

LICENSING SUB-COMMITTEE

Thursday, 14 January, 2010 at 10.30 a.m.

Conference Room, Council House, Walsall

Present

Councillor Sears (Chairman)
Councillor P. Hughes
Councillor Wilkes

Appointment of Chairman

Resolved

That Councillor Sears be appointed Chairman of the Sub-Committee for this meeting only.

Councillor Sears in the Chair

Welcome

The Chairman extended a welcome to all persons present at the Sub-Committee which had been established under the Licensing Act, 2003.

Apology

An apology for non-attendance was submitted on behalf of Councillor Barton.

Declarations of Interest

There were no declarations of interest.

Licensing Hearing

**Application for a Premises Licence under Section 17 of the Licensing Act, 2003
- Altern8, 66 Bradford Street, Walsall, West Midlands, WS1 1PN**

The report of the Head of Public Protection was submitted:-

(see annexed)

The following persons were present:-

Mr. Steven Knapper - Principal Licensing Officer, Walsall MBC
Ms. L. Boothman - Senior Principal Trading Standards Officer, Walsall MBC
Mrs. J. Taylor - Licensing Enforcement Officer, Walsall MBC
Mr. L.J. Hurst - Applicant
Mrs. Mayhew - Owner of the premises
Mr. Charles Underwood - Applicant's solicitor
PC Brian Doyle - West Midlands Police
Sergeant John De-Hayes - West Midlands Police
Mr. Neil Aston-Baugh - West Midlands Fire Service
Jim Bradley - West Midlands Fire Service
WPC Angie Forster - West Midlands Police
Kate Richards - Barrister representing West Midlands Police
Mr. Moses White - Former Councillor
Mr. Paul Green - Legal Services, Walsall MBC
Mr. Paul Wilde - Clerk to the Sub-Committee

The Principal Licensing Officer (Mr. Steven Knapper) outlined the contents of the report. He stated that the purpose of the meeting was for Members to determine an application for a Premises Licence in respect of Altern8, 66 Bradford Street, Walsall. The application had been made by Mr. Leslie Joseph Hurst and was submitted on his behalf by Hadens Solicitors of Bridge Street, Walsall.

Mr. Knapper stated that an application for a Premises Licence was received on 16th November, 2009. The completed application, including the proposed layout of the premises, was shown at Appendix 1 to the report. The applicant had identified the steps intended to be taken in order to promote the licensing objectives and if the application was granted, as requested, these would become conditions of service.

Mr. Knapper stated that in essence, the application sought to provide licensable activities from 07.30 hours to 03.00 hours the following morning on Monday through to Thursday. On Friday, the premises would open at 07.30 hours and remain open continuously until 08.00 hours on Sunday morning then would re-open at 10.00 hours on Sunday and close at midnight. He added that a street map of the locality was attached at Appendix 2 to the report.

Mr. Knapper reported that on 11th December, 2009, the Licensing Authority had received a written representation to the application from the Trading Standards Division of Walsall Council, a responsible authority under the terms of the Act (Appendix 3 refers).

On 14th December, 2009, the Licensing Authority had received a representation to the application from West Midlands Fire Service (Appendix 4 refers).

On 14th December, 2009, the Licensing Authority had received a representation from the Environmental Health Section of Walsall MBC (Appendix 5 refers) and also on 14th December, 2009, the Licensing Authority had received a further representation from West Midlands Police, again a responsible authority (Appendix 6 refers).

Mr. Knapper reported that on 8th September, 2008, the Council had introduced a cumulative impact policy (CIP) for Walsall Town Centre. This defined area known as "Beat 10" was shown in Appendix 7 to the report. The CIP, which formed part of the Licensing Authority's statement of licensing policy, was contained in Appendix 8 to the report. He added that if the opening of a new premise would add to a CIP, then the application would normally be refused unless no negative impact could be confirmed.

There were no questions to Mr. Knapper from the various parties present.

Miss Richards (Police solicitor) reported that the Chief Police Officer had objected to the application as another night club in the "Beat 10" area, particularly one that proposed to remain open on a 24 hour basis, would have a negative impact on the levels of crime and disorder in the Town Centre. She indicated that the operating scheme for the premises mentioned the CIP once only to confirm that the application would have an impact upon it but it did not explain how the premises would not adversely affect the crime and disorder objective.

Sergeant De-Hayes reported that, in his opinion, the application would have a negative impact on the CIP. He stated that there were currently 16 premises licensed to sell alcohol with extended opening hours within "Beat 10" and if all these venues were filled to capacity, then 10,000 people would be present in Walsall Town Centre. There were also 20 late night refreshment establishments in the same area. Another premise would have an impact on the Town Centre and he felt that there was nothing in this application that was not already available in the Town Centre area.

