

LICENSING SUB-COMMITTEE

A record of proceedings of the Licensing Sub-Committee held at Bloxham Mill, Barford Road, Bloxham, Banbury on 27 April 2007 at 10.00 am.

Membership of the Sub-Committee (all Members present) – Councillors Gibbard (Chairman), Heath and Wyse.

Officers:	M Dudfield (Solicitor)	}	Advising the Sub-
	S Lodge (Democratic Services Officer)	}	Committee
	Mrs T Poke (Head of Central Services)	}	Representing the
	Mrs N Barnes (Senior Licensing Officer)	}	Licensing Authority

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. LICENSING HEARING PROCEDURE

The hearing was undertaken in accordance with the agreed Licensing Hearing Procedure.

3. APPEAL HEARING – CASSIOPEIA, 47 BROAD STREET, BANBURY

Present at the hearing:	R Lowther	}	Safer Communities and
	Ms J Wileman	}	Community Development
			Department, Cherwell District Council – Responsible Authority
	J Birch	-	Representative for the applicant
	A Brown	-	The applicant, Cassiopeia, 47 Broad Street, Banbury
	P R Buckley	}	Interested parties making
	C DuBarry	}	representations
	Mrs V Mayo	}	
	Mr & Mrs G Cook	}	

The Head of Central Services stated that an application had been received on 2 March 2007 from A Brown, the operator of Cassiopeia, 47 Broad Street, Banbury, for a variation of the premises licence issued under the Licensing Act 2003.

The report set out:-

- (1) details of the existing premises licence which came into force on 18 April 2006;
- (2) the variation which proposed;

To vary the terminal hour for sale (by retail) of alcohol, Provision of Regulated Entertainment to include Recorded Music and Performance of Dance and Provision of Late Night Refreshment: from 01.00 (morning following) to 02.00 (morning following) on Wednesday, from 02.00 (morning following) to 04.00 (morning following) on Thursday to Saturday inclusive;

- (3) details submitted by the applicant which set out support for the promotion of the four licensing objectives ie (a) the prevention of crime and disorder; (b) public safety; (c) the prevention of public nuisance; and (d) the protection of children from harm;
- (4) the representations received from the Head of Safer Communities and Community Development;
- (5) representations received from C Silman, Mrs D Rumford, Mrs V McElligott, Mrs C DuBarry, P R Buckley, Mrs V C Mayo, R A Harvey and Mr & Mrs G Cook;
- (6) relevant guidance of the Licensing Authority Policy issued under the Licensing Act 2003; and
- (7) options available to the Sub-Committee.

Mr Birch in support of the applicant submitted (1) a letter that had been circulated by his client to all residents to outline the reasons he had applied for a variation, to assure them that noise pollution or disturbance would not increase as a result of the extension of licensing hours and offering to meet them; (2) a copy letter from Mrs DuBarry thanking Mr Brown for his letter; (3) a code of conduct for female dancers; and (4) the house rules of Cassiopeia.

Mr Birch on behalf of Mr Brown outlined details of the establishment, how Cassiopeia currently operated and details of the proposed variation to the licence which would operate to the same standards of the current licence. He felt that there was no evidence for refusing the variation and considered that the representations made were hypothetical and that there was no evidence to suggest that the concerns of the residents were founded. He also considered that the recommendations to refuse the variation by the Head of Safer Communities and Community Development were not legal. In relation to the four licensing objectives, no substantiated complaints from residents had been received and no objections had been received from the Police. His client was a pro-active member of the Nightsafe Scheme and a member of Pubwatch.

In response to questions from the Head of Safer Communities and Community Development, local residents and Members of the Committee, Mr Birch and Mr Brown indicated (1) that rubber mounts had been installed to reduce noise from the premises. The volume was lower than a traditional discotheque and the measures implemented had taken out the bass and there was no reverberation; (2) the attendance at Cassiopeia was 20% of that operated in the previous nightclubs; (3) advertising was undertaken to attract a higher class of clientele; (4) the variation had been applied for at the request of the clientele who sought later hours; (5) that an agreement had been made with the local taxi firm that people leaving Cassiopeia would not depart from the premises in a taxi but would be given cards and suggested they walk appropriately 100 metres from the premises to obtain transport; (6) the Police reactions to the operation had been positive; (7) no drink was allowed to be taken from the premises; and (8) the house rules were displayed prominently at the premises.

R Lowther on behalf of the Head of Safer Communities and Community Development outlined the history of the premises as a late night establishment. He stated that since Cassiopeia had been opened, one formal complaint alleging excessive noise from the club had been received. It was alleged that on some occasions noise was audible from the club at the rear of the premises in Newland Place.

