

DECISION RECORD

Licensing Act 2003 (all section references in this record are references to the Act)

LICENSING AUTHORITY FOR BRISTOL

LICENSING (HEARINGS) SUB COMMITTEE MEETING HELD ON 5 June 2014

AGENDA TITLE

Conduct of a hearing into an application for the GRANT of a licence made by Hyde And Co Leisure Limited in respect of Bambalan, Colston Tower Podium Level, Colston Street, Bristol BS1 4UX

MEMBERS PRESENT:

1. Councillor Payne (Chair)
2. Councillor Davies
3. Councillor Threlfall

OFFICERS PRESENT

Naseem Aziz, Legal Advisor
Abigail Holman, Licensing Policy Adviser
Allison Taylor, Committee Clerk

REPRESENTATIONS RECEIVED FROM:

Heather Clarke
Insp. Keith Rundle

Applicants, responsible authorities and interested parties

PARTIES & REPRESENTATIVE (IF ANY) in attendance

Applicant

Nathan Lee – Applicant
Jason Mead – Applicant

Chief Officer of Police (s.13(4)(a))

Insp K Rundle

Fire Authority (s.13(4)(b))

Not a party to this hearing

Health and Safety Enforcing Authority (s.13(4)(c))

Not in attendance but the Committee had regard to the representation of Heather Clarke

Local Planning Authority (s.13 (4) (d))

Not a party to this hearing

Environmental Health (Pollution Control) (s.13 (4) (e))	Not a party to this hearing
Social Services Authority (s.13 (4) (f))	Not a party to this hearing
Any other relevant Licensing Authority (s.13 (4) (g))	Not a party to this hearing
Weights and Measures Authority (s.13. (4) (i))	Not a party to this hearing
Relevant persons who are persons living in the vicinity of the premises (s.13 (3) (a))	Not a party to this hearing
Relevant persons who are a body representing persons living in that vicinity (s.13 (3) (b))	Not a party to this hearing
Relevant persons who are persons involved in a business in that vicinity (s.13 (3) (c))	Not a party to this hearing
Relevant persons who are bodies representing persons involved in such businesses (s.13 (3) (d))	Not a party to this hearing

RECORD OF HEARING:

The authority made a contemporaneous hand written (long hand) record of the hearing. Any party wishing to receive a typed transcript should contact Councillor Support Officer (Democratic Services, City Hall, College Green, Bristol) for information regarding the arrangements for transcribing and any charge levied where the authority produces the same. Set out below is a summary of the reasons for the decision, in the event of an appeal the Licensing Authority reserves the right to elaborate on the reasons.

DECISION MADE:

- 1.** That the application be GRANTED subject to the conditions on the licence as modified as follows:
 - (i) The addition of conditions as detailed in Annex 3 below
 - (ii) The mandatory conditions included in the licence under section 19 and 21 of the Act
- 2.** That the GRANT here agreed will take effect immediate effect.
- 3.** That in accordance with Section 23 of the Act a duly authorised officer be directed to give Notice of determination to:
 - (a) Hyde And Co Leisure Limited
 - (b) The Chief Officer of Police
 And the following bodies that made representations:
 Heather Clarke
 Insp. Keith Rundle

Accordingly the licence is to be issued subject to the following

Licensable activities authorised by the licence and the times the licence authorises the carrying on of licensable activities

STANDARD TIMES

Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities.	
Sale of Alcohol	Thursday 12:00 - 00:00
Sale of Alcohol	Sunday to Wednesday 12:00 - 23:00
Sale of Alcohol	Friday and Saturday 12:00 - 01:00
Live Music	Friday and Saturday 23:00 - 00:00
Recorded Music	Thursday 08:00 - 00:00
Recorded Music	Sunday to Wednesday 08:00 - 23:00
Recorded Music	Friday and Saturday 08:00 - 01:00
Late Night Refreshment	Thursday 23:00 - 00:30
Late Night Refreshment	Sunday to Wednesday 23:00 - 23:30
Late Night Refreshment	Friday and Saturday 23:00 - 01:30

Supply of alcohol authorised for On and Off the premises

The opening hours of the premises	
Thursday	08:00 - 00:30
Sunday to Wednesday	08:00 - 23:30
Friday and Saturday	08:00 - 01:30

NON STANDARD TIMINGS

Supply of Alcohol, Recorded Music, Late Night Refreshment and Opening Hours:
From the end of permitted hours New Year's Eve until the start of permitted hours on
New Year's Day.

