

Minutes of: LICENSING HEARING PANEL

Date of Meeting: 12 August 2015

Present: Councillor (in the Chair)
Councillors T Holt, D Jones and M Wiseman

Also in attendance:

Public Attendance: There were three members of the public in attendance other than the Licence Holders representative and the Objector.

Apologies for Absence:

1 DECLARATIONS OF INTEREST

No declarations of interest were made in relation to any items considered at the meeting.

2 AN APPLICATION FROM LOCAL RESIDENTS FOR A REVIEW OF THE PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF MONTECRISTO, 271 BURY NEW ROAD, WHITEFIELD, MANCHESTER, M45 8QP.

Prior to the Hearing, the licensing authority received an application pursuant to section 51 of the Licensing Act 2003, from Mr Leeming, a local resident, for a review of the Premises Licence in respect of Montecristo, 271 Bury New Road, Whitefield, Manchester.

The application was outlined in the report presented to members of the Panel by the Licensing Manager.

The application for a review of the licence was received within the appropriate period and complied with the procedural requirements within the Licensing Act 2003.

All written representations were contained within the report to Panel.

All documentary evidence comprising the application, report provided with the agenda and representations were served on all parties in advance of the hearing. The submission from the licence holder for Montecristo was received on 11 August 2015 and was circulated by email to the Panel members. A hard copy of the submission was provided to members prior to the hearing.

The Panel heard oral representations from the Applicant (Mr Leeming), the Licence Holder's representative (Ms Faud) and the licence holder (Mr Miller). The Panel also heard from local resident Mr Greenhalgh who had made a representation in advance of the hearing and had contributed to a petition submitted by Mr Leeming.

The Panel also heard representations from GMP (PC Andrew Hayes and PC Clare Watson) and Bury Council Trading Standards officers (Tony Bunn and Neil Lonsdale).

The Applicant was invited to explain the reasons for his application and the Panel asked questions of the Applicant.

All parties were offered the opportunity to question the Applicant and vice versa.

All parties were allowed the opportunity to sum up their respective cases.

The Panel then duly retired to consider the application and all of the information provided.

The Members of the Panel were advised by the Legal Officer as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

The Members were also advised of their duties in carrying out those functions in relation to:

- a) the Council's published Statement of Licensing Policy
- b) the Guidance issued by the Secretary of State as contained in section 182 of the Licensing Act 2003, which was updated in June 2014

In addition Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives and the representations presented by all parties.

The Panel also had regard to the European Convention on Human Rights and in particular that everyone has the right to peaceful enjoyment of his possessions, respect for his private and family life, his home and his correspondence. A fair balance between competing interests must be considered.

FINDINGS

The following facts were found:

1. The additional conditions circulated at the hearing by the Licence Holder had been agreed with the Police.
2. The Applicant had complied with all necessary procedural requirements laid down by the Licensing Act 2003 including giving public notice within the required timescales.

3. The visits to Montecristo by a Trading Standards officer had identified the substitution of empty bottles of premium brands of alcohol with other brands for sale.
4. Enforcement officers are to investigate Tandra private hire booking office located on Bury New Road and take action, as required, to stop private hire vehicles parking on the strictly no parking area of the highway outside the premises. It may be that the office is used by to book vehicles in the early hours on Saturday and Sunday mornings, which could add to the noise nuisance and disorder in the area
5. Enforcement officers are to visit hot food takeaway shops located on Bury New Road in the vicinity of Montecristo to remind shop owners of the hours of operation for the premises as detailed on the licence. It was noted that customers of Montecristo would visit the takeaways and consume food on the benches located at the front of Montecristo before taking a private hire vehicle or leaving on foot. This disturbed local residents because of the noise they made, particularly as they had been consuming alcohol. Representatives from GMP noted that this often causes people to raise their voices and the evidence from the local residents supported this
6. The evidence provided by the Applicant has been supported by GMP.
7. The Panel accept that there is an element of public disorder and public nuisance and noise in the early hours resulting from individuals congregating at the private hire booking office and hot food takeaway. On occasion this appears to be in the periods both before and after the Montecristo has closed on Saturday and Sunday mornings. The closing times of the Montecristo was found to be significant in the timings of the disorder and noise.

