

Decision notice

Review of Premises licence

Cocoon , 64-70 Gold Street Kettering Northamptonshire

Date of hearing: 2pm 20th September 2012

1. The Decision

- 1.1. That the Licence be suspended for a period of one month from the date this decision takes effect
- 1.2. That the Designated Premises Supervisor Michaele Roberto Giacobbe be removed
- 1.3. That the following additional conditions be placed on the licence
 - 1.3.1. The Designated Premises Supervisor shall possess a "National Certificate for Designated Premises Supervisors" or equivalent nationally recognised qualification approved by the licensing authority and the Police prior to appointment
 - 1.3.2. No person under the age of 18 shall be present on the Premises during opening hours save on occasions other than on a Friday or Saturday when the Premises are open exclusively for an event for such persons under 18
 - 1.3.3. During all trading hours there shall be a member of staff holding a personal licence at every bar
 - 1.3.4. All staff serving alcohol shall receive training for a period and in a form approved by the Licensing Authority, such training to take place within a period of one month for staff employed on the date of the decision and within 3 months of commencement of employment and again at least once in every subsequent calendar year.

- 1.3.5. Exterior door staff shall be equipped with video recording body cameras and used at all times whilst on duty. Recordings shall be retained in the same manner as CCTV recordings and made available to the Police and Licensing Authority on demand
- 1.3.6. The premises licence holder shall install a club scan device at the premises or other similar equipment capable of verifying identity
- 1.3.7. All door staff shall work for a single contractor who is approved by Northampton Police and the Licensing Authority
- 1.3.8. There shall be one door supervisor for every 50 customers at the premises and the provisions of the existing licence relating to door staff shall be varied accordingly
- 1.3.9. All exterior door staff shall wear high visibility jackets
- 1.3.10. All door staff shall wear distinctive clothing identifying them as door staff.
- 1.3.11. At least one member of the door staff shall patrol the immediate exterior of the Premises at all times when they are open to the public
- 1.3.12. A representative of the Premises Licence holder shall meet with the Police on request.
- 1.3.13. No customers shall be admitted to the premises in the period of 1 hour prior to the end of the period for the sale of alcohol

2. Evidence considered

In arriving at the decision the committee considered statements from the Police provided by Police Inspector Chisholm, Police Sergeant Fletcher, Police Sergeant Briggs and Police Constable Mae Thong. It considered statements from the Premises Licence Holder provided by Jose Ribeiro, Gabriel Ribeiro, a report by Mr John Anderson of Wentworth Security Consultants as well as a number of other supporting papers.

3. It also heard from each of the police officers providing statements, (other than Police Constable Mae Thong) Mr Jose Ribeiro, Mr John Anderson and a representative of the security company providing door supervisors at the Premises.
4. Mr Terry Smith of Bar Sun also made representations of fact and an officer from Northamptonshire Fire Brigade made representations
5. Facts on which the decision is based
The committee were satisfied as to the following facts:
 6. The Police have had concerns about the conduct of the business at the Premises since at least June 2011 and addressed them in accordance with Licensing policy without success leading to the request for the review
 7. The Premises Licence Holder and the Designated Premises Supervisor were unaware of the capacity limits for the premises until they were drawn to their attention by the fire officer and regularly permitted in excess of 450 people to be present on the Premises rather than the capacity limit stated in the fire risk assessment of 300.
 8. On Friday 6th April 2012 an event for adults had taken place at the premises at which alcohol had been served to persons under 18 and a "wet T shirt" contest organized in which such young persons had participated
 9. In the early morning of 9th April 2012 a large number of persons had left the premises in such an intoxicated state that disorder and running battles had occurred in the street outside the premises . Six persons were arrested and other persons physically escorted away by the Police. This caused police inspector Chisholm present at the time and responsible for public safety extremely serious disquiet about public safety.
 10. On that occasion Mr Gabriel Ribeiro had initially declined to close the Premises at the request of the Police.

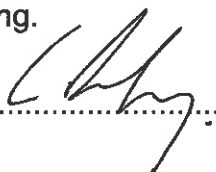
11. Generally there were inadequate controls in place at the premises to prevent serving persons in a state of intoxication with alcohol. The committee were also satisfied that drinks promotions liable to encourage excessive consumption took place on Thursdays despite initial evidence to the contrary on behalf of the Premises Licence Holder
12. The Designated Premises Supervisor at the time of the application for review did not exercise any meaningful control over the licensable activities at the premises whether in respect of the sale of alcohol or otherwise. He did not attend the hearing or provide any explanation as to how he supervised the Premises.
13. In the light of answers to questions posed by the committee at the hearing the proposed new Designated Premises Supervisor Jose Ribeiro did not possess an adequate knowledge of licensing law and policy.
14. There were inconsistencies in the evidence on behalf of the Premises licence holder including the present involvement of Mr Gabriel Ribeiro with the business such as to lead the committee to limit the weight given to assurances as to the future conduct of the business
15. Reasons
In considering whether steps were appropriate in relation to the Premises the committee had regard to the council's licensing policy and guidance under section 182 of the Licensing Act 2003.
16. From the representations on behalf of Northamptonshire Fire Brigade and the evident lack of understanding of the need to limit the number of persons in the Premises to that referred to in the Fire Risk Assessment and required under the Fire Safety Regulations steps were appropriate to further the achievement of the public safety licensing objective.
Accordingly a period of suspension was appropriate to allow those regulations to be complied with.
17. The Committee considered that the fact of intoxicated persons leaving the premises on a number of occasions, disorder outside it in April 2012 and

the occurrence of subsequent incidents despite concerns expressed by the Police to the Premises Licence Holder indicated inadequate achievement of the crime and disorder licensing objective.

18. It was quite plain that the Designated Premises Supervisor Michael Roberto Giacobbe had exercised no significant control over the Premises in achieving the licensing objectives. Accordingly he should be removed.
19. The committee noted the considerable lengths to which the Premises Licence Holder had gone to obtain expert advice on the management of the Premises, but it was most concerned to note his lack of understanding of licensing law and practice displayed at the hearing and the appearance that the committee had been misled in relation both to the continuing involvement of Mr Gabriel Ribeiro with the premises and the use of drinks promotions. Taken together with the matters at paragraphs 16-18 it was therefore appropriate to suspend the license for a period of one month to enable fire safety to be fully addressed, training requirements met and the full consideration and implementation of the steps proposed by the Premises Licence Holder and required by condition to achieve the crime and disorder objective.
20. In order to ensure that when the suspension came to an end the Licensing Objectives were being fully achieved it was appropriate to impose conditions as offered by Mr Jose Ribeiro.
21. The size and nature of the premises made it appropriate to impose a condition requiring the Designated Premises Supervisor to have received formal training. This would be particularly helpful to the proposed person to be appointed, Mr Jose Ribeiro.
22. The conduct of the event on 6th April 2012 indicated that at the time the persons responsible for the Premises had taken inadequate steps to achieve the licensing objective of protecting children from harm. The committee noted with appreciation the offer from Mr Jose Ribeiro to accept a condition restricting the use for the premises for young persons and considered that the imposition of such a condition was appropriate.

23. The committee gave consideration to the request by the Police for a reduction in licensing hours. However having examined the evidence and taken account of licensing policy it was unable to conclude that such a reduction was appropriate to further the licensing objectives. Nevertheless a condition restricting entry to the Premises in the last hour of opening was appropriate in the interests of limiting crime and disorder at or around the time of closing.

Signed



Cdr LLOYD BUNDAY

Committee chairman

Date:

26th September 2012