

NORTHAMPTON BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 7 June 2012

COUNCILLORS PRESENT: Councillors Malpas (Chair) Eales and Ford.

OFFICERS: Mohammed Rahman (Solicitor)
Phil Baylis (Senior Licensing Officer)

FOR THE APPLICANT: Mr Ebulubu

FOR THE REPRESENTORS: Pc Bryan (Northamptonshire Police)
Mr Grieves (Northamptonshire Fire and Rescue Services)

1. APPLICATION FOR A TEMPORARY EVENTS NOTICE - FLUX

The Chair introduced Members of the Sub Committee and welcomed everyone to the hearing. He explained that another Councillor who was present, was in attendance as an observer and would not be part of the decision making process.

The Licensing Officer outlined the purpose of the hearing to consider the application for a Temporary Events Notice (TENS) to extend the licensing hours from 21:00 hours to 06:00 hours on the 8th and 9th June 2012, to cover the sale of alcohol both on and off the premises of Flux, 94 Bridge Street, Northampton. He informed the Committee that an objection had been received from Northamptonshire Police on the grounds of two of the licensing objectives:

1. Exceeding the occupancy numbers on the agreed risk assessment for the premises.
2. On the grounds of Public Safety – (The Police had been made aware that Northamptonshire Fire Service had served an enforcement notice on the applicant)

The Licensing Officer explained that the occupancy number for the premises was 245, the application for the TENS had been for 250 people.

Application for a Temporary Events Notice (TENS)

The applicant – Mr Ebulubu, explained that he had been made acting manager of the premises and was a junior partner in the business with the designated premises supervisor – Juliet Drummond. He explained that on the 8th June 2012, a carnival was due to be held in Northampton and therefore he was applying for a TENS in order to extend the current licensed hours of the premises to allow the premises to hold an ‘after party’ for 250 people. He stated that since being served an Enforcement Notice from Northamptonshire Fire Service on the 15th May 2012 he had taken relevant steps to address the concerns of the Fire Service and putting into practise all licensing requirements.

Questions to the Applicant

In response to questions of the Committee, Mr Ebulubu stated that no tickets had been sold, as this would be done on the door, the evening of the event. He also explained that the event had been advertised, which had included information about the closing time being 06:00 hours on the 9th June 2012. When asked about the premises capacity, Mr Ebulubu explained that the total capacity of the premises would be 250, which would be inclusive of

both inside and outside the premises, which would also include 4 door staff, 3 bar staff and Mr Ebulubu himself.

Mr Grieves – Northamptonshire Fire Service informed the Committee during a conversation between him and Mr Ebulubu on the 11th May 2012, and when asked if there were 250 people inside and a further 100 people outside the premises should whether conditions change outside, where would the 100 people outside go. Mr Ebulubu answered that they would all go inside the premises. Mr Grieves commented that should this occur, the occupancy numbers inside the premises would potentially be over 350 people and well above the maximum capacity of 245.

Representations by the Objector

Pc Bryan – Northamptonshire Police, explained that the objection to the application for the TENS was a first for the Police as recent changes to the law meant that they could now object to an application for a TENS on any of the Licensing Objectives.

Pc Bryan explained that the Police's main concerns were in relation to public safety. He commented that concerns had arisen with regards to coach –loads of people being brought to the event from out of town and therefore potential problems with capacity. He also voiced concerns about the Designated Premises Supervisor – Juliet Drummond and her approach to the management of the premises and how it was being operated, as the premises was in breach of the Licensing legislation. He further commented that following a recent tragic event at another licensed premises in the locality, the licensing objective of public safety should therefore not be compromised.