Annex 1 – Mandatory conditions

1 Mandatory condition Licensing Act 2003 - Door Supervision
Where this licence includes a condition that at specified times one or more individuals

must be at the premises to carry out a security activity, each such individual must:
(a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
(b) be entitled to carry out that activity by virtue of section 4 of that Act.
(As required by s21 Licensing Act 2003 as amended by the Violent Crime Reduction Act)

2 Mandatory condition Licensing Act 2003 - Supply of Alcohol

1.No supply of alcohol may be made under the premises licence-

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory Licensing Conditions - Additional conditions imposed by Policing and Crime Act 2009

Conditions numbered 1,2, and 3 shall be in force as of the 6 April 2010

Conditions 1, 2, 3 and 5 shall not apply where the premises licence authorises sale by retail or supply of alcohol only for consumption off the premises.

1. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

Conditions numbered 4 and 5 shall be in force as of the 1 October 2010

4.(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5. The responsible person shall ensure that-

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

Annex 2 – Conditions consistent with the Operating Schedule

Conditions consistent with the operating schedule application submitted on 31 March 2014

1 Further Details

Live music: limited to indoors only

Amplified and unamplified live bands and acoustic singers.

Recorded music: limited to indoors only

Late night refreshment: provision shall take place both indoors and outdoors.

Hot food and beverages after 23:00hrs. There shall be no take away from the building after 21:00 hrs.

2 CC01 - CCTV shall be in use at the premises.

(i) Where a CCTV system is to be installed, extended or replaced, it shall be to an appropriate standard as agreed with the Licensing Authority in consultation with the Police. Where a CCTV system is to be installed it shall be fully operational by commencement of this licence. Where existing CCTV systems are to be replaced or extended the replacement or extension to the system shall be concluded by commencement of this licence and the system be fully operational on that date.

(ii) The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.

(iii) The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days. This image retention period may be reviewed as appropriate by the Licensing Authority

(iv) The correct time and date will be generated onto both the recording and the real time image screen.

(v) If the CCTV equipment (Including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable. This information shall be contemporaneously

recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.

(vi) The premises Licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of an authorised officer of the Licensing Authority or a constable.

(vii) There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during all times that licensable activities take place.

3 NP03 - Except for access and egress all doors and windows shall be kept closed during periods of entertainment associated with the Premises Licence.

4 NP13 - Noise Limiting devices

If officers of the City Council of Bristol witness noise at a level that causes unreasonable disturbance to the occupants of any properties in the vicinity then a noise-limiting device shall be used in relation to all sound amplification equipment used in conjunction with the premises.

5 NP39 (amended) - (i) The noise limiting device shall be installed and set at a level approved by the Council through an authorised officer of the Pollution Control Team within 1 month of notification, for its requirement, from the Licensing Authority.

(ii) The noise limiting device shall be properly secured so that it can not be tampered with.

(iii) The noise limiting device shall only be reset with the authority of the Council through an authorised officer of the Pollution Control Team.

(iv) If deemed necessary, the noise limiting device shall be reset to a level approved by the Council through an authorised officer of the Pollution Control Team within 14 days of notification.

6 SA01 - All staff to be trained in the prevention of underage sales to a level commensurate with their duties. All such training to be updated as necessary, for instance when legislation changes, and should include training on how to deal with difficult customers. The training should be clearly documented and signed and dated by both the trainer and the member of staff receiving it. The documentation shall be available for inspection on request by an authorised officer of the Licensing Authority or a constable.

7 SA02 - (a) An approved proof of age scheme shall be adopted, implemented and advertised within the premise such as 'Challenge 25' whereby an accepted form of photographic identification shall be requested before any alcohol is sold to any person who appears to be under 25 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.

(b) Publicity materials notifying customers of the operation of the Challenge 25 scheme shall be displayed at the premises, including a Challenge 25 sign of at least A5 size at the entrance to the premises and where practicable at each point of sale.

8 SA03 - The premises licence holder shall require the designated premises supervisor, or in his/her absence other responsible person, to keep an 'incident/refusals logbook in a bound book in which full details of all incidents are recorded. This shall include details of any refused sales and shall give details of the persons involved, incident description, time and date, actions taken and final outcome of the situation. This shall be

completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The logbook is to be kept on the premises at all times and shall be produced to an authorised officer of the Licensing Authority or a constable when required.

9 WM10 - Odour from any flue used for the dispersal of cooking smells serving the building shall not cause nuisance to the occupants of any properties in the vicinity.

Recommendation: It is recommended that any flues for the dispersal of cooking smells shall either:

(i) Terminates at least 1 metre above the ridge height of any building in the vicinity, with no obstruction of upward movement of air or:

(ii) Have a method of odour control such as activated carbon filters, electrostatic precipitation or inline oxidation.

