

CANTERBURY CITY COUNCIL

LICENSING SUB COMMITTEE

**Minutes of a meeting held on Monday, 16th November, 2009
at 9.30 am in The Guildhall, Westgate, Canterbury**

Present: Councillor Harrison (Chairman)
Councillor J Perkins
Councillor A Taylor
Councillor Windsor (Reserve Member)

In attendance -

Officers: Rosemary Burton - Democratic Services Officer
Ludek Majer - Development Control Manager
Julie Oates - Senior Environmental Health Officer
Dave Stevenson - Senior Licensing and Enforcement Officer
Janet Taylor - Deputy Head of Legal Services

1 DECLARATION OF ANY INTERESTS BY MEMBERS OR OFFICERS

There were no declarations of interest.

**2 LICENSING ACT 2003- APPLICATION FOR THE VARIATION OF THE PREMISES
LICENCE FOR BAR KANDI, 4-6 ORANGE STREET, CANTERBURY CT1 2JA**

The Chairman introduced the Members and Officers.

The Chairman reminded Members that under the Licensing Act 2003 each hearing would be considered on its own merits.

Application type:

A variation of the Premises Licence

Premises:

Bar-Kandi
4-6 Orange Street
Canterbury
CT1 2JA

Name and address of holder of Premises Licence:

Ms Anita Turner
7 Orange Street
Canterbury
CT1 2JA

Written submission:

The Environmental Protection section and the Development Control section of the Council had raised objections to the application for a variation on the grounds of prevention of public nuisance.

17 interested parties had written letters of representation all objecting to the application for a variation on the grounds of:

- (i) The prevention of crime and disorder
- (ii) Public safety
- (iii) The prevention of public nuisance
- (iv) Protection of children from harm

Consideration of the application:

The premises licence holder, Ms Turner, was represented by her solicitor, Mr Thomas.

The Senior Licensing and Enforcement Officer introduced his report on the application for a variation to the hours of opening to the public and of the sale of alcohol (indoors only). A more extensive application had been submitted but this had been subsequently amended by the applicant's solicitor. He reminded Members that the premises had been the subject of a Review that had been considered at a meeting of this Sub Committee that had commenced on 14 October 2009. The revised application was for an extension of an extra half an hour to the hours the premises were open to the public on Mondays to Thursday and for a corresponding half an hour for the sale of alcohol (indoors only).

The applicant's solicitor, Mr Thomas, introduced the application and explained that at the conclusion of the meeting of the Sub Committee held to consider the application for a Review of the Premises Licence both he and the solicitor representing the applicant for the Review, Mr Dillon, had not realised that the hours for the sale of alcohol and the hours of opening from Mondays to Thursdays had been reduced. Both solicitors had thought the hours approved were in line with the minimum hours available under the old Licensing Act 1964 and subsequently available to every other business in Canterbury. The lesser hours would put his client at a distinct disadvantage and his client was merely requesting hours that would provide fairness and a level playing field.

In addition he wished to clarify the situation with reference to the hours of opening and the hours for the sale of alcohol for Christmas Eve, New Year's Eve and the Saturdays and Sundays preceding Bank Holidays. He assumed that as no mention had been made to these specific days they remained untouched by the Review and thus the hours would be as per the original licence.

The Chairman asked the Senior Licensing and Enforcement Officer to respond to this point. He advised that the hours set by the Sub Committee at the Review hearing were as granted. Under the current Licensing Act there were no special arrangements for specific named days.

Mr Thomas stated that this had caused some confusion and went on to state that the applicant wished to retain the special arrangements for New Year's Eve and New Year's Day and so requested that the application be amended accordingly.

The Senior Licensing and Enforcement Officer advised Members that previously under the Licensing Act special arrangements were in place for New Year's Eve and New Year's Day but this aspect of the Act had been rescinded. Thus there was no provision for additional hours in the current Premises Licence. If the applicant wished to open longer on New Year's Eve and New Year's Day then she would need to either apply for a Temporary Events Notice (TENs) or for a variation to the hours outlined in the Premises Licence.

Mr Thomas explained that the Premises Licence holder would be willing to apply for a TENs for Christmas Eve but unfortunately had already applied for and received 11 such Notices and was limited to 12 per year. This aspect had only become apparent to him that morning. Therefore, for this reason, he wished to amend the application for a variation to the Premises Licence to include opening hours on New Year's Eve from 12 noon to 01.00 the following day.

The Deputy Head of Legal Services advised Members that the agenda for the meeting and other published material had not included details for New Year's Eve and thus the interested parties could feel that they had not been given the opportunity to respond. She apologised for not being aware that part of the Licensing Act 2003 had been rescinded with respect to regulated activities on New Year's Eve.

At the request of the Chairman the Sub Committee adjourned for 15 minutes to allow the Deputy Head of Legal Services to liaise with the interested parties over the points raised during the meeting.

The meeting adjourned and reconvened accordingly.

The Deputy Head of Legal Services informed Members that the interested parties felt that other residents would have attended the meeting if the opening hours for New Year's Eve were to be considered. Thus it was suggested that this meeting be adjourned to a future date to allow an accurate and detailed application to be made.

The Chairman invited Mrs Linfield (who was speaking on behalf of Ms Durkin) to comment. Points made included the following:

- (i) The applicant had been observed selling alcohol at 22.51 the previous Thursday, in breach of the times as set by the Sub Committee at the Review hearing.
- (ii) Derogative references to Ms Durkin on "Facebook" had not been removed.

The applicant's solicitor responded to the points as follows:

- (i) Under the law a Premises Licence remained in force for 21 days following the receipt of the decision letter relating to a Review hearing to allow time for an appeal. Thus the applicant was not breaching the times set by the Sub Committee. Whilst some agreement had been reached at the conclusion of the Review hearing that was prior to the confusion over the decision in relation to the hours. When this had become apparent his client had decided not to waive her right to the 21 days with respect to that condition only.
- (ii) The derogative references on "Facebook" did not refer to Ms Durkin and his client had not posted comments on the web site. Whilst this fell outside the

scope of the Licensing Act, he would mediate with the person posting such comments to see if they could be removed.

Another interested party stated that she would be happy to enter into mediation talks/conciliation meeting with Ms Turner (Premises Licence holder) to enable Ms Turner to earn a living and at the same time ensure that residents had a reasonable life.

RESOLVED – That the meeting be adjourned to a future date to allow the applicant the opportunity to submit a full and detailed application for a variation to the hours for regulated licensed activities as set at the Sub Committee meeting of 14 October 2009, unless agreement can be reached by mediation between the Premises Licence holder and the interested parties in the meantime.

There being no other business the meeting closed at 10.10 am