
DACORUM BOROUGH COUNCIL

LICENSING AND HEALTH AND SAFETY ENFORCEMENT SUB-COMMITTEE

24 APRIL 2012

Present-

MEMBERS:

Councillor Lawson (Chairman), Conway, Mrs Green, Hearn, Link and Sutton

OFFICERS:

B Lisgarten Legal Governance Team Leader
M Brookes Group Manager (Legal Governance)
S Taylor Senior Assistant Licensing Officer
R Mabbitt Licensing Enforcement Officer
P Bowles Member Support Officer, Democratic Services
T Coston Member Support Officer, Democratic Services

Other Persons Present:

Ms C Eames, from Poppleston Allen Solicitors – Item 6.
Mr D Lewis – Item 6
Mrs D Blennerhassett– Item 6
Mrs M Tavener - Item 6
Mr M Blennerhassett– Item 6
Mr J McIlvaney – Item 7
Mr T Carrington – Item 7
Mr M – Item 9 (Part 2)

The meeting began at 7:00 pm

1. MINUTES

Minutes of the meeting held on 27 March 2012 were confirmed by the Members present and were then signed by the Chairman.

2. APOLOGIES FOR ABSENCE

Apologies of absence were received from Councillor Fantham.

3. DECLARATIONS OF INTEREST:

There were no Declarations of Interest.

4. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1982, AS AMENDED BY POLICING AND CRIME ACT 2009 – APPLICATION FOR SEXUAL ENTERTAINMENT VENUE - IMAGES, 25 HIGH STREET, HEMEL HEMPSTEAD, HERTFORDSHIRE, HP1 3AA

Representations received in respect of an application for a Licence for a Sexual Entertainment Venue were considered.

The Chairman asked the officers if all legal requirements had been met, and was informed by S Taylor (Senior Assistant Licensing Officer) that they had.

Mr Lewis made representations as to why he wished to speak in objection of the application for a Sexual Entertainment Venue. Mr Lewis said he felt that the application for a Sexual Entertainment Venue would be inappropriate due to the location of the premises, the nature of the neighbourhood and the surrounding facilities. He explained that the premises' was within a short distance of St Marys Church, St Marys Hall, Society of Friends meeting house and a local school. He added it was also very close to the Old Town Hall which provides entertainment to adults and children, and Gadebridge Park which is used by people of all ages. He said he was aware that change needs to happen, and it had happened over the years. He said the Old Town had been modified drastically over the years and had gained various shops and restaurants, but he felt the character had been maintained. He said he doesn't believe that granting a licence for this establishment in the Old Town would help meet the Councils objectives for a Heritage area.

Ms C Eames (Solicitor) introduced herself and her clients Mrs D Blennerhassett and Mrs M Tavener. Also present was Mr Blennerhassett, husband to Mrs Blennerhassett, and brother of Mrs Tavener.

Ms Eames informed the Committee that the premises located on the High Street had limited frontage with only one entrance via the High Street. She explained that the premises had been a nightclub on and off since the 1980's and her clients had owned the premises since December 2004. She said her clients had opened the nightclub in August 2010 which was trading under the name Images. She said Images nightclub had closed down in September 2011 and is currently not trading. She explained her clients had a 999 year lease on the premises and they had invested over £200k in the business, and moving forward with the modifications, they would need to invest further in the future. The premises' is in a basement and holds a capacity of 110 people. She informed the Committee that her clients wish to retain the name of Images, and would like to the mirror the hours of trade under their current licence. The applicants intend to be the operators of the business and had been researching and plan to recruit someone with direct managerial experience to work alongside them.

Ms Eames said her clients are mindful of the local residents concerns regarding additional advertisement, and reassured the Committee that no further signage will be added to the premises. They will have a website for advertisement and hoped word of mouth from customers would also be a source of publicity. The premises will have extensive CCTV and noise limiters. They are also good members of the pub watch scheme. She said the locality of the premises had been a major concern as it was near a playgroup and a school, but there will be no trade during school hours. They are a family run business and as such they want and need to get it right; they have children to support, and want to maintain a good reputation. Her clients are sympathetic towards the residents and wish to trade in a modest form. She said

because of the nature of the business, customers will not leave on mass, and therefore are less likely to cause trouble or create noise disturbance.

The Chairman asked the applicants to confirm that there would be no increase in signage of the exterior of the premises.

M Tavener said she had four children and would not like them to see any signage of that nature. She said she wants to keep the same standard that she would expect as a mother.

The Chairman asked if there was disabled access in to the premises.

Ms Eames replied there is no disabled access in to the premises. She said there is Legislation under the DDA but it is a listed building and they are unable to provide disabled access.

