

**LICENSING SUB-COMMITTEE
10 DECEMBER 2012**

Present: Councillors Poole, Webb and Wilson.

22. APPOINTMENT OF CHAIR

In accordance with the terms of reference of the Licensing Committee, the Chief Legal Officer invited nominations for the appointment of Chair for the duration of the meeting. Councillor Webb moved that Councillor Wilson should take the Chair. This was seconded by Councillor Poole.

RESOLVED (unanimously) that Councillor Wilson be appointed as Chair for the duration of the meeting.

23. DECLARATIONS OF INTEREST

Councillors made no declarations of interest at this meeting.

The Chair adjourned the meeting for 15 minutes to allow the applicant time to attend.

**24. APPLICATION FOR VARIATION OF A PREMISES LICENCE:
FLAMES GRILL, HAVELOCK ROAD, HASTINGS**

Councillor Wilson set out the procedure that the Sub-Committee would adopt (in accordance with Standard Practice), all parties confirmed they understood this.

The Corporate Director, Environmental Health, submitted a report on an application for the variation of a premises licence at Flames Grill, Havelock Road, Hastings.

Mr Brown, Licensing Manager, presented the report to the committee as a result of representations received from the Principal Environmental Health Officer and from the Police. The report referred to an application which sought consent for the variation of a premises licence.

In regard to paragraph 13 of the agenda, Mr Brown stated the representative for the applicant, Mr Kanik, had made contact with him to seek advice in making a licence within a Special Saturation Area.

Mr Malcom Gibney, Counsel for the Police was present and made his representation under the Prevention of Crime and Disorder and the Prevention of Public Nuisance. He said the application did not address concerns raised regarding the impact on the Special Saturation Policy and questioned the extension of hours the application sought. He went on to say that eleven incidents had taken place within the last 18 months, either within the premises or in the immediate vicinity, and that a number of these incidents

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involved violent or threatening behaviour that required police attendance after 3.30am in the morning. To highlight the issues, he referred to evidence submitted in Appendix D of the agenda, entitled 'Incidents at Flames Grill, Havelock Road Hastings between January 2011 and October 2012'.

Mr Kanik, applicant, in his submission stated that the application as submitted sought to extend the premise licence until 5.00am, and that after consulting a solicitor he now proposed to reduce the hours to 4.20am, Friday & weekends and Bank Holidays until 5.00am, and weekends until 4.20am. Due to financial obligations, he said he needed to make enough money for the business to be viable and needed the trade from customers using the nearby nightclub.

Councillor Webb asked Mr Kanik if he was confident his staff could cope if an incident occurred at 3.00am. Mr Kanik said he had door staff to sort out any problems.

Councillor Poole raised concern regarding the number of incidents that had occurred at the premises. Mr Kanik said he coped really well, anyone causing trouble would be removed from the premises and if necessary the Police would attend if requested. He added that he had been in business with his father for 26 years.

In his summary Mr Gibney said there was compelling evidence to say the licence should remain as it is.

RESOLVED (unanimously) that the application be REFUSED for the following reason:

The applicant's operating schedule does not rebut the presumption that the granting of this application undermines the licensing objectives, in particular the Prevention of Crime and Disorder and Public Nuisance.

This is a legal requirement and is up to the applicant to discharge. He has failed to do so.

The Committee have had regard to its own policy and the guidance issued by the Secretary of State in April 2012.

25. APPLICATION FOR A PREMISES LICENCE: GROUND FLOOR & BASEMENT, 53 ROBERTSON STREET, HASTINGS

The Corporate Director, Environmental Health, submitted a report on an application for a premises licence at Ground Floor & Basement, 53 Robertson Street, Hastings.

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Mr Brown, Licensing Manager, presented the report to the committee as a result of representations received. The report referred to an application which sought consent for a premises licence.

Mr Gibney, Counsel for the Police was present and made his representation under the Prevention of Crime and Disorder and the Prevention of Public Nuisance. He said there were no representations to suggest the existing policy was appropriate or ought to be resisted. Furthermore, he said there was nothing in the application to address how people would access and egress the premises at different times of the night, and that more people congregating outside the taxi rank and late night food premises would have a greater impact on public disorder. He said that within 18 months a number of incidents had taken place. Public transport he said was not available at this time to disperse customers and that an additional 440 people in the area would have negative impact. As such, the application and supplementary information did not address the issues of the cumulative impact policy.