DELEGATED DECISIONS

1. Having heard from the Licensing Unit Manager, the Applicant, the licence holder's, the Licence holder, the GMP, Trading Standards officer and the objector in attendance and having considered all of the documentation before it, the Panel considered the merits of the case and in accordance with its duties and in light of the relevant policy and guidance unanimously resolved the following modifications to the Montecristo premises licence:

The supply of alcohol – for consumption on and off the premises:

Monday to Thursday	08:00 12:00am
Friday to Saturday	08:00 – 01:00am

The provision of regulated entertainment comprising: Exhibition of films, indoor sporting events, playing of recorded music, the provision of facilities for dancing:

Monday to Thursday	08:00 – 12:30am
Friday to Saturday	08:00 – 01:30AM

Performance of a play, performance of dance, provision of facilities for making music, entertainment of a similar nature to E,F & G:

Monday to Thursday	10:00 – 12:30am
Friday to Saturday	10:00 – 01:30am

Late night refreshment:

Monday to Thursday	23:00 – 01:00am
Friday to Saturday	23:00 – 02:00am

The opening hours of the premises:

Monday to Thursday	08:00 – 01:00am
Friday to Saturday	08:00 – 02:00am
Sunday	09:00 – 01:00am

2. That the following additional conditions be added to the Montecristo premises licence:

1. The premise is to operate an effective CCTV system which is to be maintained in good working order at all times the premises is open for business. The recording medium (e.g. discs/ tapes/ hard drive etc) and associated images are to be retained and securely stored for a minimum of 28 days and are to be made available to the police / Authorised Officers of the Licensing Authority upon request. The premises licence holder or Designated Premises Supervisor (DPS) is to ensure trusted members of staff (or other person(s)) who are trained and familiar with the operation of the equipment so that, at the expense of the premises licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of recorded data upon request and within no more than 12 hours from the time of the request. The premise licence holder or Designated Premises Supervisor must notify the licensing office or the Police in the event of CCTV breakdown or malfunction as soon as is reasonably practicable and in any event within 24 hours.

On an annual basis the premises licence holder or the DPS is to ensure that the CCTV system has been checked and maintained to any recognised specification and is shown to be in working order at all times.

2. A written record shall be kept every time images are recorded by CCTV and shall include details of the recording medium used, the time and date recording commenced and finished. This record shall identify the person responsible for the recording and shall be signed by him /her. Where the recording is on a removable medium (i.e. videotape, compact disc, flash

card etc.) a secure storage system to store those recording mediums shall be provided.

3. A Personal Licence Holder must be on the premises on Friday and Saturday from 21:00 until close of business.
4. Staff training shall take place on the Licensing Act and Licensing objectives when employment commences and every six months, a written record of this training to be maintained and made available to the Police and any authorised officer of the Council for inspection on request.
5. Prominent, clear and legible notices must be displayed at all exits requesting that customers respect the needs of local residents and to leave the premises and area quietly.
6. Music and associated other noise sources (e.g. DJs and amplified voices) shall not be generally audible inside noise sensitive property at any time. The DPS or member of staff is to carry out noise level checks of the surrounding outside area whenever entertainment is being provided taking action to reduce noise levels where there is a potential for nuisance to be caused.
7. All external doors and windows, apart from the outer lobby door, are to be kept closed when live entertainment or recorded music is in progress. When the outer lobby door is open the internal lobby door will be fitted with a self closing arm and be kept closed apart from ingress and egress.
8. The external area to the rear of the premises is to be closed to customers at 22:00. Staff will monitor this to ensure no customers enter this area after 22:00.
9. Management, staff and SIA door security personnel are to use their best endeavours to prevent persons loitering outside the premises and to ensure that persons refused entry or ejected are asked to leave the vicinity of the premises if it is safe to do so.
10. The premises to operate the following customer dispersal policy, the purpose of which is to ensure, so far as it is possible, that minimum disturbance or nuisance is caused to the neighbourhood and to ensure that the operation of the premises makes the minimum impact in relation to potential nuisance and anti-social behaviour.

