

Crawley Borough Council



Minutes of Licensing Sub Committee

Thursday 29 September 2011 at 10.30am

Present:

Councillors B K Blake, L R Gilroy and B MeCrow

Officers Present:

Tony Baldock	Group Manager for Food, Licensing and Occupational Health
Mike Lyons	Senior Licensing Officer
Astrid Williams	Legal Clerk – Solicitor
Chris Pedlow	Democratic Services Officer

Also in Attendance:

<u>Applicant –</u>	Chris Boyle (<i>Sussex Police – Licensing Officer</i>)
<u>Sussex Police</u>	Chief Inspector Steve Curry (<i>Sussex Police – Crawley District Commander</i>)
	Sgt. Tony Jarred (<i>Sussex Police – Licensing Sergeant</i>)
	Peter Savill (<i>Barrister for Sussex Police</i>)

<u>Licence Holder –</u>	Graeme Cushion (<i>Solicitor for Luminar Liquid Ltd</i>)
<u>Luminar Liquid Ltd</u>	Adam Foxley (<i>General Manager and Designated Premises Supervisor of Liquid/Envy</i>)
	Ged Gorrie (<i>Divisional Manager Luminar Liquid Ltd</i>)
	Peter Turpin (<i>Operation's Director Luminar Liquid Ltd</i>)

1. Appointment of Chair

RESOLVED

That Councillor B MeCrow be appointed Chair for the meeting.

2. Members' Disclosure of Interests

The following disclosures of interests were made by Members:-

Member	Minute Number	Subject	Nature of Disclosure
B K Blake	Minute 3-5	Application to Review the Premise Licence of 'Liquid/Envy', Station Way, Northgate	Personal and Non Prejudicial Interest. Councillor Gilroy knows one of the Interested Parties Councillor Dr. Howard Bloom as he is a fellow Councillor

Member	Minute Number	Subject	Nature of Disclosure
L R Gilroy	Minute 3-5	Application to Review the Premise Licence of 'Liquid/Envy', Station Way, Northgate	Personal and Non Prejudicial Interest. Councillor Gilroy knows one of the Interested Parties Councillor Dr. Howard Bloom as he is a fellow Councillor
B McCrow	Minute 3-5	Application to Review the Premise Licence of 'Liquid/Envy', Station Way, Northgate	Personal and Non Prejudicial Interest. Councillor Gilroy knows one of the Interested Parties Councillor Dr. Howard Bloom as he is a fellow Councillor

3. Application to Review the Premises Licence of Luminar Liquid Ltd in relation to the premises at 'Liquid/Envy', Station Way, Northgate

The Sub Committee considered an application for a Review of the Premise Licence of Luminar Liquid Limited (the Licence Holder) in respect of the premises known as 'Liquid/Envy', at Station Way, Northgate submitted by Chief Inspector Steve Curry on behalf of the Chief Constable of Sussex Police (the Applicant/the Police).

The Legal Clerk informed all parties that the Sub Committee Members had requested a briefing meeting with the Legal Clerk prior to the commencement of the Sub Committee to confirm the procedure that would be followed during the meeting. The Legal Clerk said that arising from this were a couple of points of clarification which the Sub Committee members had sought in relation to parts of the Memorandum of Agreement and that just before the hearing commenced she had communicated these to the representatives for the Applicant and the Licence Holder who had confirmed that they would address these in their representations.

The Legal Clerk then asked all parties present, if they wished to make any relevant applications, for example to adjourn or to cross-examine the opposite party. No applications were made at this time, but they reserved the right should it be necessary, which the Sub Committee agreed to.

Report PES/040 of the Council's Head of Planning and Environmental Services was then presented by Mike Lyons, Senior Licensing Officer for Crawley Borough Council.

The Application

The Senior Licensing Officer informed the Members that on the 12th July 2011, the Applicant as a 'responsible authority' submitted an application to the Council as the Licensing Authority for a **review** of the premises licence in respect of the premises known as Liquid/Envy (L/E). The reasons for their request were on the grounds that the Licence Holder was not promoting the statutory licensing objectives of Prevention of Crime & Disorder and Public Safety.

The Sub-Committee were informed that the Designated Premises Supervisor (DPS) at the date of the review application was Mr Chason but since then, on the 18th August

2011, the Licence Holder had submitted an application, which was subsequently granted, to vary the DPS, to Mr Foxley.

Senior Licensing Officer confirmed that the application was advertised in accordance with legislation and as a result of the consultation process, two interested parties submitted relevant representations in respect of the 'licensing objectives' of *Prevention of Crime & Disorder, and Public Safety*, to the Licensing Authority. The interested parties were a local ward Councillor, Dr. Howard Bloom, and the second was the British Transport Police.

