
LICENSING APPLICATION – LICENSING ACT 2003

Premises: Oaklees, Unit 1, 68-72 West Street, Rochford, SS4 1AS

1 SUMMARY

- 1.1 This report introduces an application for Review of a Premises Licence made under section 51 of the Licensing Act 2003.
- 1.2 The application must be determined within 5 working days of the conclusion of the hearing, in accordance with paragraph 26 of the Licensing Act 2003 (Hearings) Regulations 2005.

2 BACKGROUND

- 2.1 The application was given to the Licensing Authority by Mr James Moreton of 1 Clements Mews, Rochford, SS4 1FZ and refers to premises known as Oaklees, Unit 1, 68-72 West Street, Rochford, SS4 1AS.
- 2.2 The grounds for the application are based upon the licensing objectives prescribed under section 4 of the Licensing Act 2003. In this case it is the objective of: -
 - (a) The prevention of public nuisance.
- 2.3 Appendix A consists of a copy of the original application form.

Description of Premises

- 2.4 The premises to which the application relates were a car showroom that is now being used as a bar. There has been a minimum of conversion internally and the frontage remains the same with single glazed full length windows.
- 2.5 The premises are situated in West Street at the junction with Union Lane on the western outskirts of the town centre with a number of residential properties nearby.
- 2.6 Appendix B is a plan of the premises, appendix B1 is a map of the area and appendix B2 is an aerial view of the area.

Licensing History

- 2.7 The property has been subject of a premises licence under the Licensing Act 2003 since 2 November 2011 when a licence was granted, after the statutory consultation period, to Mr Richard Newman, for the sale of alcohol and regulated entertainment between the hours of 1100 and 2400 daily. The premises were known as Baroque at that time.

- 2.8 On 4 January 2012 Mr Newman applied to extend the permitted hours for licensable activities at Baroque from 2400 to 0200 hours the following day, every day. The licence was granted with conditions on 22 February 2012 after a hearing before a Licensing Sub-Committee. This was as a consequence of a number of representations opposing the application being received from Environmental Health and other parties.
- 2.9 On 24 August 2012 the premises licence was transferred from Mr Newman to L & R Entertainments Ltd, Royal Oak, Stambridge Road, Stambridge, SS4 2AX and the premises name changed soon after to Oaklees.
- 2.10 Since 24 August 2012 Mr Lee Carter of Royal Oak, Stambridge Road, Stambridge, SS4 2AX has been the designated premises supervisor at the premises.
- 2.11 The current premises licence permits the licensable activities within the times and days shown below: -

Activity	Time/s	Days
Sale by retail of alcohol & Provision of regulated entertainment consisting of live music and recorded music.	(a) 1100 to 2400 hours	(a) Sunday to Wednesday
	(b) 1100 to 0100 hours	(b) Thursday to Saturday

The premises are permitted to be open to the public at any time for non-licensable activities.

- 2.12 Appendix C consists of a copy of the premises licence.

Premises History

- 2.13 A significant number of complaints were received about noise and anti-social behaviour whilst the premises were under the previous management regime. These complaints were received on a weekly basis from the date the premises opened in late November 2011 through to August 2012.
- 2.14 The complaints related to both noise and anti-social behaviour from the premises. As a result, a number of meetings between licensing and environmental health officers from the Council or police licensing officers took place with Mr Newman in an attempt to resolve issues.
- 2.15 At about 2400 hours on Friday, 3 February 2012 the Senior Licensing Officer attended the premises with the Principal Environmental Health Officer with regard to noise. Officers did not at any time hear any unacceptable noise breakout from the premises; when standing close to the rear fire exit doors low level music could be heard only when there was no passing traffic.