10 A 30 minute drinking up time on top of the last permitted sale of alcohol to allow customers to use the toilet facilities and disperse from the premises.

11 A substantial food menu shall be available throughout the trading day (subject to a permitted wind-down period before the terminal hour of service).

12 There shall be no take away food from the building after 2100 hours.

13 Alcohol off sales shall remain in the building and not for take away.

14 Other than in the areas designated for drinking, no persons shall be permitted by the designated premises supervisor or persons acting under his/hers authorisation to remove alcohol from the premises in an open container.

15 The premises shall employ door supervisors (only if required following a suitable risk assessment) who have been approved by the Security Industry Authority or any accreditation scheme recognised by the Licensing Authority, shall be used to vet customers and maintain public order. The vetting process must include implementation of the premises' proof of age policy. All door supervisors must ensure that identification bearing the customers photograph, date of birth and integral holographic mark or security measure is produced before allowing entry and where it is not, entry shall be refused. Suitable means of identification would include PASS approved proof of age card, photo-card driving licences and passports.

16 The premises licence holder shall be a member of Pubwatch or a related scheme.

17 In the outside area and only after 2200 hours, the contents of all glass bottles shall be decanted by bar staff into polycarbonate, plastic or non-glass containers. All glass bottles are to be retained behind the bar for safe disposal.

18 The premises licence holder shall ensure that a safety check is carried out before the admission of public, and to maintain for a reasonable period of time details of such checks in a logbook.

19 Except for under the exemptions allowed under the Live Music Act, there shall be no regulated entertainment on the outside terrace.

20 Music shall not be played at a level that will cause unreasonable disturbance to the occupants of any properties in the vicinity.

21 Noise from ventilation, refrigeration or air conditioning plant or equipment shall not cause nuisance to the occupants of any properties in the vicinity.

22 A management plan for the control of noise from the outdoor area shall be submitted and approved in writing, by an authorised officer of the Pollution Control Team. The plan shall include details of how the outdoor area shall be managed including hours of use. The plan shall be reviewed as necessary following the notification of complaints by an authorised officer of the Pollution Control Team.

23 Persons under the age of 18 shall only be admitted onto the premises in the company of an adult until 2000 hours each day.

24 There shall be no adult entertainment, services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Annex 3 – Conditions attached after a hearing by the licensing authority Conditions recommended by Responsible Authorities:

Public Health and Safety Conditions

1 EL10 Gas installations or boilers

A gas safety inspection shall be carried out on all gas pipework and appliances (mains or cylinder) at intervals determined by an engineer who is suitably registered by Gas Safe. The gas safety certificate shall be retained for inspection.

2 SX04 Use of premises by third parties.

Where the premises, or parts of the premises may be hired out by third parties or be used by events promoters, the premises licence holder must ensure that there are appropriate procedures in place that will ensure that as far as is possible, the third party is aware of the licensing conditions and has in place their own procedures / arrangements which will ensure that the licensing objectives are not compromised.

3 GS26 Floors, passages and stairs

All traffic routes used by members of the public (including entrance ways, gangways, lobbies, corridors, passages and exit routes and all steps and stairways) should have:

(i) Nosings of the treads of steps in a contrasting colour to the remainder of the tread. The nosings shall show up clearly under emergency lighting conditions.

(ii) Any changes in level shall be clearly visible to members of the public, such as by using contrasting colours or additional lighting.

(iii) Mats more than 1 cm thick sunk to floor level unless of rubber with wide bevelled edges.

4 A continuous handrail securely fixed on each side of all staircases, steps and landings at a height of not less than 840 mm nor more than 1 metre, measured vertically from the pitch line, except that only one such handrail need be provided to such staircases, flights of steps or landings which are less than 1 m wide. Where a staircase is 1.8 metres or more in width, a central handrail shall, in addition, be provided, properly supported and secured to the steps.

5 EL09 Electrical installation

The electrical installation in areas used by members of the public shall be subject to the

following:

(i) Any alterations made to electrical installations, including the use of temporary wiring and distribution systems, shall comply with the relevant edition of the Regulations for the Electrical Equipment of Buildings issued by the Institution of Electrical Engineers (BS 7671 or any British Standard replacing or amending the same).

(ii) All electrical equipment and installations shall be subject to regular visual checks to ensure that they are safe and in good working order, as well as formal routine tests by a competent person as advised in the aforementioned BS 7671 guidance.

