



Minutes of the Licensing Panel

*Minutes of a meeting held on 22 August 2012
at the Civic Offices, Fareham*

PRESENT:

Councillor Mrs P M Bryant
(Chairman)

Councillors: Mrs K Mandry and R J Price, JP

DECISIONS UNDER DELEGATED POWERS

1. APPLICATION FOR VARIATION OF PREMISES LICENCE – THE APOLLO CINEMA, , 3VANNES PARADE, FAREHAM

At the invitation of the Chairman, the Panel was joined by the following persons:-

Representing The Apollo Cinema

Mr Mick Walton, Solicitor;

Mr ? Farell, :

Ms Becca C , General Manager.

Responsible Authority

PC Jason Pearce, Licensing Officer, Fareham Police

Interested Party

Councillor Katrina Trott, Fareham East Ward, representing local residents

The Panel had before it a report by the Licensing Officer regarding the application from Apollo Cinemas Ltd for the variation of the Premises Licence at The Apollo Cinema, 3 Vannes Parade, Fareham. A copy of the Hearing Procedure for the variation application from Apollo Cinemas Ltd, in

accordance with the Licensing Act 2003, had been made available to all parties at the meeting.

The Panel's attention was drawn to the application for variation of the premises licence received from Apollo Cinemas Ltd and attached as Appendix B to the report. It was noted that a copy of the report had been circulated to Panel members, the Applicant, the responsible authority and the interested party who had made representations in advance of the meeting.

The Panel considered the application in accordance with the agreed hearing procedure as follows:-

- (i) The Chairman of the Licensing Panel invited the Panel members, the Parties and officers to introduce themselves. The Chairman also outlined the procedure that was to be observed.
- (ii) The Chairman asked the applicant whether any modification was to be made to the application.

The applicant responded by indicating that Section P part b) on page 10 of the application should have read 'The sale of alcohol will cease at 02:00 or 30 minutes after the start of the last film showing at the premises, whichever is the earlier'.

- (iii) The Licensing Officer presented a summary of the application and of the representations received from the interested parties and their relevance to the Licensing Act 2003 and the Council's Licensing Policy.
- (iv) The applicant commented on the application and on the representations made, addressing the four licensing objectives.
- (v) During the course of the hearing, the Panel sought clarification of points and asked questions of the representatives of the applicant.
- (vi) The Responsible Authority was invited to ask questions relating to the application.
- (vii) The interested party was invited to ask questions relating to the application.
- (viii) The responsible authority commented on the application and on the representations made addressing the four licensing objectives.
- (ix) The interested parties commented on the application and on the representations made addressing the four licensing objectives.
- (x) The Panel asked questions of the interested parties to seek clarification of points raised.
- (xi) The representatives of the applicant were invited to ask questions relating to the representations.

- (xii) The responsible authority made a closing statement.
- (xiii) The interested party made a closing statement.
- (xiv) The representatives of the applicant made a closing statement.

The Licensing Panel then withdrew from the room to deliberate in private on the application. Having considered the representations made, the Panel returned to the hearing and all parties were advised that the decision of the Panel was as follows.

RESOLVED that:-

**DECISION OF THE LICENSING PANEL REGARDING THE VARIATION OF
THE PREMISES LICENCE FOR THE APOLLO CINEMA, 3 VANNES PARADE,
FAREHAM**

The Panel has considered very carefully the application for the variation of the premises licence.

It has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy. Human rights legislation has been borne in mind whilst making the decision.

It has paid due regard to all evidence both written and given orally today.

It was noted that there were no representations from the environmental health department.

In consideration of all of the above the Panel has determined that the Premises Licence shall be varied as applied for subject to conditions to be attached to the licence as set out below and a reduced terminal hour for the sale of alcohol to 12.30 am on each day.

With regards the conditions proposed below parties will be able to make further representation specific to the wording or practicality of the requirements set out, if deemed necessary. The conditions shall be revisited by the Panel at that stage if necessary.

