

NORTHAMPTON BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 17 April 2014

- COUNCILLORS PRESENT:** Councillors Malpas (Chair), Eales and Stone
- OFFICERS:** Mehboob Kassam (Lawyer)
Louise Faulkner (Senior Licensing Officer)
Nathan Birch (Democratic Services Officer)
- FOR THE APPLICANT:** Sgt Mark Worthington
PC David Bryan
- FOR THE REPRESENTORS:** Simon Thompson (Owner)
Cheryl Stanford-Forbes (Owner)
Ben Williams (Lawyer)
Hamid Delbari (Designated Premises Supervisor)
Liam Warren (Premises Security)
Morris Young (Premises Security)

1. WELCOMES

The Chair welcomed everyone to the meeting and introduced the Councillors and Officers present. Mr Williams introduced those present from Elysium.

2. DECLARATIONS OF INTEREST

None

3. PREMISES LICENCE REVIEW - ELYSIUM, HORSESHOE STREET, NORTHAMPTON

Introduction

The Chair invited the Senior Licensing Officer to introduce the report. She explained that on 24th February 2014 Northampton Borough Council had received an application for a review of the Premises Licence Number PL0427 in relation to Elysium, at 63 Horseshoe Street, Northampton. The application had been submitted by Northamptonshire Police.

This application for a review had been submitted on the grounds of two of the Licensing Objectives:

- 1) The Prevention of Crime and Disorder.
- 2) Public Safety

Evidence had been provided with the application, by the Police, to support this review and this had been circulated to all parties concerned.

The Senior Licensing Officer explained that Northamptonshire Police were represented by Sgt Mark Worthington, who would address the sub-committee first and put forward the case for the review of the licence. This would be followed by any questions that the sub-committee may wish to ask the applicant, led by the Chair. The respondent would then be

invited to ask any questions.

She added that the respondent was represented by Ben Williams from Kings Chambers, would then be given the opportunity to answer the application for the review, followed by any questions the sub-committee may wish to ask. The two Premises Licence holders Simon Thomson & Cheryl Forbes Stanford were also in attendance. The applicant would then be invited to ask any questions. There would be a summing up by the applicant and the respondent before the sub-committee retired to make their decision.

The Senior Licensing Officer had circulated by consent of all parties an information sheet detailing those premises currently operating post 03:00. This was in respect of the last permitted hours for the sale of alcohol and not the opening hours of the premises. The sub-committee was asked to note that Lost was in fact not operating at present.

Application for Review

The Chair invited Sgt Worthington to present the application for Review on behalf of Northamptonshire Police. He explained that Elysium was a nightclub with a capacity of 610 persons with the main entrance on Horseshoe Street, Northampton.

Sgt Worthington apologised for the order of the evidence bundle. It appeared that pages 6 to 97 are in reverse order. He explained that some incidents listed in the original review submission had no crimes associated with them and these were taken from the daily incident logs and only feature in the Police database print at pages 78 to 67 of the bundle.

Pages marked I in the bundle at p.66 – 22 relate to a violent episode in the club in Sept 2012. This incident occurred on Sun 2nd Sept, at 04.50 and was a large fight where weapons (including knuckle dusters & bottles) were used and serious injury resulted. This incident had prompted the Police to consider a review and even an expedited review, however there was a reasonable working relationship with the Club and the security company involved, so a meeting had been called to discuss the issues and how best they can be mitigated. The results of that meeting were detailed on P.66 of the evidence bundle. Agreement was reached at the meeting on how the operation of the club should change and for the next few months there were no incidents of any significance.

In December 2012 things again started to deteriorate. Sgt Worthington highlighted the following incidents:

16th Dec 2012. 04.00

Male on the dance floor is punched several times to the head causing a bleeding wound. Attention to Log 23 of the crime report for this incident at page 10 of the evidence bundle; there were issues with the CCTV in the premises.

1st Jan 2013 06.39

A group of 5 heavily intoxicated males were ejected from the club and refused to leave throwing a bottle at the front door causing it to smash, racially abused staff & door staff. No

prosecution supported by anyone at the club including Mr Delbari, the Designated Premises Supervisor (DPS) who was one of the victims.

25th Jan 2013 03.32

There was a report of an assault outside the venue. A male was identified to police as being responsible, however no formal complaint was made

17th Feb 2013 02.55

A person was assaulted by being punched in the head

Log 11, page 113 of the bundle again mentions CCTV not being of sufficient quality to make any identification.