(iii) A Residual Current Device protection sensitive to tripping currents of not more than 30 milli-amps, must be fitted to power circuits supplying outdoor sockets and also indoor sockets that might be expected, with the use of plug-in extension leads, to power outdoor circuits.

6 SF02 Sanitary accommodation

Adequate sanitary accommodation shall be provided at the premises in accordance with either the District Surveyors Technical Standards for places of entertainment or the BS6465 standard for sanitary provisions or any British Standard replacing or amending the same.

7 WM01 Accumulations of rubbish

No accumulation of combustible rubbish, dirt, surplus material or stored goods shall be permitted to remain in any part of the premises except in an appropriate place and of such quantities so as not to cause a nuisance, obstruction or other safety hazard.

8 VN01 Ventilation

All parts of the licensed premises used by members of the public shall be effectively ventilated by a sufficient quantity of fresh or purified air. The air within the premises shall be maintained at a reasonable and comfortable temperature immediately before and during their use by patrons. Guidance on this should be sought from Guide B 'Heating, Ventilation, Air conditioning and refrigeration' issued by the CIBSE (Chartered Institute for Building Services Engineers) or any document replacing the same.

9 SM01 Smoking area

The smoking area shall be monitored to ensure that there is no overcrowding or nuisance from the numbers or behaviour of people using it. The perimeter fencing shall be of sufficient height to prevent people falling, or dropping items over or through it, and at least 1100mm high.

Conditions attached after this hearing by the licensing authority 05 June 2014

10 There shall be waiter/waitress service throughout the premises at all times

11 80% of the premises shall be laid out with tables and chairs;

12 The tables and chairs shall be evenly distributed throughout the customer accessible areas of the premises.

13 There shall be a 400 capacity limit on the premises with no more than 250 inside (excluding staff).

Annex 4 – Plans

Plan as deposited with the Licensing Authority on 31 March 2014, Drawing Number CT_AGP_002 Revision D.

REASONS FOR DECISION

The following paragraphs summarise the sub-committee's reasons for granting the application and for modifying the conditions on the Licence.

The sub-committee carefully considered the representations together with the information provided for the Hearing and that received during it. The sub-committee had regard to the Secretary of State's guidance to Licensing Authorities and the Authorities own statement of licensing policy.

The committee's decision was particularly influenced by the consideration of the promotion of the licensing objectives concerning the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm.

The Committee first noted that the premises was located within an area that had been designated under the Council's Statement of Licensing Policy as a Cumulative Impact Area. "Cumulative Impact" is defined in the National Guidance as the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. For example, the potential impact on crime and disorder or public nuisance in a town or city centre of a large concentration of licensed premises in that part of the local authority area. The effect of adopting a Cumulative Impact Policy is to create a rebuttable presumption that applications for new premises licences will normally be refused if relevant representations to that effect are received, unless it can be demonstrated by the applicant that the operation of the premises will not add to the cumulative impact already being experienced in the area.

The Committee noted that the application was for a café/bar of 350 capacity in Colston Tower in the City Centre.

The Licensing Policy Advisor reported that the Public Protection representation had been agreed and the representative was therefore not in attendance. The Police's written representation had proposed that the application be refused as it was within the City Centre CIA. However, on meeting, with the applicant and hearing the nature of the premises, the Police had revised their representation and agreed four conditions which would mitigate their concerns.

The applicant's legal representative made the following opening comments:-

- The conditions agreed were:-
 - Waiter/waitress service throughout the premises at all times;
 - 80% of premises laid out with tables and chairs;
 - A 400 limit on capacity with no more than 250 inside (including staff)
 - Tables and chairs to be evenly distributed throughout the customer accessible areas of the premises.
- These conditions removed Police concerns regarding the premises becoming a

- bar;
- The food would be healthy, Mediterranean-style salads, grills and flatbreads.

The Police Inspector stated that the capacity limit prevented the premises becoming financially viable as a stand-up bar. He believed the premises would not have an adverse impact on the crime and disorder impact because it was set aside from the main part of the City Centre and was not open at the most critical times. The four conditions agreed ensured that any impact was mitigated.

The Committee, having carefully deliberated, agreed to grant the application as sought and subject to all conditions agreed including the additional four conditions proposed by the Police.

The Committee found that the CIA was triggered but gave weight to the Police's representation that the premises added diversity to the area, was family-friendly and was not in a critical area or open at a critical time with respect to impact on the licensing objectives and could therefore be treated as an exception to the policy. In addition, the conditions contributed fully to the promotion of the promotion of the licensing objectives and assisted with managing the premises.

SIGNED:

CHAIR

Name: Councillor Payne