The Sub Committee was then informed that a memorandum of agreement (MoA) had been jointly submitted to the Licensing Authority on 22 September 2011 by the Applicant and by the Licence Holder. The MoA (Enclosure X of the additional information which Members had received in advance of the hearing), set out a joint statement whereby the Applicant amended what it had sought in the original application, and the Licence Holder stated it agreed to what was sought by the Applicant, including proposed changes to the hours of the licence, the conditions to the licence and also that the licence ought to be suspended for a period of 2 weeks (rather than the 6 weeks as originally sought by the Applicant).

Members were then guided through the remainder of the report which set out the reasons for the Hearing and what matters the Sub Committee should take into consideration when dealing with the application, including the relevant parts of the Guidance issued by Government pursuant to Section 182 of the Licensing Act 2003, and the Council's policy considerations.

Senior Licensing Officer then proceeded to inform the Sub Committee of the options available to them in respect of the application, namely that the Sub Committee must, having regard to the application and any relevant representations, take such steps (if any) as it considers necessary for the promotion of the licensing objectives. The steps were identified as: i) to modify the conditions of the licence, ii) to exclude a licensable activity from the scope of the licence, iii) to remove the designated premises supervisor, iv) to suspend the licence for a period not exceeding three months, and/or v) to revoke the licence.

The Applicant – Sussex Police

The Applicant's representative, Mr Savill, addressed the Sub Committee and stated that he did not intend to go through the application and the two sets of further supporting information (Enclosures A, B and C to the report) but that he would briefly discuss the grounds of the review as shown on page Annx/ p.4 of the report, and then address the MoA.

Mr Savill said that in the Police's view the grounds for calling the review was simple in that the Licensing Objectives of the Prevention of Crime & Disorder and Public safety had severely been undermined with over fifty incidents associated with the premises since August 2010. He said that these included three incidents where the injuries equating to GBH, two robberies from a person, one reported rape and two incidents that have resulted in police officers being assaulted. Mr Savill said that the then DPS, Mr Matt Chason, had failed to address any of the issues of disorder within the premises despite numerous interventions by the Police, and it was therefore felt that the only way to proceed was for the Police to apply for the review of the premise licence.

Mr Savill stated that the MoA had come about following discussions with the Licence Holder, after the application for the review had been issued. During those discussions, the Licence Holder made it clear that it was willing to make significant changes to how

Liquid/Envy was managed and were happy to work with the Police on addressing their concerns. The Licence Holder had already removed the DPS and the SIA door team, prior to the discussions with the Police. The subsequent talks with new DPS Mr Foxley and senior officers from Luminar Liquid Limited were successful and made the Police feel significantly encouraged that a MoA was produced.

Mr Savill then guided the Sub Committee through the contents of the MoA, and provided the Police's reasons for the changes to the Police's original application. He said that this included a request for the licence to be suspended for a period of 2 weeks, rather than the originally asked-for 6 weeks. He said that the reason 6 weeks was originally sought was because the Police felt this was the time required to implement the other steps it proposed in its application including a period of time for a new DPS to come in, however, as a new DPS and team had already been installed and many of the changes had been made by the Licence Holder, it was felt that new proposal of a 2 week suspension of the licence would be sufficient. He said that any steps taken by the Sub Committee only take effect 21 days after the decision. Mr Savill said that in the Police's view the proposed 2 week closure was still necessary to allow the new DPS to make the necessary changes, and to re-brand and re-launch L/E, allowing a clear break from the old L/E. He said that the agreement with the Licence Holder to ask for longer hours than in the original application was because it was a reflection of the fact that the Police have some confidence in the new management team.

Mr Savill also clarified two issues that the Sub Committee had requested at its premeeting. The first was in respect of what was meant by "bar areas" in the proposed new conditions as set out in paragraphs 7 and 8 of the MoA. Mr Savill explained that by "bar areas" the parties meant each floor of the premises and if this term was used it would mean the same. In respect of the proposed new condition set out in paragraph 9 of the MoA, Mr Savill acknowledged that to give clearer meaning to the intent of the proposed condition the word "reasonably" could be added before the word "practicable" so that the proposed condition would have the same meaning commonly found across a wide range of regulatory frameworks. It was noted by the Sub Committee that Mr Cushion for Licence Holder agreed to these changes.

