

LICENSING SUB-COMMITTEE

Friday, 25 August 2017

**Present: Councillor Sue Nuttall (Chairman)
Councillors Backhouse and Mrs Cobbold**

Officers in Attendance: Robin Harris (Senior Lawyer (Contentious)), Tanya Lomakin (Environmental Health Officer), John McCullough (Senior Environmental Health Officer) and Dave Packham (Licensing Officer)

Other Members in Attendance: None

APOLOGIES FOR ABSENCE

LSC7/15 No apologies were received.

DECLARATIONS OF INTEREST:

LSC8/15 No declarations of interest were made by members at the meeting.

DETERMINATION OF AN APPLICATION FOR VARIATION OF A PREMISES LICENCE - ZEE BAR, HIGH STREET, TUNBRIDGE WELLS, TN1 1XL

LSC9/15 The Licensing Sub-Committee proceeded to hear the case following the adopted procedure rules. The application for variation of a premises licence for Zee Bar, High Street, Tunbridge Wells was summarised by the Licensing Officer, Dave Packham. Mr Packham went on to clarify that late night refreshment was only a licensable activity from 11pm until 5am the next morning. The Council's Senior Lawyer, Robin Harris, pointed out that the response in the agenda pack from Environmental Health was dated 2016 and the up-to-date response, dated 2017, was tabled for Members.

The applicant's legal representative, Mr Thomas, summarised the details of the application and stressed that it was the sale of alcohol that was being applied for as a licensable activity and not its consumption. Mr Thomas said that, currently, customers who stayed after 1am on a Thursday night were pre-loading alcohol and as a responsible licence holder, the applicant was asking for the removal of an anomaly on the existing licence.

Mr Thomas referred to the comments made by the Environmental Health team which stated that the staff at Zee Bar worked hard to ensure that the noise from customers leaving the premises was kept as minimal as possible. Mr Thomas added that the Zee Bar had established a good relationship with the police, who had not objected to the application and also had support from the Safe Town Partnership.

Mr Thomas said the application to extend the hours on a Thursday to bring them in line with the rest of the week would allow the monitoring of customers and alcohol consumption. He expressed concern that letters of representation received from residents made no reference to other venues that could have contributed to the noise and disturbance experienced. He added that the Zee Bar did have a responsible view and had door staff numbers in excess of those required, who instructed customers to disperse in a way that had the least impact on residents. Mr Thomas further added that, if it was a Zee Bar

customer who behaved irresponsibly then they would be banned from the premises.

Mr Thomas referred to a 'chill down' room in the venue which would provide hot drinks and snacks, and possibly food in the future, and could discourage customers from visiting fast food outlets and causing further disturbance.

Councillor Backhouse asked whether individuals who were barred by the Zee Bar would also be barred from all other venues in the borough, in line with the policies of the Pubwatch scheme. Mr Thomas confirmed that this would be the case. Councillor Backhouse also asked how many customers the Zee Bar averaged on a Thursday. Mr Thomas said it was approximately 50 but hoped it would double to 100 should the application be granted.

The Environmental Health Officer, Tanya Lomakin, said there was a level of understanding behind the reason for the application, which was to continue selling alcohol for the remaining two hours of opening and thereby remain competitive with other venues. Miss Lomakin did, however, highlight the locality of the venue to residential properties. The Environmental Health Team's main objections to the application were the noise from users of the smoking shelter, and the noise and general disturbance caused by customers leaving the venue, as well as the noise from music in the club. Miss Lomakin was aware that improvements had been made to reduce the noise levels but complaints had been received, particularly with regard to properties to the rear. Miss Lomakin added that, whilst the volume levels of music in the club could be managed, the noise from customers smoking outside and leaving the premises was more difficult to control and traditionally, Thursday was followed by a working and school day. Ms Lomakin said it was generally accepted that a closing time of 1am would allow a sleep period of, on average, five to six hours for residents in close proximity; however, by allowing a closing time of 3am would it was possible that the sleep period would be reduced to three to four hours. Miss Lomakin said the Environmental Health Team were aware of the due diligence shown by the Zee Bar staff and the proactive approach taken to managing the noise and disturbance from the venue. She added, however, that the approach taken by the staff could only be to suggest that customers follow the requests and that enforcement was not an available option.