Sergeant De-Hayes referred to the advertising material for Altern8 which stated that people would be bussed into the Town Centre to the venue. He indicated that police resources were already stretched in the Town Centre and this application would only add to the strain already on Walsall's police force. He understood that the number of patrons would be limited to 110 at present but it could be varied in the future and a police review was about to take place in March, 2010 which could see a reduction in police officer numbers in the Town Centre. He drew the Sub-Committee's attention to the fact that Bridge Street was a "hot spot" at weekends and if there should be a problem in Bradford Street, then police resources would have to be transferred from Bridge Street to Bradford Street which could result in an ugly situation arising in Bridge Street.

Sergeant De-Hayes continued that Mr. Hurst had applied to be the designated premises supervisor (DPS) for the premises but he had not applied for a Personal Licence. West Midlands Police contended that a venue of the size proposed would require an experienced DPS to ensure that the licensing objectives were met. He was concerned that there were no proposals for checks at the entrance to the proposed night club and problems could arise if more than the proposed capacity tried to gain entry. If queues were not managed properly, then they could quickly become flashpoints for disorder. The use of random searches could alienate or antagonise customers and lead to concerns over discrimination and a more structured search policy was required if the applicant was to meet the crime and disorder objective.

Referring to a drug policy, Sergeant De-Hayes stated that whilst the police were happy to assist in the drafting of a suitable policy, the day-to-day implementation was the responsibility of the DPS.

Sergeant De-Hayes referred to the claim that Alern8 would be Walsall's "only gay night club". He stated that this was incorrect as there were "gay only" night clubs elsewhere in Walsall.

Charles Underwood (Solicitor for the applicant) referred to the proposed maximum number of patrons (110) and asked how this compared with other venues in the Town Centre. PC Doyle replied that WS1 had a maximum of 1,300; Revolution 800; Bar R1 100; Insomnia 750 and the Coliseum approximately 400.

Charles Underwood asked if any licensed premises in the Town Centre had closed since the introduction of the CIP. PC Doyle referred to the closure of the Hogs Head bar in Leicester Street and the Lost Lounge in Lower Hall Lane.

Sergeant De-Hayes stated that Aruba had closed then re-opened again.

Charles Underwood asked if the gay community was well catered for in Walsall. Sergeant De-Hayes referred to the Golden Lion in Birchills.

Councillor Wilkes referred to an additional 110 persons in the Town Centre over 24 hours and asked if this would impact adversely. Sergeant De-Hayes replied that the fire service had restricted the maximum number to 110. He felt that if the application was granted contrary to the CIP, then the applicant could apply for a larger number (say 400) and it would be very difficult to rebutt.

Neil Aston-Baugh (West Midlands Fire Service) reported that if the application was granted and Mr. Hurst provided a new fire exit in the building, then the capacity could increase up to 400.

Paul Green (Legal Services) reminded the Sub-Committee that it could only consider the application before it. If the applicant wished to increase the number of patrons, then a fresh application would have to be made.

Sergeant De-Hayes expressed concern over what might happen if more than 110 persons tried to gain access to the premises.

Miss Richards asked how the applicant would be able to restrict the maximum number of patrons to 110 if people were entering and leaving on a regular basis.

Lorraine Boothman (Trading Standards) drew the Sub-Committee's attention to Paragraph 5.3 of Appendix 8 regarding the cumulative impact policy and to the applicant's statement that the application would have an impact on that policy. She felt it would draw new customers into the Town Centre, especially as free transport from Birmingham was being provided. She indicated that this could lead to disorder as there was no information from the applicant as to how the transport would be reserved for Alern8 patrons only.

Lorraine Boothman stated that it would not be possible for taxis to pull up outside the club to collect people and the nearest official rank was in Bradford Place. This could lead to problems with queue jumping. She was also concerned that the automatic entry proposed could lead to under 18's gaining access to the premises.

Lorraine Boothman expressed concern that the information on the website was contradictory and showed an attitude of poor management towards the licensing objectives. The use of the expression "fighting a battle with the Authorities" set the wrong tone.

Charles Underwood stated that it was not unlawful for a taxi company and a premises to come to an arrangement over the collection of patrons late at night. Lorraine Boothman confirmed that this was the case.

Paul Green asked if the police had any representations to make on the proposed hours of operation. Sergeant De-Hayes replied that the application should be rejected completely. Miss Richards indicated that a premises open for 24 hours could lead to alcohol abuse problems.