21st Feb 2013 02.00

There was alleged sexual touching of a female in the garden area: this related to a manager from another bar allegedly assaulting one of his own members of staff. Again CCTV was not of sufficient quality to support the allegations made by the female.

21st Mar 2013 03.26

Report of a fight involving 6 or 7 people.

10th May 2013 05.11

Following a student night at the club large numbers of attendees at that event congregates in Gold Street and fights break out we have CCTV footage of this incident. A large number of Police resources had to be deployed from elsewhere around the town and county to deal with this and there were pockets of disorder around the town for about an hour after the closure of the club. A meeting with management & security followed this incident

18th May 2013 05.04

Male injured inside the club – he was semi-conscious. Whilst ambulance crew are attending this male at 5.28 a second male is assaulted sustaining a fractured nose.

8th Jun 2013. 04.35

Door staff call police as 2 females are fighting. Fight in the toilets. Arrests result.

30th Jun 2013 02.19

Door staff refused entry to violent drunk male.

4th Aug 2013 03.00

Male punched to the face in smoking area. Suffers a cut to cheek which bleeds profusely

17th Aug 2013 05.05

Security staff had detained a male who had damaged the toilets.

24th Aug 2013 03.59

Disturbance between 2 groups of males believed to be from London threatening violence to each other.

3rd Nov 2013 04.50

Persons punched in the face by one of a group of 3 males required hospital treatment – broken nose. CCTV was again of insufficient quality.

30th Nov 2013 05.00

Person punched in the face then kicked when fell to the floor.

1st Dec 2013 05.00

As a group leave the club a male is assaulted and receives facial and head injuries amounting to Actual Bodily Harm (uncooperative victim)

22nd Dec 2013 05.30

Person gets into an argument inside the club and is pushed over. Staff at Elysium did not tell officers who 'offender' was

22nd Dec 2013 06.26

Male assaulted inside the club – pushed over

30th Jan 2014 04.16

Female assaulted by male who drags her across the dance floor by her hair.

– admitted to being drunk and had a bottle of Sambuca – against agreement of Sept 2012 meeting

1st Feb 2014 04.52

5-6 person fighting inside the club, parties separated by door staff and ejected into street where fight continues resulting in male being stamped on in the head, being hit with a bottle and Grievous Bodily Harm injuries being inflicted.

The investigation of the incident on 1st Feb 2014 implied that at the time it occurred licensable activity was occurring inside the club (outside the permitted hours), and due to this and Police concerns in respect of how the premises was being managed, plain clothed Police Officers were deployed within the premises on Friday the 8th and Saturday the 9th of February 2014, on both occasions the officers were able to purchase alcohol after 04:00am and regulated entertainment was still taking place (supporting statements can be provided). No Temporary Event Notice was in place on either of these dates to cover this extension of licensable activity

20th Feb 2014 02.35

A report from a member of the Public that he had seen a firearm inside the club was received. Police respond with armed officers attending, however no firearm was located.

Sgt Worthington reported that since the application for review there had been further incidents:

22nd Feb 2014 04.00hrs

Male knocked unconscious following an assault in beer garden.

1st March 03.00 and 04.00

A&E data had shown two separate assaults in the club.

13th March 2014 03.40

Drunk male tries to enter and is refused. Police called to assist staff and man arrested for being drunk and disorderly.

Following these further incidents on 3rd April the Police had written to the Club to advise them they had been placed in the Red Category in terms of the traffic light system for offences at the premises in the past 6 months.

It was reported that in addition to the above offences since September 2012 there have been 30 reported thefts (handbags, mobile phones etc) however the Police were not relying upon that information for the review as it is recognised that sometimes these reports are fictitious to secure insurance pay outs. The Police however did not believe that 30 was a significant number of reports.

Sgt Worthington pointed out that all but four of the incidents he had highlighted occurred after 03.00.

The Police felt that as a result of the above incidents and the fact that they had attempted to work with the club to address the issues without success, the premises license needs to be brought to the attention of the licensing sub-committee. The Police asked that the Licensing committee take the view that the later opening hours of this club do not promote the licensing objectives, especially those of Crime & Disorder and Public Safety, and in fact undermined those objectives. The Police invited the sub-committee to reduce the trading hours, with all licensable activity to cease at 03.00 and the premises closed to the public at 03.30 hours and the conditions outlined in the review to be put in place.

