

## 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 20 November 2014

#### AGENDA TITLE

Conduct of a hearing into an application for the GRANT of a licence made by Mr Mohammed Nazir in respect of Westbourne Hotel, 40 - 44 St Pauls Road, Clifton, Bristol BS8 1LR

#### MEMBERS PRESENT:

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

#### OFFICERS PRESENT

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

#### REPRESENTATIONS RECEIVED FROM:

Mr David Thomas  
Clifton And Hotwells Improvement Society  
Anne Rennie  
Sandra And Peter Jones  
Sgt Jonathan Derrick  
Richmond Area Residents' Association  
Oakfield Residents Association  
Mr Robert Owen  
Sarah And Mike Jackson  
Mr Peter Hogarth  
Clifton Down Community Association  
Mr Andy Bartlett  
Mr Julian Brenard  
C Philippidis

#### Applicants, responsible authorities and interested parties

#### Applicant

#### PARTIES & REPRESENTATIVE (IF ANY) in attendance

Sunny Patel – Applicant  
Kevin Patel – Applicant  
Jeremy Woodcraft – Solicitor

<b>Chief Officer of Police (s.13(4)(a))</b>	<b>Insp Rundle</b>
<b>Fire Authority (s.13(4)(b))</b>	<b>Not a party to this hearing</b>
<b>Health and Safety Enforcing Authority (s.13(4)(c))</b>	<b>Not in attendance but the Committee had regard to the representation of David Thomas</b>
<b>Local Planning Authority (s.13 (4) (d))</b>	<b>Not a party to this hearing</b>
<b>Environmental Health (Pollution Control) (s.13 (4) (e))</b>	<b>Not a party to this hearing</b>
<b>Social Services Authority (s.13 (4) (f))</b>	<b>Not a party to this hearing</b>
<b>Any other relevant Licensing Authority (s.13 (4) (g))</b>	<b>Peter Hogarth</b>
<b>Weights and Measures Authority (s.13. (4) (i))</b>	<b>Not a party to this hearing</b>
<b>Relevant persons who are persons living in the vicinity of the premises (s.13 (3) (a))</b>	<b>Robert Owen Anne Rennie The Committee also had regard to 5 other written representations whose authors were not in attendance</b>
<b>Relevant persons who are a body representing persons living in that vicinity (s.13 (3) (b))</b>	<b>Richard Barnes for Oakfield Residents Association Local N'Hood Group and Clifton Down Community Assoc. Local N'hood Group</b>
<b>Relevant persons who are persons involved in a business in that vicinity (s.13 (3) (c))</b>	<b>Not a party to this hearing</b>
<b>Relevant persons who are bodies representing persons involved in such businesses (s.13 (3) (d))</b>	<b>Not a party to this hearing</b>

**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 for a licence be rejected.
2. That in accordance with Section 23 of the Act a duly authorised officer be directed to give Notice of determination to:
  - (a) Mr Mohammed Nazir
  - (b) The Chief Officer of Police

And the following bodies that made representations:

Mr David Thomas  
Clifton And Hotwells Improvement Society  
Anne Rennie  
Sandra And Peter Jones  
Sgt Jonathan Derrick  
Richmond Area Residents' Association  
Oakfield Residents Association  
Mr Robert Owen  
Sarah And Mike Jackson  
Mr Peter Hogarth  
Clifton Down Community Association  
Mr Andy Bartlett  
Mr Julian Brenard  
C Philippidis

## **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 heard that the premises was a 30 bedroom hotel with a bar accessible to

the public via a rear staircase and a rear patio bar. The premises currently had two licences as there was previously a restaurant which was no longer in operation. The applicant wished to:-

- extend the use of the outside area by 1 hour to 11pm;
- The current licence has a capacity of 75 on the inside bar and 50 in the outside area. The applicant sought to combine the inside and outside area and have the one capacity of 150;
- To remove all regulated entertainment in the basement bar and reduce the terminal hour by 30 minutes on a Friday and Saturday night to 11pm;
- In exchange, the applicant would surrender both licences for the one overall new licence.

The Committee heard that the commercial reality the applicants operated in required them to seek flexibility as it was clear that the outside area was well used whilst the basement bar was less popular. If unsuccessful, the applicants would need to consider using the full extent of the current licence or transferring the operation to a new licence holder who may use the full extent of the licence. He particularly highlighted that Pollution Control has not submitted a representation.