These allegations were discussed with the proprietor who suggested that the problem might be arising as a result of staff using a fire exit on the first floor as a short cut to gain access to cellar storage on the ground floor, and it was agreed that this practice should cease. Despite this assurance, noise complaints continued and in an effort to obtain first hand evidence of the level of sound experienced sound recording equipment was installed at the complainants home. This exercise was conducted without the knowledge of the club proprietor and during the period of the recording no unacceptable level of noise had been recorded. In a further attempt to investigate these allegations, the Council's out of hours service had been available to the complainant over Easter weekend but no calls had been received.

R Lowther stated that during the course of the application's consultation period, he had been aware that a number of representations had been made from residents of Amos Court and Newland Place to a number of noise and public nuisance issues alleged to be attributed to the club premises. He had made a number of unannounced visits to the area of the club both overtly and covertly to access the impact of the premises on its neighbours. It had been alleged that music from the premises was audible from dwellings in Amos Court. From his observations the likely source of this sound was a relay speaker located in the foyer of the club. During a series of visits he had not personally observed rowdy or disorderly behaviour from customers either walking to or leaving the premises. It had been mentioned that noise had been produced by patrons slamming car doors in Broad Street. During most weekend evenings the kerbside parking at the lower end of Broad Street was well used and he had observed people walking out of the town centre to cars parked in this area. It was true that some patrons did arrive at Cassiopeia by car and parked in Broad Street but any noise from this source was not entirely attributable to the club. One objector had observed that Amos Court suffered from anti social individuals in the area. Whilst this activity did occur and had been observed the offenders were individuals on foot leaving other town centre premises and he had not personally seen customers from the club leave, cross the road and behave in an anti social manner.

He felt that factors associated with an application a 4.00 am terminal hour were of concern and if the application was granted a public nuisance might arise.

He therefore recommended that the application as submitted was not granted and the following conditions be imposed:-

- (1) substitute an earlier terminal hour together with a latest time for admission to the premises;
- (2) an electronic sound limiting device being installed at the premises and calibrated in such a way that sound from recorded music played within the premises is not audible at the facades of residential properties in Amos Court and Newland Place;
- (3) either break glass panic bolts or audible alarms are fitted to the two fire exit doors giving access to the rear of the premises;
- (4) that the sound produced by speakers located within the foyer of the premises is reduced in volume such that it is inaudible at the facades of dwellings in Amos Court.

In response to questions R Lowther outlined the location of Cassiopeia in relation to Newlands Place and confirmed that the Council could respond to complaints until 3.00 am.

P R Buckley, Mrs C DuBarry, Mrs V C Mayo and Mr and Mrs G Cook who were interested parties made representations in respect of:-

- (1) noise from music from the premises particularly in the summer when people would have their windows open late at night;
- (2) the noise of people leaving the premises and the associated noise from cars in an area of elderly residents at Amos Court.

In being given the opportunity to sum up Mr Birch stated:-

- (1) that a noise abatement notice had never been served on the club;
- (2) that there was 100% co-operation with the Police and the Council;
- (3) the Licensing Act allowed for an application to review the premises licence but there had been no such review requested;
- (4) R Lowther had indicated that there was no evidence of noise from the premises or clients leaving the club;
- (5) problems of unsocial behaviour could not be attributed to people patronising the club;
- (6) the music omitting from the premises was above background music but below disco dance music;
- (7) Mr Brown had indicated in his letter that he wished a full dialogue with residents to assure them of his intentions and invited them to discuss the additional hours with him; and
- (8) set out the reasons why he felt the Sub-Committee should not accept the conditions suggested by the Head of Safer Communities and Community Development.

The Sub-Committee then retired for consider the application in accordance with Regulation 14(2) of the Hearings Regulations. Upon return of the Sub-Committee it was

RESOLVED that the application is granted subject to the following condition:-

“that the applicant convene meetings with local residents living within 100 metres of the premises at least once every 6 months”.

REASONS – the Sub-Committee has considered all the information presented this morning and submitted in writing. Whilst it is understandable that residents are concerned that later operational hours will have an adverse effect on their environment there have been no facts presented to this meeting to validate their concern. The applicant has shown a willingness to engage with the responsible authorities and local residents and the Sub-Committee has formulated the latter into a Condition for meetings to be arranged at which issues concerning the operation of the club can be discussed. This does not stop direct communication with the applicant if a specific problem arises nor of concerns being raised with Mr Lowther. However, it does give a forum of general issues and concerns to be discussed. Further it does not prevent a request or a review to be consider any such problems.

Otherwise the Sub-Committee is satisfied that there is no reason to refuse the variation request.

4. **END OF MEETING**

The proceedings ended at 12 noon.