

# LICENSING PANEL HEARING

A record of a Licensing Panel hearing held on Wednesday 18 January 2012, at the Town Hall, Royal Leamington Spa at 10.00 am.

**PANEL MEMBERS:** Councillors Mrs Bromley, Coker and De-Lara-Bond

**ALSO PRESENT:** Max Howarth (Council's Solicitor), Jane Bailey (Licensing Officer) and Amy Jobling (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, Mr Colin Aston, his representative, Mr Ian Besant and colleague, Ms Suzanne Oatley, both solicitors from Wright Hassall.

The interested parties present were Mr Gary Blundell, resident of 42 Oxford Street, Mr Nigel Heron, Shop owner and Mr and Mrs Hain, residents of 42 Oxford Street.

## 2. DECLARATIONS OF INTEREST

Minute Number 4 – Application for a Premises Licence under the Licensing Act 2003 for S J Dixon (Holdings) Ltd, 44 Oxford Street, Leamington Spa

Councillor Coker declared a personal interest because the applicant's representative, Ian Besant, was known to him.

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 S J DIXON (HOLDINGS) LTD, 44 OXFORD STREET, ROYAL LEAMINGTON SPA

A report from Community Protection was submitted which sought a decision on a premises licence for S J Dixon (Holdings) Ltd, 44 Oxford Street, Royal Leamington Spa.

The Licensing Services Officer, Jane Bailey, 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.

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.

## **LICENSING PANEL HEARING MINUTES (Continued)**

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)	10:00 to 00:00 (midnight) Seven days a week
The sale of alcohol (off the premises)	10:00 to 23:00 Seven days a week
Films, Indoor Sporting events etc.	10:00 to 23:00 Seven days a week
Late night refreshment	23:00 to 00:00 (midnight) Seven days a week
Opening hours	10:00 to 00:30 Seven days a week
All above (except alcohol off sales) to be extended New Years Eve until commencement of permitted hours New Years 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 three interested parties but neither the Police nor Environmental Health were objecting, following liaison with the applicant over suitable conditions to be added.

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 Besant addressed the panel, on behalf of the applicant, Mr Colin Aston. He explained that S J Dixon (Holdings) Ltd had not been the previous licence holder which had led to a number of the issues regarding poor management of the premises. It was hoped that by holding the licence themselves, stricter control would be possible, with certain conditions being added to the lease to ensure that the premises was looked after properly.

Mr Besant advised that a meeting had taken place before Christmas, on site with Mike Jenkins from the Council's Environmental Health department. Following this meeting, Mr Aston, decided to alter the hours originally set out, which had been agreed with the Police to accommodate all parties. He accepted that residents were objecting on the grounds of Crime & Disorder and Public Nuisance but urged them not to judge the applicant on the previous licence holder's behaviour. Mr Besant highlighted that by co-operating with Environmental Health and the Police, and taking on board their recommendations, Mr Aston had proved himself to be a responsible person.

Mr Besant then referred to the operating schedule and the conditions contained therein. He reminded the panel that if any public disorder took place, then the Police had the power to close the premises for 24 hours and a review of the licence could be asked for.

## **LICENSING PANEL HEARING MINUTES (Continued)**

Mr Besant answered questions from the panel regarding the appropriateness of another premises in the Cumulative Impact Area, the type of clientele this premises would be aimed at in comparison to other business in the area. He also confirmed that the intention was to lease the premises to a Designated Premises Supervisor (DPS) or their employer and stated that this lease would be more 'tenant friendly'.

In response to a query regarding indoor sporting events, Mr Besant stated that this had been included purely to avoid Temporary Event Notices having to be applied for in the future. He also assured the panel that any DPS would be fully trained and that S J Dixon (Holdings) Ltd would be playing a far more active role.

Mr Blundell, one of the interested parties, asked Mr Besant what provisions had been put in place for smokers because this was a particular area of concern for local residents. Mr Besant confirmed that smoking would have to take place outside the front of the premises due to lack of any other outside space and felt that the presence of doormen would help to alleviate any problems.

Mr Blundell also asked if residents could be consulted with regarding the location of CCTV cameras and was assured that this would be looked into.

Mr Heron asked Mr Besant if it would be possible to have a mobile contact for the applicant because residents would feel happier approaching him than any DPS that may be working there. He was assured that this would not be a problem and the applicant would prefer residents to speak to him directly with any concerns they may have.

The Chairman asked Mr Blundell to outline his objection. He stated that his girlfriend, the owner of the flat, had endured many years of anti-social behaviour from customers of Ocean Bar and was fearful of reprisals. The majority of youngsters associated with the bar had a lack of contempt for residents and this was exacerbated by the deterioration of the business. Mr Blundell was unsure how shorter opening hours would assist the situation and did not feel there was any demand for another bar in the vicinity. He was conscious that Police resources were low and had experienced having to assist them in their duties himself. He was fearful that if the proposed clientele failed to bring in sufficient business, the bar would return to the previous situation of attracting as many youngsters as possible.