This will be achieved by exercising pro-active measures towards and at the end of the evening. By ensuring that this Dispersal Policy document is brought to the attention of Management and Staff we will seek to encourage the efficient, controlled, safe and gradual dispersal of our patrons during our closing period.

- a. Music – consideration will be given to the volume levels, type of music played coupled with the usage of lighting levels designed to

- encourage the gradual dispersal of patrons during the last part of the evening. The gradual dispersal of customers shall commence well before the premises closes with members of staff and door staff instructed to encourage customers to leave in an orderly manner.
- b. Door personnel and management staff will be employed outside the premises and will assist with the orderly and gradual dispersal of patrons.
 - c. Staff Members (including door personnel) will advise patrons to leave the premises quickly and quietly.
 - d. Notices will be displayed requesting our customers to leave quietly and in an orderly manner and their attention will be drawn to these notices by members of staff (including door personnel).
 - e. We will ensure the removal of all bottles and drinking receptacles from any patron before exiting the premises.
 - f. We will actively discourage our customers from assembling outside the premises at the end of the evening.
 - g. Consideration will also be given to staff departures. Staff will be instructed to leave the premises quietly and to request that any waiting taxis/private hire vehicles do not leave their engines running or sound their horn whilst waiting.
11. The premises will operate a "Challenge 25" proof of age policy and signage to this effect is to be prominently displayed within the premises. Persons who appear to be under the age of 25 must produce for thorough scrutiny by staff, proof of identity/age before being sold/supplied alcohol. Only a passport or photo-card driving licence or accepted as proof of age card bearing the official 'PASS' accreditation hologram should be accepted as proof of age.
 12. The premise is to maintain a refusals book to record the details of incidents / descriptions of individuals whenever a member of staff has refused to sell alcohol to a person suspected of being under the age of 18years. The book must be made available to the police / authorised officers of the Licensing Authority on request.
 13. The management will ensure that there is no refilling of small premium bottles from larger different branded bottles and that receipts and invoices are kept for all spirits purchased for use in the bar.
 14. Management will ensure that bar staff are fully trained to the procedures behind the bar including the storage of alcohol and the disposal of empty bottles.

15. The seating furniture in the front external area will be stacked and secured no later than 12:00am on Saturday morning and Sunday morning. The seating will be stacked in a way that will ensure people cannot utilise the furniture for sitting on.
16. No drinks will be consumed or taken outside after 23:00.
17. An adequate number of licensed door supervisors will be on duty as appropriate to any risk assessment. As a minimum, two members of door staff are to be employed at the venue on Friday and Saturday evenings from 21:00 hours until close of business or until the last customer has left the immediate vicinity.
18. Children under the age of 16 will not be allowed on the premises after 22:00 unless attending a pre-arranged private function and they are accompanied by a responsible adult.
19. The premises will operate a last admittance time of 01:00am Saturday and Sunday.
20. Bottles will not be disposed into the outside bins between the hours of 22:00 and 10:00.
21. Customers will only be able to smoke to the left as they exit the premises from the front entrance/ exit in the designated smoking area.
22. Smokers will be monitored by the door supervisors on a Friday and Saturday night to ensure they are not causing disturbance.
23. All door staff will receive rigorous training in relation to the dispersal policy and how to implement this effectively.

Councillor David Jones
Chair

(The meeting started at 2:00pm and finished at 5:15pm)