

## Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **24<sup>th</sup> September 2009**

### Present:

Cllr. Goddard (Chairman);  
Cllrs. Mrs Martin, Norris

### Also Present:

Licensing Manager, Licensing Officer, Legal Advisor, Police Licensing Officer, Member Services & Scrutiny Support Officer

## 216 Election of Chairman

### Resolved:

**That Councillor Goddard be elected as Chairman for this Meeting of the Licensing Sub-Committee.**

## 217 Minutes

### Resolved:

**That the Minutes of the Meeting of this Sub-Committee held on the 3<sup>rd</sup> September 2009 be approved and confirmed as a correct record.**

## 218 Arena, Unit 5, Eureka Park, Kennington, Ashford, Kent, TN25 4BN - Application for a variation of existing premises licence

The Chairman opened the meeting and welcomed all those present. Members confirmed that they had read the papers relating to the application. The Chairman explained the procedure to be followed at the meeting.

The Licensing Manager then gave a brief summary of his report. The application was made by an existing licence holder to vary a premises licence. The application had been made in the proper manner. In respect to the variation, representations had been received hence the determination coming before Members. The applicant stated within section P of the application form the additional steps they intended to take in order to promote the four licensing objectives if the proposed variation was granted. The conditions put forward by the Licensing Manager as taken from section P of the application form were as given within Appendix F. It should be noted that it was the responsibility of the Licensing Authority to prepare conditions that were "consistent" with the operating schedule (s.18).

No representations were received from the responsible authorities. Three interested parties had made representations. A summary of these representations was provided in Appendix D of the report. Copies of the letters were contained in Appendix E of the report. All of the representations were from parties living in the

area to the rear of the nightclub. The representations had two common themes in terms of the licensing objectives and they could be summarised as follows:

- Loud music coming from the premises at present and concern about the application's request to extend the permitted hours for regulated entertainment until 06:00.
- The prevention of public nuisance was also raised with reference to the behaviour of customers leaving the premises.

A Public Entertainment Licence was first issued to a nightclub (M20) at this location in January 2000 and this was converted to a premises licence in 2005. Due to M20 (Ashford) Limited going into administration the licence was closed in 2006.

Strawberry Moons Trading Co Limited applied for and were granted a new premises licence for the newly refurbished nightclub in August 2007 and this permitted the sale of alcohol for consumption on the premises from 11:00 until 04:00 seven days a week. The licence permitted regulated entertainment (live and recorded music, performances of dance, other entertainment) and entertainment facilities from 18:00 to 04:00 seven days a week. The licence also permitted late night refreshment from 23:00 until 04:00 seven days per week and the opening hours to the public were from 11:00 until 04:30.

In January 2009 the licence was transferred to Mr Tom Geylani, who was the Designated Premises Supervisor when the licence was held by Strawberry Moons Trading Co Limited and in July 2009 the licence was transferred to Arena Live Limited, along with an application to vary the premises licence. A copy of the transferred licence was contained in Appendix C to the report.

The application requested the addition of other forms of regulated entertainment to include the exhibition of films, the performance of plays, indoor sporting events, boxing and wrestling entertainment. These licensed activities, the current regulated entertainment and the sale of alcohol were proposed until from 11:00 until 06:00 seven days a week. There was also a request for an extension on New Year's Eve until the close on New Year's Day. Late night refreshment was proposed from 23:00 to 05:00 and the opening hours until 06:30, seven days per week, with an extension on New Year's Eve. The application also included a change to the internal layout and specifically to the removal of one of the bars, which was to be replaced with a stage.

The first noise complaint regarding loud music and a bass vibration were received by the Council during October 2008 and after a visit to the complainant and to the nightclub in November, no further complaints were received until March 2009. In March 2009 complaints were received from three neighbours living in Rectory Way regarding noise from the premises and from people leaving the nightclub. Following night time enforcement by a member of the Environmental Protection Team in March, letters and visits to the nightclub by the Licensing Manager and the remedial action taken by Mr Tom Geylani, there were no further complaints regarding noise from the premises until it closed in June 2009.

On Thursday 27<sup>th</sup> August 2009 the Licensing Manager visited and spoke with all three interested parties regarding their representations and informed them of the steps the new licence holders were prepared to take to reduce the noise emanating from the nightclub and possible steps they could take to reduce the public nuisance caused by people leaving the nightclub and cutting through the cemetery and

surrounding paths on their way home. The resolution of the representations had not been possible.

Mr Webster, the applicant's representative, addressed the Sub-Committee. He advised Members that the application was for a variation to the existing premises licence. The sound system had been replaced and the new speakers were directional and were positioned to direct noise towards the M20 motorway. The applicant had no objection to the additional conditions suggested by the Licensing Manager or those in Appendix F.

