

DECISION NOTICE

NORTHERN AREA LICENSING SUB COMMITTEE

In respect of an application by Wiltshire Police for a Review of a Premises Licence at Karma, 17a Station Hill, Chippenham – Constantine Leisure Limited

Dates of Hearing

21 March and 11 May 2011.

Decision

The decision of the Sub Committee is that the Premises Licence LN/003033NL in respect of Karma, 17a Station Hill, Chippenham SN15 1EQ be revoked. In reaching its decision, the Sub Committee took account of the representations that had been made on behalf of the review applicant, Wiltshire Police; the Licence Holder, Constantine Leisure Limited and the Interested Party, Cllr. Chris Caswill. This included the written representations and the oral and audiovisual evidence given on both days of the hearing. The Sub Committee also took account of relevant Government guidance and the Council's licensing policy.

Reasons for the Decision

The Sub Committee found that the Licence Holder had failed to comply with its obligations in respect of the following licensing objectives:-

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance.

The Sub Committee also found that the Licence Holder had failed, within the required timescales, to comply with a number of the conditions imposed on the Premises Licence at the Review hearing on 2 August 2010, in particular those relating to:-

- the provision of an adequate CCTV system
- the maintenance of adequate records relating to noise monitoring and incident logs
- the production of a Management Plan.

In view of this, the Sub Committee concluded that they had no confidence in the ability of the Licence Holder to adequately address its failings in respect of the licensing objectives. The Sub Committee, therefore, concluded that the imposition of additional licence conditions, or the temporary suspension of the Licence would not result in the required improvements and that revocation of the licence was the only practical option

and was one which was both proportionate and necessary to meet the licensing objectives.

Review Application

The Review application was made by Wiltshire Police on 25 January 2011 in relation to the following licensing objectives:-

- The prevention of crime and disorder
- Public safety
- The protection of children from harm.

Following advertisement of the Review, a relevant representation was received from Cllr. Chris Caswill, in relation to the prevention of public nuisance.

In their review application, the police raised the following main concerns:-

- Crime and disorder associated with the premises
- Three members of staff at the premises had been charged with offences against the police in respect of offences alleged to have taken place at or in the vicinity of the premises
- Breaches of the premises licence and inadequate policies and procedures
- The Licence Holder did not promote the licensing objectives and had a disregard for the licensing legislation
- Persons frequenting the premises consumed alcohol to excess, leading to criminal and disorderly behaviour, which had a negative impact on the community and on public safety
- The premises did not actively engage with Chippenham Pubwatch
- Children were not adequately protected when frequenting the venue.

It was the view of the Police that the only way that the serious problems associated with the premises could be addressed was by revocation of the licence. The Police did not consider that any further conditions that might be imposed on the licence would be complied with.

Concerns raised by Police

In their representations the Police raised the following main issues in support of their application.

1. Failure to comply with licence conditions

A review of the Licence had previously been sought by the Police in 2010, which had been considered by the Licensing Authority at a hearing on 2 August 2010. At that hearing, the Authority had imposed a number of additional conditions on the licence intended to address the identified problems at Karma.

It was the view of the police that these conditions had not been complied with and that the Licence Holder had shown a blatant disregard for its obligations to comply with them. In particular, the Police referred to failings in respect of the following conditions that had been added to the licence in August 2010:-

a. Door supervisors to remain on duty outside the venue for not less than 30 minutes after the last customer has left the venue.

When questioned by the Police's advocate, Mr. Frost, the DPS for Karma, admitted that this condition was not always complied with, as, in his view, it was not always necessary for there to be door supervisors on duty in this way after the club closed. He considered that it was a matter for his judgement whether this was necessary.

b. The CCTV to be reviewed and if necessary upgraded to standards required by Wiltshire Police Crime Reduction Officer

The police produced evidence from Sgt. George and from the Licensing Authority's inspection visit, to show that this condition had not been complied with within the required timescale and that on a number of occasions Karma had not been able to provide CCTV footage when requested by the Police to assist in their investigations of alleged incidents. In response Mr. Frost for Karma stated that there had been problems with the previous inadequate CCTV system but that the club had not had the funds to replace it. The Sub Committee concluded that there had been a failure to comply with this condition.

c. Maintenance of Adequate Records

Examples of the date incident log and the noise monitoring log were produced and discussed. It was accepted by the Sub Committee that these were inadequate for their purposes and that the Licence Holder had not made appropriate efforts to improve them.

d. Development and implementation of Management Plan

This was considered to be a particularly important means of addressing the concerns that had been raised at the previous review hearing. The Sub Committee accepted that the Plan had not been produced within the time required by the condition and that the current document was inadequate.

