

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

MINUTES OF THE MEETING HELD ON 17 DECEMBER 2012

Present: **Councillor Parvin (Chairman), and
Councillors Mrs Gibson, Mrs Gooch and Parvin**

1. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members or Officers.

2. **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

3. **EXEMPT ITEMS**

RESOLVED: That the Items on the Agenda be taken in public as proposed.

4. **APPLICATION TO VARY A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR THE BRITANNIC FISH BAR, 54 GABRIELS HILL, MAIDSTONE, KENT, ME15 6JJ**

The Chairman requested those present to introduce themselves, explained the procedures and Members confirmed that they had read all the papers.

It was confirmed that no draft conditions had been agreed between the applicant and the objector.

Mrs Bolas explained that the hearing was regarding an application to vary a Premises Licence made by Bayram Ali Kanik in respect of the premises Britannic Fish Bar, 54 Gabriels Hill, Maidstone for an extension of their late night refreshment on Fridays and Saturdays from 4am to 5am on Saturday and Sunday. Representations had been received from the Chief Officer of Police for refusal on prevention of crime and disorder and public safety grounds.

Mr Rice, representing the applicant, stated in his opening remarks that the applicant seeks to fulfil an unmet need between 4am and 5am when night club activities come to an end. The application is just for Friday and Saturday nights. He stated that the applicant has run the Britannic Fish Bar for 7 years, has 4 staff, CCTV and a radio alarm system.

Mr Rice asked the applicant a number of questions to which he responded that:-

- His staff were aware how to operate the CCTV and radio alarm system.
- He was aware of the three reported incidents and was present at the incident in September but was not present at the time of the other two incidents
- When opening late furniture is stored at the back of the shop to allow for more space in the shop and only takeaway operates.
- Other late opening premises are nearby, the main one is Road House but there are other takeaways further up Gabriels Hill.
- His premises do not sell alcohol only soft drinks.
- Gabriels Hill is a route to leave the town centre and people pass his shop on their way home
- Can offer to employ an SIA trained door person for Friday and Saturday evenings if the licence is granted.
- Whilst the Police state that the premises have been open after 4 am the door is only open for clearing the premises not trading.

PC Neil Barnes, representative of the Chief Officer of Police, was then given the opportunity to ask questions of the applicant. Mr Kanik responded that there was demand for trade between the extra hours of 4am and 5am and that this was specifically aimed at people leaving the night clubs. Mr Kanik said that he had not been aware that the use of the Nite Net radio was a requirement of the licence but it is now on place. The CCTV system was changed about 2 years ago and staff are fully trained in the use of the system.

PC Barnes then referred to a number of incidents where CCTV footage had been requested by the police from the premises and a number of different reasons were given for not supplying the footage. Mr Kanik said he was not aware of these.

Members were then given the opportunity to ask questions of the applicant to which he responded that if he was not on the premises then his wife or Manager were The CCTV records are for 24 hours and a copy is kept for 1 month, he can also view images from his computer at home. He said he could not remember the incident when it was reported that a member of his staff had assaulted a customer. He also responded that at peak times there were 3 members of staff and himself and, although not had training, he has been in this business a long time and knows how to control unruly customers. Police were often outside when Road House closed.

PC Neil Barnes then stated in his opening remarks that the Police were opposed to this application as fast food premises slow down the egress of customers from the night time economy. The concentration of people, predominantly not sober will lead to cases of crime and disorder and public safety issues, so it is better to disperse them as quickly as possible and not encourage them to hang around.

PC Neil Barnes then put his case. He stated that he appreciated this premises had a prime spot – opposite a night club and on an exit route from the town. However, he felt this was the problem. The premises are

only yards from Road House that closes at 4am and although they have door staff to control them, once the revellers are outside this control falls to the police. Although police are posted at that location, they are often caught up with arrests and therefore cannot be there all the time. The best thing for the night time economy is the quickest possible dispersal of the people leaving the clubs. If this application were granted it would effectively extend the time people remain in Gabriels Hill without the conditions, such as those of clubs, being in place.