In response to questions from the sub-committee Sgt Worthington supplied the following information:

- The Red/Amber/Green warning system of a letter sent to licensees was a local initiative. Points were awarded for offences, ranging from 1 to 5, with Elysium being one of only two premises to have reached a Red rating.
- These were the only premises open beyond 04:00.
- The business was responsible for controlling behaviour in and around their premises, including assaults with bottles and glasses.
- The Police believed that the scanner system moderated behaviour due to all customers being aware that their identity was known to the business operator. The cost of the basic equipment was £4,000, of which £1,000 would be covered by the Police and £1,000 by Pub Watch.
- Members were not being asked to consider any other premises or the wider implications of any conditions, but merely the review before them.
- There were a high number of incidents, but few arrests. This was due to a number of factors including, poor CCTV and a lack of cooperation by victims, some of who were employees of Elysium.
- The serious assault, occasioning Grievous Bodily Harm on 1st February 2014, had

been the trigger for the call for review.

- The Police believed that clearing the maximum capacity of 610 in 30 minutes would be safe.

In response to questions from Mr Williams Sgt Worthington supplied the following information:

- The Police accepted that there had been recent improvements to the CCTV system included additional cameras.
- Representatives of Elysium had attended Pub Watch meetings since 2001 and they had never expressed any resistance to potential changes suggested by the Police.
- There had been a change of door personnel recently.
- There had been fewer incidents since the review papers had been issued. This however was not unusual as licence holders tended to wish to reduce incidents in the run up to any hearing.
- Contrary to the licence holder's view, the Police believed the incident when a female was dragged by the hair across the dance floor was avoidable. The offender admitted to being drunk and having a bottle of Sambuca in his hand at the time. Sales in glass containers, or large amounts of spirit, had been contrary to the agreement reached in September 2012.
- The owners admitted trading beyond 04:00 on a regular basis and by reducing trading hours and alcohol sales there would be a reduction in violence.
- The hearing was only to consider the review before the sub-committee.
- It was confirmed that the £1,000 Police contribution towards the cost of a scanner was a gift with no repayment required.
- One venue in Northampton was already using a scanner and another had placed an order for one.

The Chair invited Mr Williams to make his representation on behalf of Elysium. Mr Williams believed the incidents outlined had the flavour of bad management, but were in fact due to the lateness of the hour, after 04:00, and the levels of intoxication. The lateness of the hour and intoxication he believed would always be the main issue. The owners believed that the simple enforcement of the 04:00 final sales would reduce the number of incidents. Mr Williams stated that 03:00 – 05:00 was the busiest time at Elysium and if they had to close earlier they would lose their competitive edge. This would make it difficult to maintain a business with high staff costs.

With regard to the conditions Mr Williams stated his clients would accept a scanner to promote the licensing objectives and moderate behaviour. The owners were positive and confident that with conditions, they could continue to trade until 04:00 with a positive effect on behaviour. The majority of incidents were caused by a small minority and the business had been active in barring those responsible. Mr Williams accepted that often a review prompts change in licensed business, but in this case change had been ongoing and positive for some time. When considering the proposal to reduce the trading hours he asked the sub-committee to have regard to proportionality. The business saw a large increase in trade after 03:00 and the loss of hours would affect this.

Mr Williams went through the proposed conditions individually. Condition 1 regarding door

staff may be difficult to achieve, but the business would be happy to continue with their current arrangement. This meant that when trading the number of door supervisors present was as follows: 3 from 23:00; 5 from 00:00; 6 from 01:00. Conditions 2 to 6 inclusive were acceptable. Regarding proposed condition 9, he believed 03:30 would be more appropriate.

In response to questions from the sub-committee Mr Williams supplied the following information:

- The CCTV had been improved.
- The business did call for Police assistance, this included last weekend when counterfeit notes had been detected.
- He believed the conditions would assist in reducing the number of incidents and prevent the club from being seen as a soft touch.
- One of the serious incidents had been perpetrated by individuals from outside Northampton. They had been arrested by the Police on the motorway returning home.

In response to questions from the Police Mr Williams supplied the following information:

- All those banned from the premises are referred to the Pub Watch scheme. The scanner system may be better if across the whole of the town.
- At their maximum door supervisors were located with a minimum of two on the main entrance, one in the garden and three around the venue.
- The club did have a dress code which the door staff managed.
- The owner of the business and licence holder is present 6/7 nights a week.

Summaries

Applicant – Northamptonshire Police

Sgt Worthington summarised the case on behalf of the Police. He reiterated that that no other premises allowed admission after 03:00. By introducing this condition the Police believed there would be a reduction in movement around the town. The Police were happy to extend a glass bottle “Champagne Service” to a VIP area of the club. The Police had tried to work with the business, but he asked the sub-committee to consider the evidence, accept the need for review and impose the conditions outlined.

