

LICENSING PANEL (70)

17TH SEPTEMBER 2014 at 10.00 a.m.

PRESENT: Councillors Campbell, Mead and Rivers

OFFICERS: C. Tobin – Clerk to the Panel (Solicitor)
Mernagh, Holly – Licensing Manager's Representative
Bert Siong – Democracy & Scrutiny Officer

95. ELECTION OF CHAIR (REF: 1)

Resolved: That Councillor Rivers be elected Chair of Panel No. 70.

96. MINUTES (REF: 2.1 & 2.2)

Withdrawn, as entered on agenda in error. These minutes had previously been authorised at the Panel meeting on 29th August 2014.

97. OBJECTION TO TEMPORARY EVENT NOTICE FOR J10 RESTAURANT & VENUE, 37-39 GUILDFORD STREET, LUTON (REF: 6)

PRESENT:

APPLICANT: Mr David Barryclough

**APPLICANT'S
SUPPORTER:** Mr Sundar Ali (Licensee)

OBSERVER: Mr Akhlaqul Ambia

INTERESTED PARTY: None

The Panel Chair and Members and all present introduced themselves.

The Chair explained the procedure at oral hearings before the Council's Licensing Panel to those parties present.

The Licensing Manager's representative reported on an Objection Notice received from the Environmental Health Officer in response to a Temporary Event Notice from Mr David Barryclough for an event to take place on 04th October 2014 - 05th October 2014 at J10 Restaurant & Venue, 37-39 Guildford Street, Luton.

She further reported the Objection Notice from Environmental Health, a Responsible Authority, made representation on the grounds of public

nuisance. She added there had been five noise complaints between 5th February and 16th July 2014 since the premises were taken over by the new owners.

The Panel questioned the Licensing Manager's representative and she responded in compliance with the approved procedure, confirming the complaints were from residents living in the vicinity of the premises.

The Applicant had no questions for the Licensing Manager's representative.

Mr Sundar Ali, who is the permanent Licence Holder for the premises and Mr Barryclough made their representation in support of the Temporary Event Notice as follows:

Mr Ali:

- The Notice was only asking for an additional 2 hours;
- All persons attending would be out by 5.00 a.m.;
- Security Officers and ushers would disperse people after the event;
- The premises had held other parties which were very successful;
- In relation to a letter from the Council about the noise complaints, he said the premises had no bookings or parties for the days in question, a matter he had reported back to the Council, but had not heard back from the Officer yet;

Mr Barryclough:

- He was not aware about the complaints;
- He suggested the noise could have come from the Diamond club over the road from the venue;
- The sound system would be turned lower than the recommended level, with speakers placed off the floor and all doors kept closed at all time. Door supervisors would help;
- He would do his best to ensure no noise nuisance caused.

Mr Ali:

- No further admissions would be allowed after 2.00 a.m.;
- The event would be in basement, which had undergone sound proofing enhancement;
- He had learnt from mistakes of the first party and other parties since then had not caused any problems;
- He was willing to co-operate and take advice on making further improvements.

Mr Ali and Mr Barryclough were questioned by the Panel and responded in compliance with the approved Procedure, making further points as follows:

- The event would be in basement for a maximum of 175 people;

- There were 4 layers of sound proofing. All doors and seals were upgraded. The DJ would check the sound level; A noise limiter would be set;
- The party would be private after 2.00 a.m.
- No special smoking area was available. People would smoke on the pavement outside. After 2.00 a.m. smokers could use the rear of the restaurant;
- There was one door to exit the basement and another to exit the restaurant;
- The flats at the rear of the premises were around 200 metres away, across the car park, the river and an open space;
- Extension to 5.00 a.m. needed as many people did not arrive until late, some around 1.00 a.m.
- The restaurant was not doing well. Hiring the venue for parties was another channel of revenue to promote the business;
- Clients would be expected from around Luton, but no media promotion done, until the Panel decision was known;
- The event would be a multicultural one to promote integration.

The Licensing Manager's representative had no questions for Mr Ali and Mr Barryclough.

In the absence of the Environmental Health Officer, the Panel invited the Licensing Manager's representative and the Applicant to make any final representations.

Mr Ali stated if they were allowed to go ahead, it would benefit the business and enhance multicultural integration. It would be a taster for people to see the restaurant, which would be closed after 2.00 a.m.

The Clerk to the Panel advised the Panel as follows:

- As the Environment Health Officer was not present, his written representation could be considered, but there would not be an opportunity for him to be questioned on it;
- Needs were not relevant to the Licensing Objectives and should not be considered;
- There were three options open to the Panel: 1. Allow the event to go ahead, as applied for; 2. Issue a counter notice to stop the event taking place; 3. Allow the event to go ahead with conditions, which form part of the main licence, which must not be anything that would effectively stop the event going ahead.

Following discussion by Members, the Panel determined that the public interest of retiring to make their decision in private outweighed the public interest in holding their deliberations in public.

Resolved: That in accordance with regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, the public and press be excluded from the meeting during consideration of the decision in relation to the report of the Head of Environmental and Consumer Services (Ref 6) as referred to at Minute No. 97/14.

99 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 6)

Resolved: That the press and public be no longer excluded from the meeting.

100. OBJECTION TO TEMPORARY EVENT NOTICE FOR J10 RESTAURANT & VENUE, 37-39 GUILDFORD STREET, LUTON (REF: 6)

The Panel considered the papers before it including the oral representations made by the Applicant and the Licensee and the written representation made by the Environmental Health Officer. The Panel had regard to the licensing objectives set out in the Licensing Act 2003, the Council's Statement of Licensing Policy and the Guidance issued under the Act.

Resolved: (i) The Panel decided that it was appropriate for the promotion of a licensing objective, the prevention of public nuisance, to give a Counter Notice in relation to the Temporary Event Notice served by the Applicant.

The Panel took account of the on-going investigation of complaints from residents living in the vicinity of the premises relating to noise nuisance caused since the change of ownership.

The Panel also considered the lack of appropriate smoking area outside the premises would add to public nuisance with smokers using the pavement outside the premises.

The Panel further considered that imposing conditions on the Temporary Event Notice would not be effective in preventing a public nuisance due to noise.

(ii) The Panel resolved that a counter notice, under section 105 of the Licensing Act 2003 be given to the Applicant in response to the Temporary Event Notice.

(Notes: The meeting ended at 11.00 am)