

**These Minutes have been amended.
Please see Minutes of 23 February 2009 for amendments**

LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON 19 JANUARY 2009

Councillors: Tony Linden (*Chairman*) (P), Andrew Rowles (P), Geoff Findlay (P), Keith Woodhams (P), Jeff Beck (P), Quentin Webb (P), Owen Jeffery (P), Paul Bryant (P), Adrian Edwards (P), Gwen Mason (P), Peter Argyle (A), Billy Drummond (AP), Manohar Gopal (AP), Mollie Lock (AP)

PART I

1. APOLOGIES.

Apologies for inability to attend the meeting were received on behalf of Councillors Billy Drummond, Manohar Gopal and Mollie Lock.

2. DECLARATIONS OF INTEREST.

There were no declarations of interest received.

3. MINUTES.

The Minutes of the meeting held on 9 June 2008 were approved as a true and correct record and signed by the Chairman.

4. HACKNEY CARRIAGE / PRIVATE HIRE LICENSING.

Brian Leahy (Senior Licensing Officer) summarised the report which had been circulated. The report had been brought to Committee as the applicant was querying whether he could use motorcycles and tuk-tuks as private hire vehicles and there was a potential that future applications could be received for use of these vehicles as hackney carriages. Concerns were expressed around the speed and safety issues of both modes of transport and hence the recommendation for officers to undertake a fuller consultation with other authorities who currently licensed these vehicles.

Resolved that the Committee noted the requests and commissioned officers to present a fuller paper at the next Licensing Committee meeting.

5. APPLICATION FOR REVIEW OF PREMISES LICENCE 013881 – CUBA, SADDLERS COURT, THE BROADWAY, NEWBURY

Applicant: Inspector Pete Oliphant, Inspector Dave Milsom, WPC Claire Berryman, Steve Deane & Laura York

Responsible authority: Ros Haynes (Children's Services)

Licence holder's representative: Ian Cook, Justin Simms

The Chairman introduced the review of the application reminding members that they must base their decision only on what they heard at this hearing and not on anything they had heard or read recently in local media about this or any other applications for review. He confirmed the attendance of the Applicant's representatives (Thames Valley Police), Responsible Authority (Ros Haynes as representative from West Berkshire Council's Children's Services), the licence holder (Mr Cook confirmed he was present as the Designated Premises Supervisor (DPS) and authorised to speak on behalf of ID (Newbury) Limited). He reminded all parties that their case must take account of the four objectives of the Licensing Act -

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prevention of crime and disorder; public safety; prevention of public nuisance; and protection of children from harm.

The Chairman set out that the Licensing Committee had the power to modify the conditions attached to the premises licence, this meant adding, deleting or amending the wording of conditions, to exclude any licensable activity from the scope of the licence, to remove the designated premises supervisor, to suspend the licence for up to 3 months, to revoke the premises licence completely or they could take no action at all. Once the Licensing Committee had voted on their decision, the parties would be provided with a copy of the decision notice in writing within five clear working days of the hearing.

Members sought clarification from the Council's solicitor on the Committee's position with regard to discussing the application in a public session. The Council's solicitor advised that the Council's constitution only referred to sub-committees retiring in private to discuss issues. As this application was being considered by the full Committee, the full committee procedures would be applicable. Any changes to the Council's Constitution would need to be confirmed by full Council once the applicable procedures had been followed.

No declarations of interest were received for this item.

The Senior Licensing Officer outlined the application for the review of the premises licence. The application was being made by Thames Valley Police with the support of West Berkshire Council's Children's Services. The police had raised concerns about adherence to the Licensing Objectives (outlined previously) as set out in the supporting documentation: pages 3-10 outlined the grounds for review; pages 12-18 detailed the supporting information; pages 20-33 provided the supplementary information. Members were reminded that the newspaper article in last week's *Newbury Weekly News* contained additional material than was being considered here – namely the views of the licence holder – which must be disregarded as they had not been submitted in accordance with the access to information procedures.

As part of the application, the police had asked for a revocation of the premises licence (page 7). Alternative conditions which members might wish to consider were contained in the subsequent pages 8-11. Members were free to accept or reject these, amend or add to the conditions.