Mr Grieves – Northamptonshire Fire Service, explained that following a risk assessment carried out, the occupancy of the premises was agreed to be 245 persons. Following concerns from the Police of an event due to be held on the 29th March 2012, there had been concerns that the proposed event would have held three times the stipulated occupancy. After extensive dialogue with Juliet Drummond, the event was cancelled. On the 11th May 2012, it was documented that on the opening night of the premises (being launched under the new name of 'Flux') Fire Safety Officers had visited the premises and found that there was no emergency fire plan, three new members of staff had been employed, whom non of which had been fire trained and that when Mr Ebulubu had been asked to test the emergency lighting he had no key to do so. He also confirmed that the fire extinguishers had not been tested since 2008/09 and that the Designated Premises Supervisor had been prepared to open the premises with a disregard to Fire Safety and Public Safety. Due to the above concerns, the Committee were informed that an Enforcement Notice had been served on the premises.

Mr Grieves commented the Mr Ebulubu had always been honest with Officers and that he had made significant moves towards tackling the problems and concerns of the Fire Services and noted that Juliet Drummond, as the substantive partner, had displayed a flagrant disregard of the concerns, which was not the fault of Mr Ebulubu.

Questions to the Objector

The Committee asked whether the Fire Service would be satisfied with just a reduction in the number of people allowed on the premises from 250 to 245, which would ensure that the number of people would not exceed the agreed risk assessment occupancy numbers. Mr Grieves explained that there were a number of other concerns, which would not be allayed by merely reducing the occupancy numbers. He explained that due to the concerns of the Fire Service, they were in the process of submitting a review of the application, but due to the fact that the Fire Service was not able to object to a TENS as a responsible authority,

they were unable to make a representation.

The Solicitor asked Mr Grieves if there had been any changes made to public safety of the premises since the Enforcement Notice had been served. He commented that whilst a number of improvements had been made, he was still not satisfied that they had been completed and they could not necessarily be proven and therefore the premises still posed a risk to the public on the grounds of public safety.

Summing up by the Applicant

Mr Ebulubu explained that following a visit from Mr Grieves on the 25th May 2012 the 5 guidelines based on the enforcement notice had been addressed and that through the management process he taken action on the concerns of public safety. He commented that he had addressed 80 percent of the concerns and issues raised by the Fire Service and that there was evidence of the work having been completed. My Ebulubu also explained that on the, his staff were to be trained on the 11th May 2012 and that the Fire Service visiting had been coincidental; extensive training had been given to staff members which included weekly fire training and holding a fire book. He stated that staff had caught up with all the deficiencies since the 11th May 2012.

Summing up by the Objector

Pc Bryan explained that the current license allowed the premises to open until 03:00 hours but that he had concerns about extending the license due to the fact that the premises was being used and flouting the licensing objectives and thus a review of the premises would go ahead. He also expressed concerns that Juliet Drummond, as the Designated Premises Supervisor was aware of the premises deficiencies but continued to ignore issues of and serious risk to public safety. He further stated that should the TENS be granted, they would want it documenting that they had voiced their concerns about the risks to public safety and asked the Committee to refuse the application for a TENS.

There being no further questions, the Sub Committee adjourned at 12.44pm to make a decision. The Solicitor was called for advice.

The Determination

The Sub-Committee considered the application for a Temporary Events Notice made by Mr Ebulubu to hold an event at Flux Nightclub (also know as Atlantix) at Bridge Street, Northampton. It was noted that the Police, represented by Pc Bryan had objected to the application on the grounds of Public Safety and had been supported by Northamptonshire Fire and Rescue Service, represented by Mr Grieves.

It was noted that there had been a Fire Enforcement Notice, served on Mr Ebulubu and his business partner Juliet Drummond, in relation to the premises and its deficiencies.

After hearing from Mr Ebulubu and the objections, it was appreciated that efforts had been made to comply with the Enforcement Notice. However, the Sub Committee were not satisfied that the Enforcement Notice had been fully complied with. The Sub Committee expressed serious concerns that should the event be allowed to go ahead as per the application, there would a serious risk to public safety and there would be a potential for injury to persons of worse. Therefore, it was felt that the licensing objective of Public Safety would be seriously compromised and thus the application for the Temporary Events Notice was refused.

<

The meeting concluded at 13.12pm

M7264