Respondent – Licence Holder

Mr Williams summarised the response on behalf of the Licence Holder. He accepted that other stopped entry at 03:00, but they were bars and Elysium should be viewed as a nightclub and therefore an exception. He reiterated that the last hour of trading was particularly important to the business. The fact that all those involved with the running of Elysium were present today showed how seriously they took the issues raised. He was confident the improvements made would continue.

11:16 - 12:22: The sub-committee adjourned to consider their decision.

Decision

RESOLVED:

Having regard to the Licensing Act 2003 and the guidance thereunder; the Licensing Sub-Committee considered the detailed representation of police, the premises licence holder and their legal representative, the following decision was reached:

The review was called by a responsible authority namely the police under the licensing objectives of the prevention of crime and disorder and public safety.

The committee decided unanimously that on a balance of probability the current operation of the premises is not promoting the licensing objective of the prevention of crime and disorder and public safety.

The Committee considered that it was appropriate and proportionate to modify the conditions of the licence as follows:

1. SIA registered door staff be deployed from 23:00 hours on Friday and Saturday or any other night when the premises is open when special events are being hosted or promoters are using the premises in the following numbers:
 - 3 door staff at 23:00
 - 2 extra door staff at 24:00
 - 1 extra door staff at 01:00
2. A CCTV System which conforms to the provisions of the Data Protection Act 1998 is installed within the premises. The system will cover all public areas. There will be a camera sighted so that it covers the point of entry and images are of sufficient quality to afford facial identification of persons entering the premises. The CCTV system will record all images from 30 minutes before the public are admitted to 30 minutes after the last customer leaves. Images will be retained for at least 28 days. At all times the premises are open to the Public a suitably trained member of staff will be available to provide copies of the recorded footage on suitable media (compact disc/USB stick - to be supplied by the premises) to a Police Officer or authorised officer, at reasonable request.
3. The designated premises supervisor or duty manager will maintain a register indicating the name of person in charge of the management of the premises, door supervisors working including first and last names and full 16 digit SIA numbers, who are present when the public are admitted. Further the register will contain detail regarding any incident relevant to the four licensing objectives. This register shall be produced immediately on the request of an authorised officer.
Any register required under this condition will be
 - accurate and up to date
 - bound and consecutively numbered
 - retained in a safe place on the premises for a minimum of 12 months after the date of the last entry or such longer period as required
 - readily available for examination by a Police Officer or authorised Officer
4. The DPS will inform the Police Licensing officer at least 14 days before any promoter is to use the premises. The following details will be supplied:
 - The full name, date of birth & home address of the promoter (including any 'stage

names').

- The date and times the event is to take place
 - Anticipated numbers attending
 - Details of how and where the event is to be advertised
 - Any additional security measures identified
5. Notices will be displayed at the exits requesting customers to leave the premises quietly and to respect the neighbours when using the outside areas.
 6. No events at the premises will be advertised upon any street furniture or building (other than the premises itself), unless specifically authorised by the local authority or owner of the building to which the advertisement is attached.
 7. No admissions to the premises after 03.00hrs, when the premises is open to the public for licensable activity. (with the exception of staff members who are employed and on duty at the premises)
 8. Hours open to the public reduced from 05.00 to 04.30 and other licensable hours to remain the same i.e. 04.00.
 9. The opening hours from Monday to Saturday be changed from 05:00 to 04:30.
 10. The licensable activities and opening times for Sunday be unchanged
The committee received legal advice in terms of:
 - 1) The legal test to be applied
 - 2) The four licensing objectives
 - 3) The options available to the committee
 - 4) Section 182 guidance

The reasons for the decision are:

- 1) It was noted that the premises licence holder and its representatives had agreed in the committee to the modified conditions 1 – 6
- 2) The change to the last admission time being 03:00 (whilst it was noted in committee that the premises licence holder offered 03:30) because the committee felt that this would facilitate good management and be in line with neighbouring licensed premises and prevent disorder by way large numbers leaving bars for the Elysium for example
- 3) The closing time changed on public safety grounds to 04:30 to minimise incidents post 04:00 which is when the bulk of the crime and disorder / public safety concerns were more concentrated

Any person's aggrieved by this decision has a right of appeal to the magistrate's court no later than 21 days from the date of receiving the decision.

The meeting concluded at 12:27 pm