Mr Casey, Principal Environmental Health Officer (Pollution), made his representation on the grounds of the prevention of public nuisance and referred to noise levels from people accumulating in the town centre. He said the level of noise should not be underestimated at 3am and for a further 45 minutes after closing time as people leave the area. He said he had received a number of complaints regarding unacceptable noise levels late at night from local hoteliers and residents. He said he did not have concerns with the premises closing at 3.00am in line with the other establishments. He drew attention to the Cumulative Impact Policy in that there will be a presumption against the grant of such licence or certificate unless the applicant, in the operating schedule, can rebut the presumption that the granting of such a licence or certificate would undermine the licensing objectives.

Mr Casey confirmed there were on going discussions regarding acoustic weak spots which he said if the applicants were willing to resolve, he would not have any issues.

Darren Langeveld, Agent, in his submission said the premises had formerly fallen into disrepair and disuse, it was licensed for many years and formed a part of the economy. He said the applicants lived in the town and this was a family owned business in which they had heavily invested. Although a night time venue the premises had been designed for corporate and cultural use.

The applicants collectively spoke about their experience and skills they brought to the business.

Mr Langeveld said a comprehensive set of conditions had been produced to address any issues; for example, food will be supplied inside the premises; the smoking area and main exit will be in Havelock Road to minimise disturbance to residents, emptying out time will be staggered against other establishments to reduce overspill, there will be arrangements in place for dispersing a crowd at the end of the night, and a service agreement has been arranged with a taxi firm to take customers home. He added that condition 19

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of the operating schedule limits the sale of alcohol and music to 6am, therefore if a special event is planned then the police will be provided with 28 days notice and a risk assessment. The application he said demonstrates that the premises will not have a cumulative impact on the existing problems.

Mr Brown asked how many SIA staff will be at the premises. Mr Langeveld said eight staff will work on Thursday, Friday and Saturday. Mr Brown asked how the staff would keep control of numbers. Mr Langeveld said staff will use electronic counters to let one customer in one side and out the other side, staff will be trained and will communicate via a radio. Mr Brown asked how staff would control smoking. Mr Langeveld said the smoking area will be in Havelock Road contained within temporary barriers with one member of staff present to monitor the area with a clicker system to limit numbers. Mr Brown asked what consideration had been given to the other licence premises in the vicinity all seeking to enter a narrow pathway. Mr Langeveld said customers will exist onto Robertson Street, the entrance will be controllable by four staff at door and 8 staff in premises. Additional staff would be appointed for extra events.

Mr Langeveld stated the premises had been market led towards students with student nights taking place on Thursdays and older customers aged 22 to 30 years attending on Fridays and Saturdays. He said the Student Union's in Hastings had been very supportive of the application.

Councillors questioned the arrangements for customers leaving the premises. Mr Langeveld said there is a taxi marshal scheme in place to deal with customers in addition to staff working outside the premises. To clarify he said staff will stay and assist with the dispersal and help get customers into the correct taxi.

Cllr Poole queried the management and supply of alcohol on and off the premises. Mr Bilalis, General Manager, said he wanted to offer flexibility to customers and it would be better if sales were under his control rather than at an off licence. He said staff will check if people are of the correct age and not inebriated. Furthermore, staff will ensure no one takes an open vessel from the premises, and they are not drinking on street.

Mr Malcom Gibney said the Cumulative Impact policy had not been challenged and that public disorder had not been addressed. He said the police did not in principal object, but a properly worked out application with a timeframe addressing their concerns regarding the cumulative impact would not meet with significant objections. The evidence is that the application itself has not dealt with these issues.

In his summary Mr Langeveld said the application dealt with the issues raised and that the conditions were robust. He said the Police questioned the hours, not the conditions in the application.

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RESOLVED (unanimously) that the application be GRANTED IN PART as in the operating schedule with no off sales and the removal of Condition 19 as it is no longer relevant. The premises to be open 08.00am – 03.00am for all activities with closing hour 30 minutes after at 3.30am to allow for ‘drinking up time’.

Reason for the decision – The Committee have listened very carefully to the evidence before it and believe that the operating schedule can rebut the presumption that the application will undermine the licensing objectives. There has been significant thought to the management of the premises.

The Committee have had regard to its own policy and the guidance issued by the Secretary of State in April 2012.

(The Chair declared the meeting closed at 1.27pm)