Inspector Pete Oliphant outlined the police's application on the basis that the licence holder failed to meet the Licensing Objectives by threatening public safety and the prevention of crime and disorder. He stated that over the past year, police had been called or encountered incidents involving reports of underage drinking, drug taking, public order offences and the manager on duty being under the influence of alcohol. The DPS had not attended an Alcohol Action Group (AAG) meeting when invited – although he had attended at a subsequent meeting - and reports of underage drinking, drug taking and public order offences had continued since that meeting. It was noted that 26 incidents had been reported in the past year. This was far greater than any other licensed premises in the Newbury town centre – including other larger premises - where the town average for the number of reports was 2. Inspector Oliphant also reported that the premises had passed two underage sales tests and had had only one reported incident in the past two months, although had noted that the premises had been closed for two weeks in November 2008 for a refit.

Members sought clarification on various points:

- Had claims of underage sales had been substantiated. *Members were advised no under-age sales were witnessed by officers.*
- Why had the police had waited so long to apply for a review of the licence, if there had been so many reported incidents during the last 12 months? *The police had waited in order to give the venue ample opportunity to meet the Licensing Objectives.*

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- Were all the reports had being made by the same people? *The police confirmed that half of the calls were from females. A majority of calls had been received after the event / incident and so it was not possible to identify whether the same people were reporting incidents.*
- Was it a proposed new condition to stop admission to the venue at 22:00? *The police confirmed it was a new condition as the premises can currently open until 02:00 Sunday through Wednesday and 03:00 Thursday to Saturday.*

Ros Haynes of West Berkshire District Council Children's Services confirmed that she did not wish to address the committee about her representations.

Mr Cook provided started his evidence by giving some background information:

- He had been the owner of Cuba since its inception and had taken over the DPS role in November 2007.
- He had other business commitments and did not live locally and so day to day management of the venue had proved difficult so he had brought in an experienced manager to run the premises.
- He managed to attend the premises on one or two occasions a week (the venue traded for three nights a week).
- Mr Cook noted that a lot of the incidents reported were hearsay and he had not been under the impression that the incidents had been especially significant. For example, he suspected that the incident of a stolen purse was a ruse by someone wanting to get into the club, despite being refused. However, he stated that he had changed the management of the business after the more serious incident (large fight) on 19th October 2008.
- Mr Cook noted that the AAG had made a number of recommendations – one of which was regular police visits to the premises - although he noted that the level of police attendance had actually declined. Between January-March 2008 the premises had had two police checks for underage drinking and no-one under the age of 18 had been found on the premises. Mr Cook added that there had been a number of reports of underage drinking made to him personally when on the premises. When he had checked these with the customers concerned, had found that they had ID showing them as 18 or over.
- Since the meeting with the AAG Mr Cook had taken the following action:
 - the removal of the previous manager;
 - changing the company which provided the door staff;
 - changed the music policy;
 - introduced a 'Challenge 25' policy;
 - put up notices of zero tolerance of drug use;
 - introduced drugs swipes for checking toilets and;
 - barred the main offenders from the premises.

Mr Cook advised the Committee that the 'goldfish bowl' promotion was factually incorrect, the drinks contained 5 double measures of alcohol and not 6 double measures as reported. He stated that it was a marketing tool used by other establishments in the town.

Members sought clarification on the following:

- If the licence was continued, how frequent would the visits to the premises be by the DPS. *Mr Cook advised that the new manager, Justin Simms, would take over the role of DPS.*

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- What conditions laid out by the police on pages 7-8 did the licensee accept? *Mr Cook stated that he would have no difficulty with any recommended conditions, with the exception of:*
 - *CCTV in garden (condition 6) – Mr Cook asked to be given an extra month (until 1/3/09) to install it.*
 - *Restrict new entrants at 22:00 (condition 7) – Mr Cook stated this would be difficult to operate as the bulk of the premises customers tended to arrive between 22:00-22:30, therefore he did not wish this condition to be imposed.*
 - *Minimum of 3 door staff (condition 8) – Mr Cook asked the Committee to lift the requirement from 20:00 to 21:00 and to base the number of door staff on the anticipated number of customers – i.e. if full capacity then 3 door staff would be provided; if less than 200 customers then 3 door staff might not be necessary.*
 - *Mr Cook advised the Committee he would want to retain the premises existing opening hours.*
- What dates had the venue been closed since November. *Mr Cook advised that Cuba only traded on a Thursday / Friday / Saturday. He confirmed that the bar had been closed for two weeks in November 2008 whilst it was being refurbished (3rd to 15th November). It had also been shut for one Friday in December, as well as New Year's Eve.*
- What opening times did the licensee consider would be acceptable? *Mr Cook stated he would like to stop serving alcohol at 02:00 (his current hours) and to close the premises at 02:30 (instead of 03:00 currently).*
- Why was the use of plastic containers now an acceptable condition on the licence when not previously? *Mr cook stated that they previously considered it to be prohibitive in terms of cost – in excess of £1,000 to replace glasses. However, the licence holder considered the incident of the laceration of a customer was significant.*