Arena was a purpose built nightclub situated on a purpose built leisure park. Audio Energy had been commissioned to install the sound system and had stated in a letter to the applicant that the positioning and direction of the speakers towards the M20 would alleviate noise nuisance. Arena was to be a destination venue and compete with venues such as the Leas Cliff Hall in Folkestone and Winter Gardens in Margate.

The Designated Premises Supervisor (DPS) had extensive experience as was shown by his Curriculum Vitae. Arena was an important new business to the Borough and 30 people were to be employed by the company. There was a genuine demand for the venue and the applicant fully understood their obligations. He concluded by advising the Sub-Committee that should they feel it necessary to do so then the applicant would be agreeable to restrict the later opening hours to Fridays, Saturdays and Bank Holiday Sundays only.

The Chairman questioned how the layout would work and asked to be shown where the smoking area would be on the layout plan. Mr Rice indicated where the speakers, stage and smoking area would be on the layout plan. He advised that they were investigating the possibility of moving the smoking area to the first floor balcony at the front of the premises.

In response to comments/questions from Members Mr Rice advised the Sub-Committee that the general public would not have access to the rear of the premises, there would be security in place to ensure that that area was not accessible unless there was an emergency. He advised that Arena would not open just for the sake of it; it was to be a destination venue which they hoped would be a draw for people further afield which in turn would encourage the use of the hotels and restaurants at Eureka Park. Arena Live Ltd had been involved in discussions with taxi firms regarding tariffs for clientele and potential package deals including a stay at one of the hotels on site.

Mr Hinds, the DPS, advised the Sub-Committee that the 30 new employees were not connected to any of the previous owners of the nightclub and it was hoped that as the venue took off more opportunities would arise for the employment of more staff.

Mr Webster advised Members that the sound system would be tested upon installation and would be continued to be monitored. Mr Rice confirmed that sound engineers would be at the venue for the duration of all events and so would enable noise levels to be monitored continuously.

A Member questioned whether alternative contact details could be made available rather than just a mobile number to enable better communications. Mr Rice advised that Arena Live Ltd were to operate an open door policy and would make all points of

contact available. Mr Hinds advised that he would ensure that he was available at any time should anyone wish to contact him.

The Licensing Manager asked the applicants if the declaration on page 26 of the papers of no nudity meant no nudity for performers of dance and the applicant agreed.

The Licensing Manager then summed up the nature of the application and the issues for the Sub-Committee to consider. He reminded the Sub-Committee that they may grant the license with no modifications to the conditions to the licence, modify the conditions of the licence or reject the whole or part of the application.

The Sub-Committee then retired to make their decision.

On return the Legal Advisor read out the decision.

**Resolved:**

**That the variation of the premises licence be granted and the sale of alcohol be permitted inside the premises from:**

**11:00 until 06:00 seven days per week**

**New Years Eve until close on New Years Day.**

**Opening hours to be 30 minutes after the end of the permitted hours for the sale of alcohol.**

**Regulated Entertainment:**

**To include the exhibition of films, the performance of plays and dance, indoor sporting events, boxing and wrestling entertainment, live and recorded music, entertainment of a similar description and entertainment facilities:**

**11:00 until 06:00 seven days per week**

**Late Night Refreshment:**

**23:00 until 05:00 seven days per week**

**New Years Eve until close on New Years Day.**

**Subject to the conditions consistent with the operating schedule set out in Appendix F of the Licensing Manager's report, and the following additional conditions: -**

- (i) The Licence Holder will ensure that that any performance of dance which involves lap dancing, table dancing or anything involving nudity or semi nudity shall not be performed.**
- (ii) The Licence Holder or a nominated representative shall receive and respond to complaints.**

- (iii) **An acoustic noise report to be submitted to the Licensing Authority within 28 days of the hearing stating the steps taken to minimise any noise breakout and to ensure adherence to the prevention of public nuisance conditions stated in the premises licence.**
- (iv) **The Licence Holder will ensure acoustic baffling is installed to ensure adherence with existing prevention of public nuisance conditions**
- (v) **To alter the condition in the current premises licence for the nightclub to read “The volume of music and sound shall be controlled so that no noise is audible at the façade of neighbouring residential properties.”**
- (vi) **The Licence Holder will take all reasonable steps to ensure that people leaving the nightclub do not use the cemetery and Rectory Way.**

**The Licensing Manager is given delegated authority to amend the wording of the conditions as appropriate.**

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A Member asked for the applicant to investigate an appropriate location for a taxi rank to serve the premises.

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