply.

As well as public nuisance caused by people outside the premises, the Panel took the view that there was a likelihood of disturbance caused by sound escaping from inside the structure. It had been provided with no detailed evidence as to how this could be prevented by sound insulation and so members were not satisfied on the evidence before it that this was achievable. Whilst Environmental Health withdrew their application on the basis of agreed conditions, they raised doubts at the hearing about how much appropriate sound insulation would cost, and the Panel had not seen any detailed evidence of how this would be implemented.

This was a new application inside the Cumulative Impact Area, and as such the Panel had regard to the Council's Cumulative Impact Policy. Whilst the Panel had considered the application on its individual merits, on the evidence before them, they considered that the grant of this licence would be likely to add to the cumulative effect of premises in the area on local residents, particularly in terms of public nuisance.

RESOLVED that the licence be refused on the grounds that the evidence before the Panel shows that to grant it would have an adverse effect on the

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licensing objective relating to the prevention of public nuisance.

All parties were invited back in to the room so they could be informed of the decision and were reminded that they had 21 days to appeal this decision to the magistrates court.

(The meeting finished at 13.10 pm)