Conditions to be attached further to or in addition to those implementing the Operating Schedule:

- The sale of alcohol shall be permitted to those customers in possession of a valid cinema ticket relating to a screening to be shown that day.
- The sale of alcohol shall be limited to a maximum of two drinks per person. A system shall be put in place to monitor / log the sales made. The system shall be to the reasonable satisfaction of the police who should be granted access to inspect the records taken and retained. Any system / log process shall be approved by the police in advance and in writing before the additional licensable activities commence.
- A suitable and sufficient CCTV system shall be in place to cover the bar area which is linked to a recording facility. This must be in operation at all times the premises are open and licensable activities are taking place. The system must retain images for a minimum of 31 days and recordings must be accessible by at least one member of staff on the premises at all times who is competent and capable of copying recordings upon the immediate request of the police or the Licensing Authority. Any such system shall be to the reasonable satisfaction of the police having due regard to the Home

Office guidelines relating to UK police requirements for digital CCTV systems (or other such guidance from time to time in force).

- The premises shall be a member of the Town Centre Radio Link. The radio will be maintained and fully operational during the hours the premises are being used for any licensable activity.

- Live and recorded music at the premises shall be ancillary to a specific screening (in this sense "ancillary" means extra to or supportive of a specific screening; neither shall form the main event or independent entertainment).

REASONS

The Panel considered very carefully the application and representations and determined that the additional hour and half of alcohol sales when combined with the additional conditions outlined above struck a fair balance and were appropriate and proportionate in light of all the evidence.

The Panel listened very carefully to the police concerns relating to the potential and likelihood for issues arising out of additional alcohol sales in this particular location at the proposed hour. It accepted that there was a real risk that issues may arise as a result of adjoining premises (which are alcohol led) closing at or around 1.00am and the potential for migration of their customers to this premises at that time seeking alcohol.

It is accepted by the Panel that the premises has run for a number of years without significant issue but the Panel did not accept the contention that this precluded it from reaching a view that steps or measures would be required to further the Licensing Objectives - in particular the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm. Legal advice was accepted that the panel had to consider all the evidence presented and make a judgment as to the risk of the Licensing Objectives being undermined. Only measures appropriate and proportionate to address that risk should be imposed.

The significant extension of the hours proposed (an additional 3 hours of alcohol sales) would change the nature of the premises given the additional time for drinking. Accordingly, a reduction in the proposed hours of sales of alcohol to 12.30 was considered appropriate and proportionate when combined with a condition limiting the number of drinks sold to each customer. It was considered appropriate to require a system capable of being checked to ensure compliance and enforceability of the condition. In addition the Panel noted that the application was amended in any event to reduce the hours for the sale of alcohol to half an hour after the commencement of the last screening or 2.00 am whichever was the earlier. Nonetheless the potential for sales extending to 2.00 am (however infrequent) would likely cause confusion and potential disorder with migrating customers.

The Panel considered carefully the concerns for prospective nuisance resultant from the later opening hours but determined that an additional hour was unlikely to create significant additional nuisance if the hours of alcohol sales were reduced to those imposed and combined with an enforceable limit on drinks sold to each customer.

It considered carefully imposing a condition requiring doorstaff but determined that in the alternative the same conditions when combined with a requirement to participate in the radio link scheme would sufficiently address the potential risk posed by migrating customers from other premises - for this reason it was felt important that this premises be able to receive early warning of such customers or likewise be able to warn other premises of those turned away for whatever reason from their premises.

It is understood that the police hold concerns about how a licence may be used in practice (following a subsequent change of hands, change in internal procedure or simple passing of time). However, the Panel was mindful that it may only determine the application as it is presented and based on the evidence it has heard, to depart therefrom and embark on speculation as to future behaviour would be beyond its remit. Accordingly all parties are reminded of the power to initiate a review of the premises licence in the event that it undermines any of the Licensing Objectives (whether relating to the variation or otherwise).

There is a right of appeal for all parties to the Magistrates' Court of the decision. All parties will receive written notification of the decision and that notice shall set out the right of appeal.

(The meeting started at 10:00am
and ended at 3:31pm)