

NORTHAMPTON BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Monday, 22 October 2012

COUNCILLORS PRESENT: Councillors Malpas (Chair), Duncan and Ford.

OFFICERS: Mohammed Rahman (NBC Solicitor)
Louise Faulkner (NBC Senior Licensing Officer).

FOR THE APPLICANT: Martin Stevens.

FOR THE REPRESENTORS: Mr P Mallard – Senior Environmental Health Officer, NBC
Public Protection Department.
Mark Watson (resident) and Maria Aldis (resident).

1. OCCO, 15 DERNGATE, NORTHAMPTON

The Chair introduced the Members of the Sub Committee and welcomed everyone to the hearing.

The Senior Licensing Officer outlined the purpose of the hearing, which was to remove the “restaurant only” condition on the premises, a request for an increase in licensable hours with a 24 opening hour licence on the premises. The applicant had applied for the Variation to the Premises Licence on 31st August 2012.

The Sub-Committee were informed that an objection to the requested variation to the Licensing activities had been received from Mr N Polden, Senior Environmental Health Officer representing Northampton Borough Council (represented at the meeting by Mr P Mallard, Senior Environmental Health Officer, NBC). There were also 12 letters of objection to the application from residents living above the premises on the grounds that the licensing objectives were not being met.

Application for Variation to a Premises License

The applicant, Mr Stevens, explained that he wished to open a small, local restaurant with a bar for patrons after they had eaten, similar to those provided in Barcelona and Berlin. It was not his intention to open a bar or nightclub. Meals and drinks would be priced for a specific clientele. There would be no music, other than background music at a limited level, and no bar area or stand up drinking. The numbers using the restaurant in the basement would be 65, including a maximum of 12 persons on the ground floor. Application had been made to remove the present restaurant only condition on the premises as this was a pre-Licensing Act 2005 condition and prevented the sale of alcohol other than with meals. The applicant wished to sell alcoholic drinks to diners after they had finished their meals.

The application was for 24 hour opening as the applicant stated that an anomaly in the Licensing Act meant that he would potentially be in breach of the licence when opening the premises for cleaning and non-licensed activities unless a 24 hour licence was granted.

Questions to the Applicant

In response to questions asked by the representors and the Sub-Committee Mr Stevens stated that he anticipated the clientele of the premises would largely be couples. Tables would be for groups of 4-6 people, 8 at the maximum, and not large parties. The applicant

operated another premises in the town centre, which had a mixed age range power. There had been no problems with these premises and the applicant was a seasoned operator and did not anticipate any problems at this venue.

The applicant proposed to use crystal glasses at the premises. It was noted that this was permissible as the premises were not a bar/night club and there was no requirement to use polycarbonate glasses.

The applicant stated that he had not applied for a licence to have outdoor music. This was an error on the application form. This was confirmed by the Senior Licensing Officer.

The applicant stated that he had no intention to seek an extension to the licence, if granted. He did not expect the premises to operate at capacity at all times and would stop serving if the bar became too busy. He stated that there was little opportunity currently for diners to be able to have an alcoholic drink after they had finished their meal drink and he intended to provide that opportunity. It was noted that any future application for a licence extension would be subject to the same process as this application.

The applicant confirmed that it was his intention to manage both these premises and his other licensed premises. The two premises were close to each other and it intended to create a low risk, low management environment in both.

The applicant had a canopy at the front of the premises which could be used by smokers and it was not his intention to encourage smokers to use the area outside the rear of the premises where the door would be kept closed. The premises would also not sell drinks in bottles, which would reduce noise and waste, and would not store items in the car park area. Staff would escort people to the door when they were leaving and, if necessary, remind people of the need to be courteous to neighbours around the premises. The area in front of the premises would also be kept clean and tidy to promote the image of the premises.

It was confirmed that the numbers of customers who would be using the premises would be 65 therefore only one fire exit was needed and this would be the front door of the premises. The Fire Officer had not offered any objection to this proposal.

The applicant confirmed that deliveries would only take place between 10am and 6pm and that waste would be monitored and removed from the premises the following day.

The applicant stated that there was no intention to open the premises for 24 hours per day but that he needed to be able to use the premises for non-licensed functions outside licensing hours. He could understand residents' concerns over this issue and had contacted them to try to relieve their fears.

Representations by the Objectors

Mr Mallard, Senior Environmental Health Officer, stated that his objection was on the grounds of public nuisance. Although he believed that music within the premises could be controlled by condition, he was concerned regarding noise outside the premises due to smokers and dispersal. He did not believe there was any practicable way in which these issues could be controlled. He was also concerned that, although the application outlined tight controls, once the principle of the premises had been agreed any future operator might seek to have some of the conditions removed. He suggested a number of conditions which the Sub-Committee might wish to apply to the premises should the variation application be approved. The applicant indicated his willingness to accept those conditions.