The Chairman asked if Ms Eames was suggesting the premises' was simply not viable to have disabled access.

Ms Eames replied it had the same restrictions as when it was a nightclub. She said her clients had no obligation to providing disabled access.

M Tavener said as it is a listed building they are restricted to changes they can make to the premises. She said they had to be very cautious as a major change would not be accepted.

The Chairman asked if people would be restricted from entering the premises after a specific time.

M Tavener said they would restrict people from entering the premises after 02:30am, which would be the same restrictions as they used with the nightclub.

Councillor Mrs Green asked R Mabbitt if there had been any previous noise complaints.

R Mabbitt replied there hadn't been any complaints to his knowledge.

Councillor Conway asked if there would be staff on the door, and if they would be checking the age of customers.

M Tavener replied one of their priorities is the protection of individuals. It would be a member's only club. She said customers have to be 18 years of age or over to enter the premises and they would look to introduce a system to scan customers I.D to keep on record.

Councillor Sutton said he knew the location of the premises, but asked how it would differ from the previous usage.

D Blennerhassett replied that it was previous a nightclub so they had loud music and dancing. She said they shouldn't experience some of the difficulties they had with the nightclub and believes the new licence would make it quieter and felt it will be nicer for local residents.

M Tavener added the new licence would have performing dancers to provide adult entertainment. She said that she had experience in the corporate market industry and believed Images will attract high end corporate type clientele. She said they believe is would bring in business to the Old Town and would be beneficial to local pubs and restaurants.

Councillor Sutton asked if the night club will use private membership.

M Tavener said the nightclub was open to all public and added that they always ensured that security was tight and that they were strict on the behaviour of customers. She said customers got one chance only.

S Taylor sought clarification on behalf of the Committee for the opening hours and any other or seasonal variations.

C Eames said she was not involved in drafting the original application, but the opening hours would be the same as the nightclub opening hours. She said the only extension on the standard hours would be for New Years Eve, but she appreciated that there was no dispensation and Images would have to trade on the hours for whichever day it fell on.

Councillor Mrs Green said that some of the issues raised by Mr Lewis were irrelevant as the local school, church, and church hall would not be affected by the venue as it would not be operating during the day.

The Chairman asked the Committee if they had anything they wished to add.

Councillor Link said there should be less people coming in and out of the premises and therefore should be better than the previous nightclub arrangement.

Councillor Mrs Green said she had no valid reason to object the application.

Councillor Sutton expressed his apologies and said he couldn't support the idea as he felt the Old Town was not an appropriate use or location for a Sexual Entertainment Venue.

Voting:

5 for and 1 against;

whereupon it was:

Resolved:

The Sub-Committee, having given due consideration of the oral and written representations, and having heard from the applicants and their solicitor, has agreed to grant this application for a Sexual Entertainment Venue licence.

In making this decision the Sub-Committee took into account the legislation governing the granting of such licenses as well as the Council's Sex Establishment Licensing Policy and the Home Office Guidance. Furthermore, it had regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.

The Sub-Committee were of the opinion that in accordance with law, policy and Guidance, the grant of the licence would be appropriate having regard to the character of the relevant locality.

The relevant locality is the area known as the "Old Town", Hemel Hempstead. The "Old Town" is considered an appropriate locality for the proposed Sexual Entertainment Venue. In Particular the Sub-Committee noted that that there are a number of premises which have existing premises licenses within the vicinity of the site. It is not expected the premises will have an impact on trade, thoroughfares, parks and open spaces due to the proposed operating hours

The grant of the licence is subject to the Council's standard conditions without the inclusion of condition 28, which has been removed because it is a listed building and the viability of putting the entrance in to place.

5. APPLICATION FOR A VARIATION OF THE HACKNEY CARRIAGE LICENCE CONDITIONS RELATING TO WHEELCHAIR ACCESSIBLE VEHICLES

A change in the requirement for the testing of hackney carriage vehicles licensed for wheelchair use was considered.

The Chairman asked the officers if all legal requirements had been met, and was informed by R Mabbitt (Licensing Enforcement Officer) that they had.

R Mabbitt gave an outline of the proposed new procedure and reasons for the change. As the policy stands at present, DBC will only licence vehicles that have been converted for wheelchair access either at manufacture prior to 1st Registration with DVLA or after 1st registration by a VCA (Vehicle Certification Agency) approved convertor.

Both of these methods add a substantial cost to the vehicles.

Many taxis that have been converted in the past do not have type approval as mentioned above or the appropriate certificate of conformity issued by a VCA approved convertor. (some of our taxis although appearing visually to conform have been purchased 2nd hand and the appropriate certificate has not been supplied).

