

NORTHAMPTON BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 25 March 2014

COUNCILLORS PRESENT: Councillors Duncan and Sargeant

OFFICERS: Bill Edwards, Senior Licensing Officer
Mehboob Kassam, Solicitor
Nathan Birch, Democratic Services Officer

FOR THE APPLICANT: Simon Moore

1. WELCOMES

The Chair welcomed everyone to the meeting and introduced the officers present.

2. DECLARATIONS OF INTEREST

None

3. TEMPORARY EVENT NOTICE - ICE LOUNGE, BRIDGE STREET, NORTHAMPTON

Introduction by the Licensing Officer

The Senior Licensing Officer outlined the purpose of the hearing and explained that on 11th March 2014, a Temporary Event Notice (TEN) was received in respect of Ice Lounge, 16 Bridge Street, Northampton. The applicant was Mr Piotr Frackowiak. Mr Frackowiak was not present today, but Mr Simon Moore, managing Director of the business was present. The Senior Licensing Officer explained that the statutory notice (5 working days) of Mr Moore attending the hearing had not been received.

The TEN was to extend the licensing hours from 0300hrs to 0600hrs on the morning of March 29th 2014. No description of the event was included in the Notice. The premises would be open to the public during those hours.

An objection was received from Northamptonshire Police, on the ground of maintaining the licensing objective of the Prevention of Crime and Disorder as the premises licence is to be reviewed due to evidence that the premises is linked to money laundering.

With the Chair's permission Mr Moore would be given the opportunity to make the application. This will be followed by any questions, led by the Chair that the committee may wish to ask Mr Moore.

PC Bryan, representing Northamptonshire Police, would present the objection to the application to the Sub-Committee, supported by Sgt Worthington.

This will again be followed by any questions, led by the chair, that the Sub-Committee may wish to ask of Northamptonshire Police.

Each party would be given time in which to present their case and would be given permission by the Chair to question the other party.

There will then be a summing up on behalf of the applicant and the objector before the Sub-Committee would retire to make their decision.

In response to a question from the Chair the Senior Licensing Officer clarified the regulation regarding the appearance of third parties at the hearing and Mr Moore explained that Mr Frackowiak had been taken ill last night. The Sub-Committee agreed to proceed and allow Mr Moore to address the Sub-Committee on behalf of the applicant.

Representation by the Applicant

The Chair invited Mr Moore to address the Sub-Committee. Mr Moore noted for the Sub-Committee the Premises Licence Review due to take place later in the week, but stated that this did not mean those currently involved in running the premises had done anything wrong. Mr Moore believed that with the assistance of his legal representative matters would be much clearer after the Premises Licence Review hearing. He stated that those who the Police believed to be involved in the running of the Ice Lounge were no longer.

In response to questions from Northamptonshire Police Mr Moore confirmed that the event to take place was being run by two national music promoters and DJ's, Joe Andrews and Jay Piling.

Representation by a Responsible Authority – Northamptonshire Police

The Chair invited PC Bryan to address the Sub-Committee. PC Bryan asked that the Sub-Committee note his concerns that the meeting may be in breach hearings regulations in respect of the lack of notice given by Mr Moore in addressing the Sub-Committee. He also added that the application had no detail of the planned event. The Police would usually research promoters with other local forces and the Metropolitan Police Clubs Unit. In this case they had not been able to do so.

In response the Chair noted the concerns, but believed in the interests of fairness and to facilitate information he had been happy to allow Mr Moore to address the Sub-Committee.

PC Bryan outlined the Police objection to the TEN, on the ground of maintaining the licensing objective of the Prevention of Crime and Disorder. PC Bryan explained that the Premises Licence had previously been in the name of Joseph O'Neil. This had subsequently been transferred to the Ice Lounge Ltd, a business which named Mr O'Neil as a Director and Company Secretary. There had been a variation of the Designated Premises Supervisor (DPS) to the applicant, Piotr Frackowiak, in August 2013. Following a lengthy investigation Mr O'Neil had been convicted of Class A drug offences at Leicester Crown Court and sentenced to 20 years imprisonment in February 2014. The Police had entered into evidence at the trial and contended again here that the Ice Lounge had been purchased with the proceeds of Mr O'Neil and others crimes and that the premises were used to launder proceeds of drug sales.

PC Bryan outlined the Proceeds of Crime Act 2002 (PoCA). It was accepted that the changes PoCA brought in regarding reporting cash transactions had made it more difficult for criminals to spend the proceeds of their crimes directly. To aid with this the use of a cash transaction business, such as a bar, to launder the proceeds of crime had become more usual. At the time Mr O'Neil purchased the Ice Lounge (known then as Bar Soviet) he had no discernable income and the business was made large losses. The Police believed that through Mr O'Neil the premises are still used to launder illegal monies and the issuing of a TEN would extend the hours allowing further illegally obtained cash to be added to the takings and laundered.

PC Bryan drew the Sub-Committee's attention to the Licensing Act 2003 Statutory Guidance, S182 regarding crime, including money laundering. While it was not the Sub-Committee's role to establish guilt, but consider the Licensing Objectives, in this case guilt had been established at the conclusion of the court case. It was explained that the Police had not objected to previous licence applications or called for a review until the conclusion of the court case so as not to prejudice those prosecutions. The guidance itself also states that the Sub-Committee should treat the court findings as undisputed evidence. This evidence itself should support revocation, but in the matter today should prevent the TEN proceeding.

PC Bryan also drew the Sub-Committee's attention to Blackpool Council v Howitt (2008) in which the judge upheld the Secretary of State's submission that the word "and" in this context should be read to mean "or". The effect being that crime or disorder could be considered separately. Recent changes to the guidance also meant that the threshold for considering balance of probability had been lowered.

In response to a question from the Sub-Committee PC Bryan advised that the courts are currently considering confiscation orders, including the Ice Lounge, following Mr O'Neil's conviction.

Summaries

Mr Moore explained that he was unable at this point to prove Mr O'Neil was not involved. He believed Mr O'Neil remained the leaseholder of the premises. He added that he believed that the Ice Lounge Ltd had ceased trading 18 months ago and he maintained a licence to occupy the premises.

PC Bryan stated that he believed Ice Lounge Ltd was still active, was therefore the Premises Licence Holder and that Mr O'Neil maintained close ties with the business.

Decision

The Licensing Sub-Committee was of the unanimous view to refuse the application for Temporary Event Notice, Ice Lounge, Bridge Street (28th – 29th March) and serve a counter notice.

The Sub-Committee had taken into account a number of factors, namely:

- Maintaining the Licensing Objective of the Prevention of Crime and Disorder.
- The guidance contained in S182 of the Licensing Act 2003.

The reasons for the decision are that:

- Mr O'Neil having been convicted of drug related offences in February 2014, was and continues to be a Director and Company Secretary of Ice Lounge Ltd, the Premises Licence Holder.
- The Sub-Committee accepted that, on the balance of probability, the Ice Lounge premises have been engaged in activity in breach of the money laundering regulations.

The Sub-Committee also noted the incomplete application regarding the nature of the event to be held. The Sub-Committee received legal advice in terms of the legal test to apply to this matter.

The meeting concluded at 10:41 am