He stated that there is nothing in the application that actually promotes the licensing objectives and the applicant has not suggested any conditions which could do so. He stated that in his view the premises is not well run, a written warning has been given to the premises for continuing to serve after 4am and breaching a condition.

The applicant and his representative were then given the opportunity to ask questions of the objector. PC Neil Barnes responded that he believed there had been 1 prosecution following the incidents at the premises and that staying open until 5am is targeting the people leaving Road House which will cause a concentration of people in the street. Slowing people leaving town at 4 am will cause problems and not promote the licensing objectives. He acknowledged that problems also occur at other locations but that does not in his view provide support for this application.

Members were then given the opportunity to ask questions of the objector. PC Neil Barnes responded that 1 door man was better than none, but the problem would still be with the people waiting/queuing outside.

PC Barnes then made his closing speech stating that Kent Police have clearly set out that the granting of this licence would be detrimental to the policing of the night time economy. The location of the premises is the main problem as it is too close to a main town centre club. There is nothing in the application to promote the licensing objectives. He drew the Committee's attention to paragraph 9.12 of the Guidance, on acceptance of Police evidence, and stated that he did not believe that evidence had been provided to show that its acceptance would not be appropriate for promotion of the licensing objectives..

The applicant's representative then made his closing speech stating the application was for an extension of one hour for two days a week, Friday and Saturday. He stated the applicant had been running the business for 7 years and that the applicant believes there is a need. He stated that there are two other premises in Gabriels Hill that are open until 5am and does not believe they have any better or worse record for disturbances. He stated that the main source of getting home is the taxi rank in King Street so the majority go up Gabriels Hill and not down past the Fish Bar. With the SIA door staff offered, a grant could take place without detriment to the licensing objectives.

Members were then given the opportunity to ask questions or clarification. In response to a question, the applicant confirmed that as far as he is

aware they are complying with the existing provisions of the licence, in that they are closing the shop at 4am currently.

The Committee then retired to consider the application and

- RESOLVED: That the whole of the application be rejected:

Reasons for determination:

- **Prevention of Crime and Disorder**

and

- **Public Safety**

Reasons (state in full):

Sub Committee Members heard evidence from the Police indicating that incidents of drunken disorder have taken place at this premises. These included 24 March 2012, when a drunken customer was swearing at staff and then punched a window, 19 May 2012 when a drunken male refused to leave and 30 September 2012 when males were fighting inside the premise. When Police were dealing with this incident staff continued to serve customers and made no attempt to resolve the disorder. These all took place after 04:00 hours.

The licence condition concerning Nite Net Radio use had not been complied with until after the Police brought this to the licence holder's attention, although this is now in place. CCTV exists on the premises but on several occasions recordings have not been available to Police relating to incidents and staff have miscommunicated information about the system.

The location of the premises in Gabriels Hill is very close to The Road House night club, closing at 04:00 hours. Police evidence is that by its location this premises, if continuing to open for an additional hour on Saturday and Sunday 04:00 – 05:00 hours would encourage numbers of persons (who have frequently drunk enough to be of concern in relation to crime and disorder and, therefore, public safety) to linger in Gabriels Hill outside the premises and within queuing for food. Their evidence was that the promotion of the licensing objectives of crime and disorder and public safety would be best achieved by quick dispersal of people in the area and not keeping them in close proximity.

Members carefully considered whether an offered condition of employing an SIA registered door supervisor would meet promotion of the licensing objectives and were not satisfied that it would do so. Sub Committee Members felt that the representations of the Police were reasonable and proportionate and there was no evidence before them that rejection of this application would not be appropriate to promotion of the licensing objectives.

Members noted that the licence holder referred to other premises in the Town Centre which are open to late hours, but have to deal with the application before them and the particular facts of this case.

5. DURATION OF MEETING

10.00 am to 12.10 pm.