If these certificates are not available or DVLA Swansea have not been notified of the conversion taxi drivers will not be able to continue with their current vehicles and will have to purchase new taxis. In some instances vehicles may have had their type approval carried in Europe and the approved company or manufacturer in that Country may not have notified their own registering authority or the DVLA if imported by us. This has been known to happen with Peugeot's in France.

An alternative method therefore is the IVA (Individual Vehicle Approval) Test. This will allow a taxi to be converted by a coachbuilder, motorbility company or similar. As long as the vehicle is converted appropriately with fittings that are type approved, i.e. bolts through the chassis, suitable nuts and washers and have British Standard I.S.O. numbers on the straps and seatbelts, it will be able to obtain an IVA Certificate from a VOSA (Vehicle and Operator Services Agency) testing station.

An IVA is a nationally recognised alternative means of testing for conformity by the VCA.

An IVA is normally for imported vehicles, kit cars, low volume manufacturers or stretch limousines. According to VOSA a number of local authorities are already using this method as a means of testing vehicles for wheelchair access (e.g. Hereford, Birmingham).

Part of the policy that was agreed at the previous meeting regarding WAV's was for those taxis currently licensed that could not provide a certificate of conformity or that had not been type approved as a WAV to be allowed to undergo an IVA. These taxis were to be given until 31st July to undergo an IVA. Once passed DBC would then continue to licence them.

Similarly the DBC Policy for Stretch Limousines also allows for an IVA test as an appropriate means of proof of roadworthiness and suitability to be licensed.

Mr McIlvaney made representations as to why he was seeking a change in the requirement for the testing of hackney carriage vehicles licensed for wheelchair use. In addition to his submission included in the report to the committee, he stressed the following points:

- The conditions attached to the License limit the choice of vehicle so that the only vehicles that meet the new criteria are the top end of the range and very expensive.
- If VCA (Vehicle Certification Agency) and IVA (Individual Vehicle Approval) registration were permitted it would allow coachbuilders to convert a taxi for public use within this Borough.
- There are a large number of converters that convert a vehicle to a standard that the Vehicle and Operator Services Agency (VOSA) accept as safe for the road and to the public.
- Mr McIlvaney asked for the License requirement to be changed so that IVA and VCA registrations are allowed and not hold vehicle conversion to self destruct because this means that it is only car manufacturers can afford the millions to take vehicles to whole vehicle destruct where every part of the vehicle is tested.
- The vast majority of conversions in this country are undertaken by coachbuilders who put in standard equipment such as the seats, seat belts and tracking etc that have been tested to M1 self destruct standard
- If we allow VCA's and IVA's then it will allow coachbuilders and manufacturers who work to VOSA standard to supply safe vehicles to be purchased and operated within the Borough of Dacorum.

Councillor Sutton asked if there was any evidence that VCA's and IVA's are less safe than manufactured Wheelchair Accessible Vehicles (WAV's).

R Mabbitt replied that he had spoken to the Senior Technical Officer for VOSA who supplied him with a detailed report of the testing involved. An IVA test takes between 1 – 2 hours and is a lot more stringent than a standard MOT.

Mr McIlvaney added that all vehicles have already been manufactured to self-destruct standard and the conversion is only adding parts to make it into a WAV. All the parts and equipment have been individually tested to self destruct standard and once VOSA have approved a vehicle you can be sure that the vehicle is safe for public use.

Councillor Sutton said that in view of what he had heard, he was more than happy to accept VCA or IVA approval for Wheelchair Accessible Vehicles and proposed that the request be granted. Councillor Hearn seconded the proposal.

Councillor Lawson commented that he was satisfied that the proposal would not compromise resident's safety and would provide flexibility to drivers.

Voting:

Unanimously agreed

whereupon it was:

Resolved:

That the Application for a Variation of the Hackney Carriage Licence Conditions Relating to Wheelchair Accessible Vehicles be granted and the Policy relating to Wheelchair Accessible Vehicles be amended so that Individual Vehicle Approval can be used as a suitable alternative means of testing.

6. EXCLUSION OF THE PUBLIC

It was moved by Councillor Mrs Green and seconded by Councillor Hearn and unanimously agreed to move to Part II of the meeting and to exclude the public.

whereupon it was:

Resolved:

That, under S.100A (4) of the Local government Act 1972 the public be excluded during the item in Part II of the Agenda for this meeting, because it was likely, in view of the nature of the business to be transacted, that if members of the public were present during this item there would be disclosure to them of exempt information relating to an individual which would be likely to reveal their identity (Minute 7).

7. APPLICATION FOR A VARIATION OF THE LICENCE CONDITIONS FOR A PRIVATE HIRE DRIVER MR M

Full details are in the Part 2 minutes

The meeting ended at 8.05 pm