He emphasised that alcohol would only be served in the outside area to those seated and there would be permanent supervision from 4pm. The applicants wished to be good neighbours and would employ an acoustics consultant regarding any improvements that could be made subject to this application being successful. It was proposed that granting this licence would remove the long term potential of the full use of the licences significantly impacting the licensing objectives.

The Police Inspector commented as follows :-

- Their representation was based on public nuisance and not crime and disorder which was the primary reason behind the Clifton CIA;
- The ability to increase numbers in the outside area to 150 for an additional hour would bring about noise nuisance;
- He referred to national guidance which stated that nuisance did not have to be large scale but could be a small number of people to become a wider problem and thus trigger the policy;
- He questioned how the numbers between the bars would be controlled;
- He proposed that the application be refused as the policy was triggered but stated that if granted, he would suggest that conditions relating to seating and managing numbers should be imposed.

The Licensing Authority representative made the following comments:-

- He concurred with the Police's comments;
- The outside area was contentious as it was in a highly residential area;
- There had in the past been a number of complaints regarding noise nuisance but since conditions were imposed after a hearing, this nuisance had been managed;
- Granting an additional hour outside as well as a potential capacity of 150 would surely exacerbate the public nuisance issues identified.

The Relevant Persons commented as follows:-

- A Relevant Person who had lived there since 1978 stated that there had been no issues since the last hearing and she had a good relationship with the owner. When the outside area was first licenced it had been necessary to get up in the night and speak to the licence holders due to the volume of noise but things had settled down. The nearby church acted as a barrier which sound bounced off of and back into houses and disturbed sleep. This got worse as the night got quieter as there was no mask from background noise. An increase in the numbers at the bar and the additional hour would have a massive impact on their lives. She needed to sleep at night and therefore wholeheartedly objected to any change in the licence;
- Another Relevant Person supported entirely the previous comments;
- A Relevant Person stated that he was unaffected at the moment as he was sheltered by the church but was most concerned regarding the increase in parking on the pavement and double yellow lines since the bar opened. He wondered how emergency vehicles would get to an emergency situation and felt that the licence holders needed to discourage anti-social parking. He also supported the concerns of others regarding noise nuisance. The applicant, in response, stated that this was outside the scope of the licence but understood the concerns so had contacted highways regarding the possibility of providing bollards;
- A Relevant Person stated that this was his 3<sup>rd</sup> visit to a hearing since September 2011. The current conditions gave him no concerns and the premises was well run. The numbers seemed about right in the outside area and he therefore asked that the licence remain the same and this application be refused;

The applicant, in sum up, made the following comments:-

- that they supported bollards and would liaise with highways ;
- there were two licences on the premises, one of which did not have the waiter/waitress service condition:
- if granted, they could demonstrate that that the licence would not have an adverse impact on public nuisance;
- the venue's financial viability, although not a licensing consideration, was a factor in the need to change how the premises operated;
- there was a history of the premises operating well with the current licence and there had been no representation from Pollution Control. There would be no dramatic consequences with the grant of this licence whereas a new tenant might use the full extent of the authorisations;
- the two licences would be surrendered on this grant which would reduce the potential to trade until 00:30 hours on a Friday and Saturday and regulated entertainment, recorded music and a disco would be gone forever;
- this grant went beyond tidying up the licence, it would confine it.

## **DECISION**

The Committee, having carefully deliberated, agreed that the CIA policy was triggered because of the premises impact on noise and its wider implications. They gave great weight to all Relevant Persons' representations who described the impact of the additional hour in the terrace bar. They also gave great weight to the Responsible Authorities representations who both recommended refusal due to the negative impact on the public nuisance licensing objective.

The Committee also had regard to national guidance and the Council's own policy regarding the closure of outside areas at 10pm and particularly noted that this was a

heavily residential area where sound was able to attenuate.

The Committee understood the wish for the applicant to 'tidy' the licence which would be helpful but they did not feel the grant of this licence could overcome their concerns regarding the additional hour outside and the increased capacity in the outside area.

**SIGNED:**

**CHAIR**

**Name: Councillor Stone**