Mr Thomas asked Miss Lomakin if she was aware that customers could already stay and drink until 3am. Miss Lomakin said she was aware that this was the current situation.

Mr Thomas said the smoking area was now triple glazed and managed by two door staff. Miss Lomakin was aware that this was the case but said the smoking area, by its nature, could only be partially enclosed.

Ms Lorna Blackmore, a resident to the rear of the venue, addressed the Sub Committee and highlighted the following points:

- The objection was being made on the basis of public nuisance. There had been 26 recorded crimes, 17 of which had been public nuisance offences.
- Although some additional sound proofing had been provided, Ms Blackmore had had cause recently to complain about noise levels but was not able to contact the venue via the telephone number provided.

- A public notice was not displayed advertising the application and this was not considered to be in the spirit of cooperation between residents and the venue.
- Objections had always been made to the extended hours on a Thursday as it was a weekday night and the impact on the increasingly residential neighbourhood was considerable.

Mr Harris reminded Members that the application was not for a variation in the opening hours of the venue but for an extension to the period of time for the sale of alcohol.

Mr Tim Tempest, a resident and Chairman of the Avenue Residents Association, addressed the sub committee and highlighted the following points:

- Mr Tempest and the residents he represented had experienced significant public nuisance from the venue including shouting, screaming, the slamming of car doors and the revving of engines, and people urinating in the road and in residents' driveways.
- The demographics in the area around the Zee bar had changed and although the high street was a commercial area it was also residential. Many properties in the area that were formerly flats had been converted to houses, with families with school-age children.
- Security staff had little influence on people beyond the boundaries of the venue and the proposals to employ additional security staff were subjective and did not deal with the real issues.
- The applicant's previously stated aim, to work with local residents, appeared to be at odds with the nature of the application being considered.

Mr Black, a resident near to the venue, addressed the Sub Committee and highlighted the following points:

- The extension being applied for would result in customers dispersing from the venue 30 minutes before Mr Black rose for work, which was not in Mr Black's or his partner's well-being.
- The overall disruption had been discussed at length and as well as the 27 crime incidents referred to by Ms Blackmore, there were a number of unreported incidents.
- The car park in South Grove was used almost exclusively by Zee Bar customers and resulted in the additional noise from high powered vehicles in the early hours of the morning.
- One of the Council's objectives was to reflect the needs of local communities. As stated by the applicant, the majority of customers who left Zee Bar headed toward the taxi-rank and therefore, were not local.

Miss Lomakin presented her closing statement and said that, whilst it was recognised that the existing hours for serving alcohol on a Thursday was an anomaly, it did result in a more gradual dispersal of customers, with the impact on residents less than on Friday and Saturday nights. She said if the hours for the sale of alcohol were extended there would be more customers leaving at 3am and the disturbance experienced at the weekend would be replicated.

Mr Thomas presented a closing statement on behalf of the applicant. He said there were no issues with the licensing objectives on the grounds of crime and disorder, public safety, or the protection of children. He said the only issue raised was public nuisance. Mr Thomas said the venue had a commercial imperative and under the current circumstances a customer who wished to pre-load alcohol could not be refused. Mr Thomas reiterated his earlier points which were that, the extended hours would allow the monitoring of alcohol consumption to be monitored and if there were incidents of drunken behaviour and associated disturbance, those customers responsible would be barred from the club.

RESOLVED - That the application for variation of a premises licence for the Zee Bar, High Street, Tunbridge Wells be determined as shown at Appendix A attached.

APPENDIX A

NOTE: The meeting concluded at 2.00 pm.