Mr Savill then referred to the number of further proposed conditions regarding special events and under 18 events. He said that these had arisen in consequence of discussions between the Police and the Licence Holder after the application had been made, and the new management agreed to the inclusion of these proposed conditions on the licence. He mentioned that in relation to proposed condition e) in relation to under 18 events and the clarification which the Sub Committee had asked in particular in respect of the words "It is preferred", he said that he agreed that this is not enforceable. He suggested that the first sentence of the proposed condition be removed, and said the reasons it had been left in because it was an understanding between the parties to the MoA. It was noted by the Sub Committee that Mr Cushion for the Licence Holder supported this rewording.

Mr Savill said that the Police took the view that they could not tolerate and will not tolerate any repetition of the problems which had been associated with L/E in the past and they would have no hesitation in bringing the licence back to the attention of a Sub Committee by applying for a review, if there was repetition of the problems.

Mr Savill informed the Sub Committee that Sergeant Jared had informed him that he had spoken to the British Transport Police to appraise them of the MoA and it was understood that they were content with it.

Chief Inspector Curry then addressed the Sub Committee and re-emphasised that the decision by the Police to bring this action came only after considerable efforts were

made to address the situation directly with the Licence Holder. He said the Police was only happy to support the MoA due to the apparent genuine willingness by Luminar Liquid Ltd to address the issues and seek improvements at Liquid/ Envy. He went on to say that if the implied changes did not happen and incidents continued to occur, the Police would not hesitate in taking further action including seeking a further review of the licence. With that in mind, Chief Inspector Curry said that he commended the proposed MoA to the Sub Committee.

The members of the Sub Committee then asked a number of questions of the Police including on proposed condition e) for proposed conditions relating to under 18's events as set out in the MoA, and why the condition does not read '*That all staff working within the venue, should be CRB checked.*' In answer it was confirmed by the representatives of the Applicant that although the Police would prefer that was a requirement, the reason why it was not in the proposed condition was because it would not be proportionate as that would require all staff from bar staff to glass collectors, to cleaners and even temporary staff to be CRB checked.

The Licence Holder – Luminar Liquid Ltd

Mr Cushion addressed the Sub Committee, on behalf of Luminar Liquid Ltd. He said that they were very disappointed over all the problems that had occurred at L/E. Many of those were due to the limitations of the previous DPS and partly due to the fact he had not been properly reporting incidents both to the Police and internally within the company. He said that Mr Chason had not made his bosses aware of the frequency of the problems at the premises, especially in respect of incidents where the Police had been involved.

Mr Cushion said that the Licence Holder had grasped the matter since, and had actively started to address the issues with a new DPS, who had now been in place for approximately 6 weeks and a new SIA security team. He said that whilst the Licensing Authority might have only received the final version of the MoA on 22 September, the majority of its contents had been agreed by the Licence Holder and the Police since the end of August. He said that Luminar Liquid Ltd supported and accepted the proposals within the MoA and all of the matters set out in it either had been or would be implemented in the 2 week closure including allowing the new Management team the chance to address the remaining issues and after the proposed two week suspension, reopen L/E with a fresh start.

Mr Cushion then re-emphasised the aspects of the MoA which the Sub Committee had sought clarification – in relation to the new conditions proposed in paragraphs 7 and 8 of the agreement, he confirmed that “each bar area” related to each floor of the premises; in relation to the new condition proposed in paragraph 9 he confirmed his client agreed to the addition of the word “reasonably” and in the new condition numbered e) under 18's events he confirmed that the wording in the MoA was that which was reached by agreement and it was due to the impracticality of having all staff members CAB checked in respect of under 18s events that this was not part of the proposal. He said that however the client was very experienced in running under 18 events and they normally run without any problems. He said that he too commended the agreement to the Sub Committee.

Mr Turpin, Operation's Director for Luminar Liquid Ltd, then addressed the hearing and said that he was extremely disappointed that there had been a need for a hearing. The clear issues relating to Liquid Envy should have been tackled long before the point when the Police felt that they had no other option but to apply for a review of the licence. He explained that Luminar Leisure Ltd had a processes and systems in place at all of its venues including that if an incident occurs, the General Manager/DPS must ensure this is included on their database which includes

classifying whether the incident was minor or serious. He said the database was directly linked to Head Office, which ensures Senior Management were aware of exactly what was happening at their venues. He said that the process means they could support the venues' General Manager/ DPS to tackle any consistent issues. However at L/E Mr Chason, hid all the problem from management, including not filling in the database and as a result of that failure he had now left the company.

Mr Turpin stated that he would like to apologise sincerely on behalf of Luminar Liquid Ltd management for the time and cost the hearing and its associated work, both to the Licensing Authority Council and to Sussex Police.