- 2.16 Following the grant of the licence variation on 22 February 2012 and despite officers' satisfaction with compliance, further complaints of loud music were received.
- 2.17 Between 29 March 2012 and 2 April 2012 a noise nuisance recorder was installed at the home of Mr Moreton in Clements Mews. On checking the recordings it was found there was insufficient evidence to justify enforcement action for a statutory noise nuisance. There was evidence of bass noise, but not at a level that could be considered unacceptable.
- 2.18 Also between February 2012 and the licence being transferred in August 2012 a number of complaints were received from various sources in relation to anti-social behaviour at or near the premises and these varied from fights outside the premises, drug taking, indecent activity, to loud noise and shouting. Music did not appear to be a feature of complaint from April 2012.
- 2.19 Since August 2012 there have been three recorded complaints of loud music from the premises. These related to 29 September 2012, 13 November 2012 and 8 February 2013. Each of the complaints were made by Mr Moreton.
- 2.20 At about 2310 hours on Friday, 15 March 2013, officers attended the premises and stood at the rear fire doors. They were unable to hear any music or bass sound; even with their ears against the doors they could only hear voices inside with slight music noise, but this was drowned out when there was passing traffic.
- 2.21 Also on this occasion officers attended Winterbourne Mews, but were unable to hear music; no access was available to Clements Mews. Returning to the premises, no music was heard. On looking through the windows near to where the DJ deck is located, they were able to see the green lights of the noise limiter which indicated that it was operating within the set limits.
- 2.22 Officers noted that there was some music breakout from the Marlborough Head when the door was opened and at times voices could be heard from the smoking area, which is sited in the premises' car park near to Back Lane.
- 2.23 Officers left the area about at 2345 hours and returned at 0010 hours; no noise breakout was heard, even with doors opening and closing.
- 2.24 At about 2100 hours on Saturday, 6 April 2013, a local Police officer, together with a Police licensing officer, whilst out on routine licensing visits, attended the exterior of Oaklees where there was an event in progress. They went to the rear of the premises and were unable to hear music until they stood against the fire doors; there was no music noise breakout.

3 APPLICATION

- 3.1 The application is made in accordance with section 51 of the Licensing Act 2003 on the grounds of the licensing objectives relating to the prevention of public nuisance.

4 REPRESENTATIONS

- 4.1 No representations have been received from any of the Responsible Authorities and no further representations have been received from other persons. However, the Principal Environmental Health Officer has commented by way of memorandum, with copy attached at appendix D.

5 NOTICES

- 5.1 Notices advertising the application were placed by the Licensing Authority at or near the premises, at the Council's offices in Rayleigh and Rochford and on the Council's website, as required by paragraph 38 of The Licensing Act 2003 (Premises licences and Club Premises Certificates) Regulations 2005.
- 5.2 All parties involved have been served with the relevant notices and documentation required by paragraphs 6 and 7 of The Licensing Act 2003 (Hearings) Regulations 2005 and included an explanation of the rights of persons to attend hearings and to be represented, to give evidence and to call witnesses, the consequences of not attending, the procedure to be followed at a hearing, and, for applicants only, a copy of all relevant representations made.
- 5.3 Paragraphs 8 and 9 of those regulations require that parties notify the Licensing Authority, no later than 5 working days before the hearing, of those matters mentioned in paragraph 5.2 above. A pro-forma and pre-paid envelope was included for that purpose with the notices and documentation mentioned in paragraph 5.2 above.

6 POLICY CONSIDERATIONS

Legal provisions

- 6.1 The provisions of Licensing Act 2003, The Licensing Act 2003 (Hearings) Regulations 2005, Guidance issued under Section 182 Licensing Act 2003 and the Statement of Licensing Policy, approved by Full Council for the period 7 January 2011 – 6 January 2014 need to be considered by Members in determining the application.
- 6.2 Section 10 of the Section 182 Guidance provides advice and recommendations concerning best practice in relation to attaching conditions to premises licences and club premises certificates. Paragraphs 10.11 onwards are of particular relevance to Licensing Sub Committees where consideration is given to imposing conditions.

7 OPTIONS

- 7.1 The following options are available to Members:-
- (a) To modify the conditions of the licence;

- (b) To exclude a licensable activity from the scope of the licence;
- (c) To remove the Designated Premises Supervisor;
- (d) To suspend the licence for a period not exceeding 3 months;
- (e) To revoke the licence.
- (f) Subject to paragraphs 11 - 13 of the Licensing Act 2003 (Hearings) Regulations 2005, adjourn the hearing to a specified date or arrange for a hearing to be held on specified additional dates, where Members consider this to be necessary for their consideration of any representations or notice made by a party.

8 RECOMMENDATION

- 8.1 It is proposed that the Sub-Committee **RESOLVES** to determine the application, having considered all representations made at the hearing.

Richard Evans
Head of Environmental Services

Background Papers: -

None.

For further information please contact Peter Nellies (Senior Licensing Officer) on:-

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If you would like this report in large print, Braille or another language please contact 01702 318111.