Mr Watson (resident) referred to the noise and litter pollution, which he said could not be controlled outside the premises, and referred to the number of other licensed establishments in the vicinity, some of which had only recently opened. He referred to other anti-social issues, including people urinating outside the premises.

Mrs Aldis (resident) expressed concerns at the application for a 24 hour licence and that she would have expected diners to have left the premises after they had finished their meal. She also referred to the lack of car parking and the noise from car doors being slammed which created nuisance. She also expressed concern at the rubbish which would be generated by the premises and which would need to be wheeled away. The applicant stated that he would be happy to accept conditions that there should be no discharge into the rubbish bins at night and that they should not be stored in the car park. He stated that he envisaged parking being in St John's car park.

Mrs Aldis was concerned that should the applicant move on the premises might be developed into a night club by the next operator. The applicant stated that the licence would not be appropriate for a bar or night club operator with the conditions which had been suggested.

Mrs Aldis asked how many other bars and restaurants in the town centre had flats above them. The Senior Licensing Officer stated that she did not have that information as the Council was not required to keep it, however a number of residential properties in the town centre were located close to licensed premises.

Questions to the Objectors

Mr Mallard confirmed that he was not aware that any issues had been raised in relation to noise, nuisance, capacity and smoking at the premises under the previous operator.

The applicant stated that the latest time for serving hot food would be 1.00am and 1.30pm for drinks at the premises. He would require a buffer zone of approximately twenty minutes for customers to leave the premises after that.

Summing up by the Representors

Mr Watson stated that the main concerns were the application for a 24 hour licence and the potential noise from the premises. He stated that it was not necessary to have a 24 hour licence to employ a cleaner when the premises were not in operation. He was also concerned that in the future there could be a different form of licensed premises on the site.

Summing up by the Applicant

The applicant stated that the premises were currently licensed but that he wished to remove the grandfather condition which did not apply to other restaurants in the area. He would be happy with an extension of the operating hours to 1.30am and a thirty minute buffer zone for dispersal. He considered that the restaurant would add to the area and not detract and that suggested conditions would protect the interests of residents.

There being no further questions, the Sub Committee adjourned at 12.20pm to make a decision. The Solicitor was called for advice.

The Determination

The Sub-Committee had considered the application to vary a Premises Licence for the property Occo, 15 Derngate, Northampton made by Mr Stevens (the applicant).

The Sub-Committee had noted that there were representations made by Regulatory Services, Mr Paul Mallard, on the grounds of Public Nuisance.

There were also a great number of written representations from residents in the local area on the same grounds. The Sub-Committee had read and considered all the written representations and heard from Mr Mark Watson and Mrs Marion Aldis.

The Sub-Committee have considered the recommendations of Regulatory Services and noted that Mr Stevens had liaised with them and offered some conditions.

The Sub-Committee noted concerns raised by the residents, such as the fact the application for the opening of the premises is for 24 hours and that revellers from other premises use this premises as a stopgap.

The Sub-Committee had also noted that there were no objections raised by the Police or Fire Authority, therefore, the Sub-Committee had to accept that there were no concerns from these authorities.

As such, the Sub-Committee had decided to grant the application as requested but with some conditions:

- The Restaurant Only condition be removed;
- The timings as requested were accepted but the opening terminal hour shall be 2am rather than 24 hours;
- The capacity of customers be limited to 65 persons, with no more than 12 persons being allowed to occupy the Ground Floor;
- Customers to be only served whilst seated at a table;
- Recorded music shall be played at a background level only and noise levels shall be controlled by means of a compressor-limiter under the control of either the DPS or anybody who is authorised by the DPS;
- No dance floor or dancing;
- No DJ;
- No drinks to be taken outside;
- No seating outside;
- A portable ashtray must be placed outside;
- Bins must never be emptied after 7pm
- Deliveries must never be taken before 10am and after 6pm;
- All customers will be escorted up to the door and reminded to consider neighbours

The Sub Committee felt it is appropriate to place these conditions in order to ensure the Licensing Objectives, in particular the prevention of Public Nuisance, were met and promoted.

The Sub-Committee appreciated there were a lot of concerns raised by objectors about either the applicant applying to extend the licence further or selling the business on to someone who has a completely different business model.

The Sub-Committee would like to remind everyone that if there were concerns that the

Licence was not being adhered to and they had evidence of this, then they could apply for a Review of the Premises Licence.

Similarly, if someone wished to change the terms of the Licence, they MUST apply for a variation and would be subject to a process, which included consultation with all relevant authorities and members of the public.

All parties had the right to appeal the Sub-Committees decision to the Magistrates Court within 21 days of the date of decision.

The meeting concluded at 1:15 pm