

LICENSING PANEL HEARING

A record of a Licensing Panel hearing held on Tuesday 6 September 2011, at the Town Hall, Royal Leamington Spa at 2.00pm.

PANEL MEMBERS: Councillors De-Lara-Bond, Pratt and Wilkinson.

ALSO PRESENT: Councillor Coker, John Gregory (Council's Solicitor), Emma Millward (Licensing Services Officer) and Peter Dixon (Committee Services Officer).

1. **APPOINTMENT OF CHAIRMAN**

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

2. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

3. **APPLICATION FOR A REVIEW OF THE PREMISES LICENCE ISSUED UNDER THE LICENSING ACT 2003 FOR ALIBI, 62 MARKET PLACE, WARWICK**

A report from Community Protection was submitted which sought a decision on a review of the premises licence for Alibi, 62 Market Place, Warwick.

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

Mr Peter Lawson represented Environmental Health, the responsible authority which had requested the review of the licence. He was accompanied by Christopher Davis and Michael Jenkins.

The Council's Solicitor pointed out that the premises licence holder had declined to attend the meeting and that it was therefore up to the Panel to decide whether or not to proceed with the hearing. The Panel agreed that the hearing should continue.

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

The Licensing Services Officer outlined the report and asked the Panel to consider all the information contained within it when reaching a decision. 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 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.

LICENSING PANEL HEARING MINUTES (Continued)

Mr Lawson, acting for Environmental Health as Responsible Authority under the Licensing Act 2003, presented the application for a review of Alibi's premises licence. The application was based on the prevention of public nuisance licensing objective, because repeated breaches of abatement notices and of a licensing condition relating to music had occurred.

The premises – under various names – had a history of noise nuisance, of both loud music escaping from the premises and noisy behaviour of customers outside. In 2006 a condition was imposed controlling intrusive music. Complaints about noise were received from various sources in December 2006, April 2007 and August 2007. In October 2007 Environmental Health officers witnessed statutory nuisance and served an abatement notice to the then-licensees of the premises, Kozi Bar Ltd. Within days the licence was transferred to Kozi Bar (Warwick) Ltd, which frustrated the abatement notice.

Further complaints about noise were received in November 2007. In January 2010 the licence was transferred to Obelisk (Warwick) Ltd, the business name becoming Rumours Bar and Restaurant. Consent to transfer was signed by R Chillari, Director of Kozi Bar (Warwick) Ltd.

Further complaints alleging regular nuisance were received in July 2010 and in August a letter was issued by licensing officers reminding Obelisk of the licence condition relating to music. An email was received from R Chillari acknowledging a visit by a licensing officer with regard to a complaint about loud music. On 10 September Environmental Health officers witnessed customers drinking on the street between midnight and 1am, and the doors to the premises were open. On 20 September R Chillari consented to be Designated Premises Supervisor (DPS). The following day she was given a letter in respect of the doors being open. In October the license transferred to R&S Bars Ltd, with R Chillari continuing as DPS.

An application for a minor licence variation from November 2010 was signed by R Chillari, "current premises licence holder". A further complaint was received, followed up by another letter from licensing officers and a site meeting at which Environmental Health officers gave advice to the DPS. A further complaint was received in January 2011, followed up by a letter from Environmental Health and a second site meeting. In March 2011 noise nuisance was witnessed by Environmental Health officers and an abatement notice was served, hand delivered on 28 March. A third site meeting took place the following day. On 31 March the Council received notification of a business name change, from Rumours to Alibi, submitted by R Chillari. That same day a further breach of the abatement notice and of a licensing condition was witnessed by officers. Two further complaints were received from residents in May and June, after which time Environmental Health officers witnessed loud music, audible as far away as Shire Hall. More complaints were left on a telephone answering machine by residents on 26 June. Further breaches were witnessed on 1 and 3 July by officers.

On 6 July the DPS and licence holders were invited to a PACE interview, to take place on 14 July. While the licence holders did not attend that

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interview, R Chillari did attend, but left before the end. Between the invite to the interview and the interview itself, a further complaint was received, a breach of abatement notice was witnessed, and a telephone call was received from a local resident, objecting to a sign outside the premises which allegedly abused the Council and local residents who had complained about noise. Mr Lawson viewed this sign on 14 July, felt that it was not threatening, but said that it falsely claimed that the Council had forced Alibi out of business, which was at odds with an advert for more live entertainment on 17 July. On 14 July Mr de Palma rang the Council, stating that he was a director of the business, which had gone into liquidation. On 15 July Environmental Health officers submitted the application for a review of the licence, since which time R Chillari surrendered her appointment as DPS.

Members of the Panel were given the opportunity to ask questions of Mr Lawson, who confirmed that the premises had in the past demonstrated its ability to survive without live music for over three years, and that the requested curtailment of licensing hours was motivated by a desire to reduce noise nuisance outside the premises.

At 2.40pm the Chairman asked all parties to leave the room, to enable the Panel to deliberate and reach its decision in private.

In taking its decision the Panel paid due consideration to the relevant legislation and guidance, application and the representations made about it.

Having heard representations from the applicant and interested parties, the Panel was of the opinion that the application for a review of the licence should be granted as per the conditions proposed by the responsible authority.

At 3.00pm all parties were invited back in to the room to be informed of the Panel's decision. They were reminded that they had 21 days from receiving written confirmation of the Panel's decision to appeal the decision to the magistrate's court.

RESOLVED that the Licensing Panel's decision be as follows:

The Panel have carefully considered the representation made by the Environmental Health Department and consider that there is a substantial body of evidence that demonstrates that the premises are unsuitable for Regulated Entertainment and are consequently causing significant noise nuisance to neighbouring residents.

The Panel have also heard evidence that, in addition to nuisance caused by Regulated Entertainment, Environmental Health Officers have witnessed noise nuisance being caused by people coming in and out of the premises late at night and standing outside the premises smoking and drinking.

LICENSING PANEL HEARING MINUTES (Continued)

The Panel have therefore decided to modify the licence as follows:

1. regulated entertainment shall be removed from the Licence;
2. the opening hours and the permitted hours for licensable activities shall be from 11.00am to midnight every day of the week;
3. "No open vessels to be permitted to be taken off the premises" (added condition);
4. "There will be no admission or re-admission to the premises after 23.00" (added condition); and
5. "All outside areas to be cleared of people by 23.00" (added condition).

All parties in attendance are reminded that they have the right to appeal this decision to the Magistrates Court within 21 days of formal notice of this decision.

(The meeting finished at 3.05pm)