2. Impact on Local Businesses

The police produced evidence from local traders of the problems that they were experiencing from persons leaving Karma, particularly with urinating and vomiting. This was supported by evidence from police records and was accepted by the Sub Committee.

3. Violence and Disorder associated with the Premises

Evidence was presented of incidents of violence and disorder that had occurred either at the premises, in the vicinity of the premises or that involved people who had recently been at the premises. The Police also presented CCTV footage showing several such incidents. This evidence was not contradicted by Karma and was accepted by the Sub Committee.

4. The Response of Staff to Disorder at or immediately outside the Premises

The police produced evidence, both written and oral, of a number of incidents where they considered that the Club's staff had failed to act appropriately. They also presented CCTV footage showing several such incidents. In response, Karma presented video footage showing doorstaff dealing appropriately with an intoxicated customer who was being aggressive. The Sub Committee appreciated that doorstaff did face difficult situations, but accepted the evidence of the police that there had been a number of incidents where staff had not acted appropriately.

5. Misuse of alcohol tolerated at the Premises

The Police presented details from their records of a large number of incidents where there had been problems caused by persons who had consumed excessive amounts of alcohol in the premises. CCTV footage was also shown showing people leaving the club in an extremely intoxicated state, and concerns were expressed for the welfare of these people. In response Mr. Frost and Mr. Wickham, the bar manager, had explained the procedures that the club operated to prevent intoxicated people gaining entry to the club and to try to ensure that people who were drunk did not continue to be served with alcoholic drink. Nevertheless, the Sub Committee considered that these measures were insufficient as there was a clearly identified problem with intoxication associated with the premises.

Concerns raised by Interested Party

Cllr. Caswill raised concerns about the level of nuisance to neighbouring residents arising from the activities of the premises. He considered that the Licence Holder was failing to comply with the conditions requiring it to prevent a nuisance being caused. He considered that the noise monitoring records and procedures were inadequate. In response, Mr. Frost stated that the Club had recently purchased noise monitoring equipment and that a considerable amount of money had been spent on soundproofing the premises. He also stated that there were other licensed premises in the vicinity that created a lot of noise. Representations had been made by persons living next to the premises, stating that they did not find the noise from the club to be a problem.

The Sub Committee accepted that there was some degree of annoyance to local residents from the club, but noted that no other residents had made representations about noise.

Conclusions

Having heard all of the evidence, the Sub Committee concluded that there remained serious problems associated with the premises, particularly in respect of drunkenness and its consequences for crime and disorder and public safety. The Sub Committee also felt that there remained some issues with public nuisance. The Sub Committee did not consider that there were any particular issues relating to the protection of children from harm, as the Club no longer held events for under 18s and there were no proven problems with under-age drinking.

The Sub Committee felt that responsibility for compliance with the conditions that had been imposed at the previous review hearing rested entirely with Constantine Leisure Ltd. and appreciated the difficulty experienced by the day-to-day management in effecting any significant change.

Options and Decision

The Sub Committee considered the options available to it to address the concerns that they had found to be established. They did not feel that there was any merit in removing the Designated Premises Supervisor or in excluding a licensable activity from the scope of the licence.

The Sub Committee then considered whether to impose further conditions on the licence, with a period of suspension to allow time for the Club to address the problems that had been found with its operation. However, the Sub Committee felt that this would not be effective, given the failure of the club to comply with the additional conditions imposed at the previous review hearing.

The Sub Committee therefore concluded, on the basis of the evidence presented, that revocation of the licence that the only option available and that such revocation was reasonable, proportionate and necessary to promote the licensing objectives.

Effective date of Decision

This decision will not take effect until the end of the period within which an appeal can be made or, if such an appeal is made, until that appeal has been finally determined.

Any appeal must be made to a Magistrates' Court within 21 days of the date of notification of this decision.