

**LICENSING PANEL (346)**

**20<sup>TH</sup> OCTOBER 2017 AT 10.00 A.M.**

**PRESENT:** COUNCILLORS: HUSSAIN, LEWIS AND PETTS

**OFFICERS:** Saffron Long – Licensing Officer  
Bert Siong- Democracy & Scrutiny Officer Clive  
Tobin– Senior Solicitor, Clerk to the Panel  
Jenny Van Beukelen – Senior Licencing Officer

**84. ELECTION OF CHAIR (REF: 1)**

**Resolved:** That Councillor Hussain be elected Chair of Panel No. 346.

**85. MINUTES (REF: 2.1)**

**Resolved:** That the minutes of the Licensing Panel meeting held on 30<sup>th</sup> August 2017, be agreed as true records and the Chair be authorised to sign them.

**86. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 5)**

In view of the fact that confidential personal information and / or information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime would be likely to be revealed, the Panel decided that the public interest in holding the hearing in private outweighed the public interest in holding it in public and therefore excluded the public from the hearing.

**Resolved:** That the public be excluded from the meeting during consideration of Items 6 and 7 below, as the Panel believed that the public interest in so doing outweighs the public interest in the hearing of that item taking place in public, in accordance with Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005. The reason for this is due to the likelihood of information relating to individuals and to investigation of crime being made public.

**87. MINUTES (REF: 6)**

**Resolved:** That the private minutes of the Licensing Panel meeting held on 28<sup>th</sup> September 2017, be agreed as true records and the Chair be authorised to sign them.

**88. APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENSE - KABANAS BAR AND RESTAURANT, WESTSIDE CENTRE, DUNSTABLE ROAD, LUTON (REF: 7)**

**PRESENT**

**APPLICANT:** BEDS POLICE (REPRESENTED)

**APPLICANT'S REPRESENTATIVES:** SGT LIAM MITCHELL - BEDS POLICE  
PC LEANNE KIRSOP - BEDS POLICE

**PREMISES LICENCE HOLDER:** EMMANUEL UGBOROKEFE

**PREMISES LICENCE HOLDER REPRESENTATIVE:** ELONA ONIBERE

All parties present introduced themselves.

The Clerk to the Panel summarised the procedure at oral hearings before the Council's Licensing Panel.

The Licensing Manager's representative reported on an application received from Bedfordshire Police on 26<sup>th</sup> September 2017 for an expedited review of the premises licence in respect of Kabanass Bar and Restaurant, Westside Centre, Dunstable Road, Luton, on the basis of breaches of the Prevention of Crime and Disorder and Protection of Children from Harm Licensing Objectives.

She reminded the Panel that an interim steps hearing was held on 28<sup>th</sup> September 2017 to consider the application. The Panel had decided at that time that it was not necessary to suspend the licence, but added a condition requiring the operation of 'challenge 25' to be added to the premises licence.

The premises Licence Holder was informed of the Panel's decision, but had made no representations in relation to that decision.

The full hearing was arranged to review the premises licence and to consider supporting evidence for the application submitted by the Police and representations from the premises licence holder.

She further reported that the hearing had been publicised and no additional representations received from any other parties.

She drew the Panel's attention to the options available to it after hearing evidence, as set out in the report.

There were no questions for the Licensing Manager's representative from any parties.

Sgt Mitchell addressed the Panel in support of Bedfordshire Police's application for the review of the Premises Licence for Kabanass Bar and Restaurant.

He highlighted a number of key points from the evidence submitted by Bedfordshire Police.

Sgt Mitchell was questioned by the Panel and he responded in compliance with the approved procedure, providing clarification on a number of points, including the following:

- The Police were not seeking revocation of the licence, as it was believed the additional conditions should alleviate the concerns. If still a problem, the licence could be reviewed again, if needed;

*(Notes: The list of additional proposed conditions was served all parties and the Panel adjourned to allow time for the document to be read.*

*When the Panel meeting resumed, all parties were content for the document with the list of additional proposed conditions to be admitted in evidence and considered)*

The Premises Licence Holder representative, Ms Onibere questioned Sgt Mitchell and he responded in compliance with the approved procedure, providing clarifications on a number of points.

Ms Onibere made representation to the Panel on behalf the Premises Licence Holder, stating that in addition to the proposed Police conditions, Mr Ugborokeye had come up with his own measures, including a number of notices, e.g. promoting 'No bottles/ glasses to be taken outside.

