

LICENSING PANEL (446)

28 August 2019 at 10.05 am

PRESENT: Councillors Moles, Pedersen and Rivers

OFFICERS: Saffron Long - Licensing Officer
Raj Popat - Principal Solicitor, Clerk to the Panel
Bert Siong - Democracy & Scrutiny Officer
Imran Tariq - National Management Trainee (Observer)

22. ELECTION OF CHAIR (REF: 1)

Resolved: That Councillor Rivers be elected Chair of Panel No.446.

23. APPLICATION FOR VARIATION OF PREMISES LICENCE KABANAS BAR LTD, 2-3 WESTSIDE CENTRE, DUNSTABLE ROAD, LUTON LU1 1EF (REF: 5)

PRESENT

APPLICANT: EMMANUEL UGBOROKEFE

APPLICANT'S REPRESENTATIVES: OLUSEGUN AJAYI (LEGAL REP)
MARIE OLUKOYA (PREMISES MANAGER)

INTERESTED PARTIES: PC DARREN WELCH (BEDS POLICE)
PC LEANNE KIRSOP (BEDS POLICE)
TONY IRELAND (LICENSING AUTHORITY)

(Note: All parties present introduced themselves)

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

The Licensing Officer reported on the application from Emmanuel Ugboro-kefe for the variation of the Premises Licence in respect of Kaban- as Bar Ltd, 2-3 Westside Centre, Dunstable Road, Luton.

She said the premises was a restaurant and bar for which the applicant was applying for the removal of Condition 2 of Annex 3 of the Licence, as shown in the application at Appendix B (page 25 of the agenda pack). She also drew the Panel's attention to the measures to promote the licensing objectives the applicant had provided in the application at page 26.

She further informed the Panel of representations received from Bedfordshire Police and the Council's Licensing Service, both Responsible Authorities, shown at Appendix C, objecting to the application on the basis of the prevention of crime and disorder and the prevention of public nuisance licensing objectives.

There were no questions for the Licensing Officer from any parties.

The Chair invited the applicant to present his application.

The applicant's legal representative, Mr Olusegun Ajayi requested to submit a prepared document for the Panel's attention. As the seven page document had not previously been served on any parties prior to the meeting, on advice from the Clerk, the Panel decided not to receive the document. Mr Ajayi was instead advised he could present the contents of the document orally, which he proceeded to do.

Mr Ajayi said the applicant submitted the application to have Condition 2 of Annex 3 removed, as he felt since it was imposed, it had not had a very practical significance and use, as the Police had never requested to view any of its contents. He claimed it was an onerous condition.

He outlined the measures the applicant had put in place to address the anti-social behaviour of customers and promote the licensing objectives, as set out in the application. He added the applicant was attending Make Safe meetings, which he had been encouraged to do and working on mediation with the Police to achieve agreement.

He then proceeded to address each of the alleged crime and disorder incidents highlighted by the Police. He disputed the accuracy of information provided and said most of the incidents occurred outside the applicant's premises, some after closure, over which he had no control. He asserted the Police did not attend the incidents and had never requested to view any of the scanned IDs kept by the premises.

He stated in the 2 years since the condition was imposed, there had been a reduction in anti-social behaviour. He claimed this had been due to the extra measures the applicant had put in place to promote the licensing objectives and due to Sainsbury's car park being taken out of use overnight and not down to the condition.

The applicant was questioned by the Panel and responded in compliance with the approved procedure. Key points made by him and his representatives are summarised below:

- The premises had a no drunkenness policy. People who appeared drunk would be refused entry
- CCTV used to deter incidents outside the premises, but incidents in the car park was beyond their control
- Staff were aware of nearby residents and regularly checked noise levels. There had not been any complaints from neighbours
- It was unfair for the Police to say they had no confidence working with the applicant, as he had worked with PC Welch and invested money in staff training to reduce crime and disorder and keep the venue safe

- The attempted theft of a bottle of wine from behind the counter on 23 December 2018 was reported to Police by staff and now being used against the premises. There had not been an assault, but the applicant had called security staff to remove the customer, who was also barred due to his aggressive behaviour
- Security staff worked when needed. There were seven on during the whole day, till closing time on 7 November 2018
- Scanned ID as a deterrent was disputed. It was claimed it deterred customers from coming to the premises, as they did not wish their personal details stored. The premises had lost business, as no other premises in town were required to keep scanned IDs
- Pictures of faces were taken on entry. People would see themselves on the screen at the entrance

The applicant was questioned by PC Welch and responded in compliance with the approved procedure. Key points made by him and his representatives are summarised below:

- When the application was made, the applicant claimed he was advised it was a minor variation and hence did not consult with Police
- Scanned ID was a pain, as customers did not want to leave their IDs. The applicant claimed he was required to explain why it was needed, despite having put signs up from day one
- He accepted the nearest premises to his were in the town centre
- Aggressive customer would be refused entry
- He refuted the suggestion that the reduction of his business was due to the car park being out of use overnight, as people parked anywhere on the streets. He claimed parking was not an issue
- He agreed Kabana's customers came from all over, including London and noted the officer's suggestion CCTV would therefore not be beneficial, as would not identify people from out of town
- The applicant had never offered Police scanned ID details, as he had never been asked. He said it was not for him to question how Police went about their investigation and added Police did not check the CCTV
- The applicant accepted there had been a reduction in incidences in the 2 years since the condition was imposed, but claimed it was his better rapport and closer working with PC Welch which was responsible and not the condition. He said parking spread around the area and not focused on Sainsbury's car park had also helped
- He pointed out other premises in town did not have a similar condition imposed on them

The applicant was questioned by Mr Ireland and responded in compliance with the approved procedure, clarifying the CCTV at the entrance did not a facial recognition facility and the scan system was not linked to the national databases and nor registered with the Information Commissioner's Office.

PC Welch then addressed the Panel, outlining the basis of the Police's objection of the application.

He reminded Members the ID scan condition was imposed by the Panel 2 years previously, when the premises licence was reviewed following a serious sexual assault on a girl aged under 18 . He said there had been a reduction in the

number of incidents and that incidents were also of a less serious nature, except for the one stabbing allegation on 7 November 2018.

He added ID scanning was helpful to Police investigation, even if so far the Police had not requested evidence from it. Removing the condition would not be helpful in promoting the prevention of crime and disorder and the prevention of public nuisance licensing objectives.

He concluded the Police believed the reduction in crime and incidents was due to people knowing their IDs were being recorded.

PC Welch was questioned by Mr Ajayi and responded in compliance with the approved procedure, saying he was not able to readily provide the number Police requests for CCTV or scanned IDs evidence without research.

Mr Ireland then addressed the Panel, outlining the basis of the Licensing Authority's objection of the application. He said the relevant condition was imposed by the licensing Panel following two reviews of the premises licence in 2016 and 2017 and slightly amended by the Magistrates' Court in 2018, after an appeal by the Licence Holder, to prevent of crime and disorder.

He reminded Members of the Council duty to prevent crime and disorder.

He said it was a matter for the Panel to determine if the condition was still appropriate to prevent crime and disorder and have an impact on incidents on the premises or involving people associated with the premises.

He informed the Panel of the existence of the National Scan database to reduce fake IDs, help with age verification and the identification of people from the banned list. He added given the documented incidence of crime at the venue, the condition also offered protection for staff at the premises.

He further advised he was not aware of any other licensed premises in town having been the subject of an expedited review.

Mr Ireland was questioned by Mr Ajayi and responded in compliance with the approved procedure, informing the applicant there were two national scan databases designed to manage scanned personal data and of the need to register systems that recorded scanned personal data with the Information Commissioner's Office.

In summing up, Mr Ajayi said if the condition was removed as applied for, the applicant had put in place other measures, such as the CCTV system to deter crime and disorder and anti-social behaviour. He added the applicant had also invested in SIA training for staff, including himself.

He requested the Panel not to hold the applicant responsible for incidents he had no control over. He said the applicant was happy to comply with other conditions to promote the licensing objectives, but did not believe facial scanning was useful, as not required for other licensed premises in town and was crippling his business.

In summing up, PC Welch said the applicant had not sought Police advice prior to the application and believed removing the condition would be detrimental.

He added the ID scanning condition was not unreasonable and should be maintained.

In summing up, Mr Ireland re-iterated it was a matter for the Panel to determine if the condition was necessary to prevent crime and disorder.

The Clerk reminded the Panel to consider all the written and oral representations before it and determine whether to grant the application to remove the ID scan condition as applied for wholly or reject the application, bearing in mind the licensing objectives, as set out in the report.

By way of last word, Mr Ajayi said the applicant had made an attempt to contact the Police and had spoken to the Licensing Service and was advised it was a minor variation.

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 brief 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.

24. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 6)

Resolved: That in accordance with regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, the public and press and all parties to the application, except the Clerk and Administrators be excluded from the meeting during consideration of the decision in relation to the report of the Principal Licensing Officer (Ref: 5) as referred to in Minute No. 23/19.

25. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 6)

Resolved: That, following their deliberations, the public and press and all parties to the application be no longer excluded from the meeting.

26. APPLICATION FOR VARIATION OF PREMISES LICENCE KABANAS BAR LTD, 2-3 WESTSIDE CENTRE, DUNSTABLE ROAD, LUTON LU1 1EF (REF: 5)

Resolved: That, the Panel having carefully considered all the papers before it and the oral representations made by Mr Ajayi, the applicant's legal representative in support of the application, by PC Welch for Bedfordshire Police and by Mr Ireland for Luton Council's Licensing Authority in objection to the application and in addition, the Panel having regard to the licensing objectives set out in the Licensing Act 2003 ('the Act'), the Council's Statement of Licensing Policy and the Guidance issued under the Act, it determined to **reject the variation** being sought in accordance with the application.

(Note: The meeting ended at 11.45 am)