He then addressed the issue as to why the proposed conditions in the MoA did not include a requirement that all staff at under 18 events must have a CRB check done. He confirmed that it was due to the practicality of having every member checked but they operated best practice and all entertainment managers at their venues are CRB checked and it is policy that no non-CRB checked member of staff is allowed to be alone with minors.

He then commended the proposed MoA to the Sub Committee.

Following the statements, the Licensing Holder's representatives were asked a number of questions by the Sub Committee members. Those included, the age of those attending under 18's events. It was confirmed by Mr Turpin that those events were aimed at the age range of 14-17 year olds, with on average 10 events a year at L/E where the upstairs dance floor was used and the normal attendance was 200-300 children, but with the aim of up to 1,000. He confirmed that the majority of staff working those events were SIA Door supervisors, as there was a less need for bar staff. Mr Turpin also explained that in respect of the proposed conditions set out in paragraphs 7 and 8 and of the MoA, the locations of the door staff would be based on incident mapping and would be assigned to specific areas to be responsible for and that this was an approach which had proved to be successful in other Luminar Liquid Ltd venues. It was also confirmed by Mr Turpin that as a result of the proposed condition in paragraph 12 of the MoA (only using polycarbonate or shatterproof drinking receptacles at the premises), the premises would be reducing its range of drinks it sold given that fewer were made in the polycarbonate or shatterproof receptacles.

RESOLVED

In accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the following part of the hearing. The Sub Committee considered that the public interest in taking such action outweighed the public interest in the hearing taking place in public.

4. Application to Review the Premises Licence of Luminar Liquid Ltd in relation to the premises at 'Liquid/Envy', Station Way, Northgate

The Sub Committee gave further consideration to the application, memorandum of agreement and to the matters raised at the meeting. In formulating its decision, the Sub Committee took into account the options that were available to them and considered what was necessary to ensure that the licensing objectives were achieved.

RESOLVED

The Sub Committee, having considered the application and the relevant representations, resolved to modify the conditions of the premises licence (as detailed in full within Minute 5 – Re-admission of the Public) because it considered this necessary to promote the licensing objectives.

5. Re-admission of the Public

The Chair declared the meeting re-open for consideration of business in public session and asked the Legal Clerk to read out the Sub Committee's decision and their rationale to the Applicant Sussex Police and to Licence Holder Luminar Liquid Ltd. Prior to reading out the decision the Legal Clerk informed all parties present that they would receive a copy of the decision notice within 5 days of the hearing. The decision, as set out, was read out by the Legal Clerk:

"The application sought a number of changes to the licence including changes to the opening hours, hours in which licensable activities may take place, and a number of changes to existing conditions as well as a number of new conditions. The application also requested that the licence be suspended for a period of 6 weeks.

The Sub Committee, in determining the application, carefully considered the following:

- (1) The application and all the material provided in support of it by Sussex Police (appendices A, B and C to the report), and the submissions made during the hearing in support of it.*
- (2) Relevant representations made by interested parties (appendices E and F to the report).*
- (3) The submissions made during the hearing by and on behalf of the Licence Holder.*
- (4) The memorandum of agreement submitted by both the applicant (Sussex Police) and the Licence Holder (Luminar Liquid Ltd).*
- (5) The guidance issued by the Secretary of State pursuant to s.182 of the Licensing Act 2003.*
- (6) The Council's own Licensing Policy.*

DECISION

Opening hours and licensable activity hours

The proposed amendments to the hours for licensable activities (other than late night refreshments) under the memorandum of agreement was from 12 midday to 3.00am. The Sub Committee agrees with this change.

The proposed amendments to the hours for opening hours under the memorandum of agreement was 12 midday to 3.30am. The Sub Committee did not agree with this and its decision is that opening hours for the premises is midday until 4.00am. The reason for this is that the committee strongly felt that narrowing the time allowed for the premises's patrons to disperse to 30 minutes was insufficient given the capacity of the premises. The Sub Committee were particularly mindful in this regard that many of the incidents upon which the Police relied in bringing its review application related to

incidents which had occurred outside the premises involving people who had left the premises. In the Sub Committee's view, 1 hour was necessary for the promotion of the licensing objectives of prevention of crime and disorder and public safety.

The proposed amendments to the hours for the licensable activity of late night refreshment under the memorandum of agreement was from 12 midday to 3.15am. The Sub Committee decided that in light of their view as to the necessary 1 hour dispersal time (after alcohol is served), that it would be more proportionate for this licensable activity to continue until 3.30am and that this change would also assist in the promotion of the objectives of prevention of crime and disorder and public safety.