Mr Ugborokeye also made representations to the Panel, highlighting a number of points, including the following:

- He was happy with the proposed conditions from the Police, although he requested that proposed condition number 3 be slightly amended to allow under 18s on the premises until midnight.

Mr Ugborokeye was questioned by the Panel and he responded in compliance with the approved procedure, clarifying a number of points, including the following:

- He accepted the proposed condition on the use of a scanner, including the change of the time from 10.00 pm to midnight to check identification, but requested that it be considered for under 25s only.

Sgt Mitchell summed Police representations re-iterating as follows:

- Police concerns about Kabana had been worked on and was improved, but more work to be done, including implementation of the proposed conditions.

Mr Ugborokeye summed up his representations re-iterating that Kabana was intent on taking steps to prevent crime and disorder.

The Clerk to the Panel provided advice to the Panel summarised as follows:

- (1) The Panel needed to also review the interim steps attached to the Licence at the expedited hearing on 28<sup>th</sup> September 2017 and decide whether to allow them to remain on the licence pending any potential appeal;
- (2) The incidents of concern needed to relate to the premises in order for the Panel to use their powers. However, they did not need to relate to a specific breach of a Licence condition or fault on the Premises Licence Holder's part;
- (3) The approach to be taken by the Panel needed to be remedial and not punitive. Although any action could have a deterrent element within it, it was important that the Panel acted in the interests of the wider community with respect to any crime;
- (4) It was lawful to scan the ID material in line with the Police request provided that the Licence holder complied with any relevant data protection provisions;
- (5) The Panel should only go as far as was necessary and proportionate when deciding on their course of action and should take only the minimum steps necessary to deal with the issues, ensuring that these were appropriate to promote the licensing objectives;
- (6) The Panel was not restricted to taking only the action requested by the Police regarding attaching conditions and should consider each of the options that were available under the Act and set out in the report;
- (7) The Panel should not consider the absence of Police resources on the nights in question to be the blame for the issues. The Police power to charge a fee for use of additional police resources was not an option as a condition for the Panel to impose, as it required the agreement of the Chief Officer of Police and the Licence holder.

There were no further representations from any parties.

As the hearing was already being conducted in private, Members considered whether the interest in retiring to make their decision without all the parties present outweighed the interest in holding their deliberations with them present, in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

Following a brief discussion by Members, the Panel determined that the interest of retiring to make their decision without all the parties present outweighed the interest in holding their deliberations with them present.

## **89. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 5)**

**Resolved:** That in accordance with regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, all the parties be excluded from the meeting during consideration of the decision in relation to the report of the Service Director of Environmental and Consumer Services (Ref: 7) as referred to in Minute No. 88/17.

(Note; All the parties were re-admitted briefly to clarify a point about the proposed conditions)

**90. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 5)**

**Resolved:** That all the parties be no longer excluded from the meeting.

**91. APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENSE - KABANAS BAR AND RESTAURANT, WESTSIDE CENTRE, DUNSTABLE ROAD, LUTON (REF: 7)**

**Resolved:** The Panel, having carefully evaluated all the evidence provided and the oral representations from all parties at the hearing, including the clarification provided in relation to the proposed conditions from the Police when all parties were re-called, determined that on this occasion it **would not revoke the Licence**, but would add the conditions proposed by the Police, as set out below, subject to a change in the time in Condition No. 3 from 10.00 pm to midnight:

1. The use of an ID scan or similar equipment on entry, capable of recording a clear image of the person presenting ID as well as an image of ID provided. ID image should be sufficient quality that writing on ID provided is legible and photograph visible. Accepted forms of photographic identification will be passport, photo driving licence, proof of age standards scheme (PASS) cards, or similar official photographic ID. Images of ID and persons presenting it will be retained for a minimum of 28 days. All persons entering the premise after 22.00 hours until close of trade will be subject to this ID check and recording process;
2. Adoption of a 'Challenge 25' age verification scheme at all times, whereby all person not looking 25 years of age or above are challenged for ID. All staff to be trained in this scheme, and a signed training record retained. Training to be refreshed every six months;
3. No persons under the age of 18 to be on the premises after midnight until close of trade daily.
4. Hourly toilet checks to be conducted by staff with a signed record of each check retained, from 22.00 hours until close daily.

The Panel also determined that, on review of the interim steps, the condition regarding Challenge 25 was to remain on the Licence.

**(Note: The meeting ended at 1.05 p.m.)**