Charles Underwood re-iterated the fact that the application as submitted, should be dealt with by the Sub-Committee. It was incorrect to speculate about the future. The mediated conditions agreed with the police would become conditions on the licence if the application was approved.

Referring to the cumulative impact policy, Charles Underwood expressed concern that the policy meant that there could be no changes in the Town Centre. He reminded the meeting that Altern8 could not be blamed for current disorder in the Town Centre because his client was not trading yet. The CIP effectively prevented Mr. Hurst from opening his premises and proving how well his night club could be managed.

With regard to the lack of co-operation with responsible authorities, Charles Underwood stated that the offending website had been removed and Mr. Hurst was keen to assist the police as much as he could. He felt it was illogical to resist all change in the future as existing venues could close and leave Walsall with nothing in the way of night time entertainment.

Referring to coaches, Charles Underwood stated that Mr. Hurst had felt that this was a good idea but having re-appraised the situation in the light of police objection, he had agreed to abandon it. Regarding taxis, Mr. Hurst already had an agreement with a local taxi firm and he would ensure that they came and collected clients without waiting outside the premises at an unofficial rank. He added that Mr. Hurst had also agreed to provide trained door staff at the entrance to the night club so that everyone entering could be monitored. Challenge 21/25 would be used to prevent under aged patrons entering the building.

Charles Underwood stated that his clients would co-operate with the police on drugs policy and would provide the only Town Centre venue to cater specifically for the gay community. Notices would be provided stating "respect earns respect" and it was intended to be an entertainment place not a drinking den. He re-iterated the fact that the maximum number of patrons would be 110 and it was planned to employ up to 15 staff. He indicated that the venue would subscribe to pub watch and any

troublesome customers would be barred. He added that Mr. Hurst had been trained as the designated premises supervisor for the premises and had previous experience from holding the Justices Licence for a night club in Caldmore. He had been the DPS for the Coliseum and had brought that night club back from the brink of revocation. Mr. Hurst had also been a publican in the Butts.

Charles Underwood then referred to the licensing objectives (Section P refers) and stated that although the CIP could not be overcome, it could be rebutted. He added that Mr. Hurst intended to support the police in making Walsall a lawful town in the early hours of the morning. If the application was to be granted and problems occurred, then the Sub-Committee had recourse to the review procedure and revocation of the licence.

Sergeant De-Hayes referred to the fact that the cumulative impact policy was in force and Mr. Hurst had suggested that his proposals would have no negative impact on it. He indicated that the police were of the opinion that it would have a negative impact on the CIP and the licensing objectives and should be refused.

Councillor Hughes referred to the plans for the premises which showed several bedrooms on the second floor. He asked who they were for. Mr. Hurst replied that they would be for the Manager, Assistant Manager, and other staff.

In summing up, Mr. Hurst advised the meeting that he was gay himself and there was currently nothing for the gay community in Walsall Town Centre. He indicated that if gay people used ordinary venues, then it could lead to flashpoints. He felt that the Town Centre was a no go area for gay persons and they should be allowed their own venue to aid diversity and equality in Walsall.

All parties withdrew from the meeting at 11.27 a.m.

The Sub-Committee carefully considered all the written evidence submitted and all the representations made at the hearing and it was,

Resolved

That the application for a Premises Licence under Section 17 of the Licensing Act, 2003 in respect of Altern8, 66 Bradford Street, Walsall be refused on the basis that the Sub-Committee was satisfied that a nightclub intending to stay open effectively on a 24 hour basis within the "Beat 10" zone would inevitably contribute to the negative cumulative impact policy, specifically in relation to the licensing objective of crime and disorder within the Town Centre.

It was felt that the level of crime and disorder would increase due to the influx of patrons from outside the area and that the applicant had failed to satisfy the Sub-Committee that the club had the necessary mechanisms or sufficient resources to adequately control the volume of people who would attend the venue, consequently this would place a disproportionate strain on police resources within the area.

The applicant or person who made relevant representations has the right of appeal to the Magistrates Court under Section 181 of the Licensing Act, 2003. The appeal must be commenced by Notice of Appeal within the period of 21 days beginning with the date on which the applicant or person who made relevant representations is notified by the Licensing Authority of the decision appealed against.

All parties were re-admitted to the meeting at 12.10 p.m. and advised of the Sub-Committee's decision and the right of appeal against the decision to the Magistrates Court within 21 days of the receipt of the decision letter.

Termination of meeting

The meeting terminated at 12.15 p.m.

Chairman

Date