The Sub Committee wanted to make it clear that the above decision does not affect the licensable hours in relation to New Year's Eve as set out in the current licence.

Conditions

The Sub Committee considered the proposed conditions in paragraphs numbered 5 through to 13 in the memorandum of agreement and agreed that these were necessary to promote the licensing objectives, specifically prevention of crime and disorder and public safety, subject to the amendments below:

In paragraphs numbered 7 and 8 – after the words 'bar area' the words 'meaning each floor of the premises' to be added.

In paragraph numbered 9, the word 'reasonably' to be added before the word 'practicable' and the Sub Committee noted that both the Applicant and the Licence Holder agreed to this amendment.

In relation to paragraph 11 this will be used to amend current condition numbered 23 which will now read as follows:

'The DPS or another personal licence holder shall always be present during the hours the premises is open to the public and will be aware of the number of people on the premises.'

In relation to paragraph 13, this will be amended so that after the words 'licensed SIA' will be inserted 'staff member'.

The Sub Committee also decided that the decision to place these new or amended conditions on the licence means that current conditions 8, 9 and 12 are to be deleted.

In relation to the proposed additional conditions in respect of special events numbered 1, the Sub Committee decided that after the words 'Licensing Unit' should be added the words 'and Crawley Borough Council Licensing Section'.

The Sub Committee noted that proposed additional condition in respect of special events numbered 2 is already added to the licence by their decision to adopt the proposed condition in paragraph 13 of the memorandum of agreement and so no decision was required regard this proposal.

In respect of additional conditions in respect of 'dedicated under 18s events', the Sub Committee agreed that all of these shall be added as conditions to the licence, as this is necessary for the promotion of prevention of crime and disorder, public safety and protection of children from harm licensing objectives, but subject to the following changes:

In relation (b): the word 'premises' be substituted for the words 'entire venue'.

In relation to (e): the first sentence to be deleted but another sentence to be added to the end of this condition as follows:

'At no time shall any staff member who has not been CRB checked be in the presence of any person under the age of 18 years without there also being present a staff member who has been CRB checked.'

In making this amendment, the Sub Committee noted that the Licence Holder during the hearing indicated that this is the Licence Holder's current practice in any event.

In relation to (j): at the end of that sentence to be added 'to be clear, this is not in addition to the requirement as set out in [current condition 14]'.

In relation to (k): before the word 'drink' there shall be inserted 'alcohol'.

In relation to (m): this shall be re-worded as follows:

'If after any under 18 year old event the premises shall be opened up to adults later in the evening, the premises will be closed completely for a minimum period of 15 minutes in between events to ensure that no children remain on the premises'.

Suspension

The original application requested the Sub Committee consider suspending the premises licence for a period of 6 weeks. The Sub Committee noted that Sussex Police, as set out in the memorandum of agreement, now request a period of 2 weeks, and also noted that submissions made during the hearing by the Police included that the Police was satisfied that this was sufficient time to implement the changes as jointly proposed with the Licence Holder.

The Sub Committee was mindful of its policy in which it states that in looking to matters of reduction of crime and disorder it will give the Police's advice considerable weight. It was also mindful that information was given at the hearing indicating that many of the changes are under way, including that the Designated Premises Supervisor had already been replaced by the Licence Holder, as had the change in SIA door staff.

The Sub Committee therefore agreed that a period of 2 weeks was both proportionate and necessary to promote the licensing objectives – including to ensure that there is adequate time for the Licence Holder to implement all the necessary changes required by the amended and new conditions (as set out above). Therefore, the Sub Committee decided that there shall be a suspension of the licence for a period of 2 weeks.

Conclusion

In concluding, the Sub Committee was encouraged by the apparent genuine concern and remorse of the Licence Holder that the situation had become so serious and shared Sussex Police's cautious optimism that real and significant changes will be made under new management and with the amended conditions of the licence, to address previous failures. However, the Sub Committee are grateful to the police for their dedication in trying over a long period to improve the problems linked to this premises and noted with satisfaction that the police will be monitoring the new

management and will consider in the future bringing a further review if there isn't the hoped for improvements.

The Sub Committee wished to end on a positive note and extended its gratitude to the Police and the Licence Holder for their co-operative working, and expressed a hope that this will continue into the future to the benefit of all."

6. Closure of Meeting

With the business of the Sub Committee concluded, the Chair declared the meeting closed at 3.17pm.

Councillor B McCrow
Chair