Mr Blundell suggested that applying certain conditions could assist including no re-entry after a specific time and that table service should be imposed.

In response, Mr Besant asked Mr Blundell about the comparisons of the clientele who attended The Clarendon, who Mr Blundell felt did not behave inappropriately.

Mr Nigel Heron, owner of the bathroom store nearby, addressed the panel and explained his objections. Although his objections differed slightly from other residents because he was only at the property during the daytime, he was concerned that the lease holder would not be the licence holder. In his opinion, this did not ensure that the person running the bar was working to

## **LICENSING PANEL HEARING MINUTES (Continued)**

improve the business but just to bring in as much profit as possible. He also made reference to the doorway of his shop, which he regularly had to clean and tidy up because it was used for smoking, urinating and dropping litter.

Mr John Hain, one of the owners of the flat, addressed the panel and highlighted the problems he and his wife had encountered when living in the property. These included the clearing up of cigarette ends, litter and vomit from their doorway, but their biggest concern was the noise created by music being played in the bar. He explained that the bedroom flat shared a party wall with the upstairs of the bar and they would be driven mad with the constant heavy bass beat. He did state, however, that he was pleased with the proposed improvements put forward so far.

Mrs Hain spoke to members and reiterated that the use of the premises as a dance club was wholly unsuitable due to it being adjacent to the flats. She advised that when it was being used as a dance club, the noise and vibration was unbearable at times and the licence holder was not interested in helping the residents.

Councillor De-Lara-Bond then asked Mrs Hain if she felt that the situation could be improved if the new conditions were introduced, particularly with regulated entertainment ceasing at 23:00 hours. Mrs Hain felt an improvement would take place but that ultimately, this was an inappropriate use of a building with party walls to residential accommodation.

In response, Mr Besant reminded the panel that the Environmental Health officer had been very thorough with his inspection of the premises and was satisfied regarding noise levels.

Mr Besant then summed up the application and ensured residents and the panel that the applicant was happy to distribute his contact details and to liaise with them regarding the location of CCTV cameras. He also reminded members of their Licensing Policy and felt that the level of demand for a certain type of business, could not be used as grounds for refusal of a premises licence.

With regard to the issue of noise, the Council's solicitor, Max Howarth, clarified that any noise heard from neighbouring properties should not 'interfere with the enjoyment of that property'. He reminded residents that they did have safeguards in place, for example, Environmental Health officers could be contacted on their out of hours telephone number, available on the website.

The Chairman asked the applicant, his representative, the licensing officer and the interested parties to leave the room at 11.30 am to enable the Panel to deliberate and reach its decision.

In making their decision the panel paid due consideration to the relevant legislation and guidance, application and the representations made about it.

After considering the report before it, the panel listened carefully to the applicant's solicitor and the interested parties. The panel noted the

## **LICENSING PANEL HEARING MINUTES (Continued)**

concerns of the interested parties and the evidence provided regarding problems with crime and disorder and public nuisance at the premises in the past. However, the panel felt that the application put forward, together with the operating schedule and the conditions agreed with the Police and Environmental Health were sufficient to ensure that similar problems were not experienced in the future. It was the panel's view that the applicant had demonstrated that the grant of the licence would not add significantly to the Cumulative Impact Area in light of the licensing objectives.

The panel considered whether to impose a re-entry condition, however, they felt that based upon the evidence before it, to impose such a condition was not necessary or proportionate.

The panel noted that the applicant had undertaken to provide the interested parties with contact details so they could be contacted in the event that any problems arose in respect of the operation of the licence.

The panel also noted that the interested parties could contact Environmental Health at the District Council if there were problems in relation to public nuisance at the premises. Further, that in the event that problems were encountered, there was the option to call for a review of the licence.

Having taken all these matters into account, the panel felt that the licence would not impact upon the licensing objectives of public disorder and public nuisance and, therefore, resolved to grant the licence, subject to the conditions contained in the operating schedule with an amendment to the condition concerning the use of a noise limiter.

**RESOLVED** that the licence be granted;

(1) to permit the following;

The sale of alcohol (on the premises)	10:00 to 0:00 (midnight) Seven days a week
The sale of alcohol (off the premises)	10:00 to 23:00 Seven days a week
Films, Indoor Sporting events etc.	10:00 to 23:00 Seven days a week
Late night refreshment	23:00 to 0:00 (midnight) Seven days a week
Opening hours	10:00 to 0:30 Seven days a week

All above (except alcohol off sales) to be  
extended New Years Eve until commencement of  
permitted hours New Years Day

(2) subject to the conditions contained in the  
operating schedule with an amendment to the  
condition concerning the use of a noise limiter  
which shall read;

## **LICENSING PANEL HEARING MINUTES (Continued)**

`....a noise limiting device which has been installed, tested, and level set to the satisfaction of a Warwick District Council Environmental Health Officer, prior to any regulated entertainment taking place.'

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 12.05 pm)