Members expressed concern that the DPS had stated that he was not aware of a number of incidents and had not taken on board recommendations of the AAG. Mr Cook stated that he thought the AAG had come up with relatively few recommendations and thought that the incidents reported by the police were relatively infrequent and unsubstantiated.

At the request of the Chairman the Council's solicitor sought clarification on various issues:

- *Did the premises have a policy on under-age sales? The premises had an underage drinking policy although Mr Cook had not brought a copy to the hearing. It was noted that it was unusual for a licensee not to provide this kind of documentation at such a hearing and to use the hearing as an opportunity challenge the police on their dealing with incidents at the premises.*
- *What training and experience of managing such premises did the DPS have? Mr Cook advised that prior to November 2007 he had no previous experience of managing such premises and had no formal qualification in premises management. Mr Cook stated, that if they were successful in retaining the licence, Justin Simms who had taken on the role of manager of the establishment would apply to become the DPS.*
- *Mr Simms was asked to outline his previous experience. He stated that he had spent the last 5/6 years working in sales. Prior to that he had acquired management experience working at Pizza Hut. He had worked for 10 months in 2006/07 setting up Bar Bistro and had then returned to sales. Between 1996-2000 he had worked in the restaurant industry. He had a personal licence, although had no formal qualifications in this field.*

The meeting was adjourned at 4.30pm for 10 minutes to allow for a comfort break.

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On resumption of the committee meeting members sought further clarification on whether the 'goldfish bowl' promotion was still being run? *Mr Cook advised that this promotion no longer took place and no drinks were sold larger than double measures.*

Inspector Milsom brought to the Committee's attention that there had been one incident reported on 3rd Jan 2009 for drug use. *Mr Simms advised that he and a doorman had caught two individuals in the same toilet cubicle. The individuals were asked to turn out their pockets, although no drugs had been found these persons had then been asked to leave.*

Members sought clarification as to why the licence holder had failed to take up the AAG's recommendation that the premises have a town centre radio? *Mr Simms advised that they would have one in place by this Thursday (22nd Jan) as it was being included as part of the contract with the new door management company.*

Members noted that the trouble reported was alcohol-fuelled, with the venue encouraging the intake of alcohol. It was also noted that the onus was on the DPS to ensure that any resulting situations did not get out of control.

Ros Haynes of West Berkshire Council Children's Services requested clarification on what the licensee provided for staff in terms of training about under-age sales at present? *Mr Simms advised the Committee that the training package was being written at present – in particular in line with the Challenge 25 policy.*

The Chairman reminded the Committee of its powers to modify the conditions attached to the premises licence, this meant adding, deleting or amending the wording of conditions, to exclude any licensable activity from the scope of the licence, to remove the designated premises supervisor, to suspend the licence for up to 3 months, to revoke the premises licence completely or to take no action at all. However, any action the Licensing Committee took must be for the purposes of promoting the four licensing objectives.

Members commented:

- the police had made a number of points that had not been addressed by the licence holder;
- they had concerns about the number of violent incidents being associated with the premises;
- the DPS had consistently demonstrated over the year that he was unable to run this business in accordance with the Licensing Objectives;
- they were equally concerned about the lack of training for staff.

Resolved to a) remove the DPS from the premises licence and b) revoke the premises licence no. 013881 for Cuba. (9 votes for the resolution and 1 against.)

(The meeting commenced at 3.00 p.m. and closed at 5:00 p.m.)

CHAIRMAN

Date of Signature: