

Licensing Board, 12 July 2012

**LICENSING BOARD
12 July 2012**

PRESENT: Councillor Andrew Morgan - Chairman, Councillor David Kelsey - Vice-Chairman; Councillors John Adams, Linda Bailey, Anniina Davie, Susan Phillips, Anne Rey and John Trickett.

Councillor David Smith attended for Minutes 124 and 125 in his capacity as Central Ward Councillor.

The meeting commenced at 09:47 am.

SECTION I - BUSINESS RECOMMENDED TO THE COUNCIL

No Items

SECTION II - BUSINESS DECIDED UNDER DELEGATED POWERS

122. APOLOGIES

Apologies for absence were received from Councillors Stephen Chappell, Theo Stratton and Christopher Wakefield.

123. DECLARATIONS OF INTEREST

- The Democratic Services Officer declared that Board members would be familiar with one of the interested parties in respect of the application for a premises licence at minute 124. The interested party in question was Mr Roy Wardle, long standing Chairman of the Council's Standard's Board.
- The Chairman declared that the previous day he had conducted a site visit of the premises in respect of the application for a premises licence at minute 124, and by chance, saw Mr Roy Wardle, interested party. They did not discuss the application before the Board.

124. APPLICATION FOR A PREMISES LICENCE - THE ORCHID HOTEL, 34 GERVIS ROAD

The Board considered an application made by Attwells Solicitors LLP on behalf of REL Hotels Limited for a new premises licence for The Orchid Hotel, 34 Gervis Road. The application was made following the lapse of the

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previous licence. The original application was for the following licensable activities:

- **Live music**
Monday to Thursday - 11.00 hours until 00.00 hours
Friday and Saturday - 11.00 hours until 01.00 hours
Bank Holiday Sundays - 11.00 hours until 01.00 hours
Sunday - 12.00 hours until 22.30 hours
- **Recorded music**
Monday to Thursday - 11.00 hours until 00.00 hours
Friday and Saturday - 11.00 hours until 01.00 hours
Bank Holiday Sundays 11.00 hours until 01.00 hours
Sunday - 12.00 hours until 22.30 hours
- **Anything similar to live music and recorded music**
Monday to Thursday - 11.00 hours until 00.00 hours
Friday and Saturday - 11.00 hours until 01.00 hours
Bank Holiday Sundays 11.00 hours until 01.00 hours
Sunday - 12.00 hours until 22.30 hours
- **Provision of facilities for dancing**
Monday to Thursday - 11.00 hours until 00.01 hours
Friday and Saturday - 11.00 hours until 01.00 hours
Bank Holiday Sundays 11.00 hours until 01.00 hours
Sunday - 12.00 hours until 22.30 hours
- **Late night refreshment**
Monday to Sunday - 23.00 hours until 01.30 hours
- **Supply of alcohol**
Monday to Sunday - 24 hours (Hotel Residents)
Monday to Sunday - 10.00 hours until 01.00 hours (Non-Residents)
From 10.00 hours on 31 December to 01.00 hours on 2 January every year
- **Hours open to the public**
Monday to Sunday - 24 hours

The Senior Licensing Officer summarised the application as set out in Report '4'. Consultation on the application had resulted in 15 interested persons making representations based on the public nuisance licensing objective. No representations were made by any of the responsible authorities to the application.

Following consultation on the application, Environmental Health and Consumer Services, Pollution Control agreed to the following amendments to the application and general conditions to be imposed on the licence offered by the applicant:-

- **Supply of alcohol**
Permission is sought for the sale of alcohol for consumption on the premises only with no 'off sales'.
- **Entertainment and regulated entertainment**

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Entertainment and Regulated Entertainment shall be provided inside the premises only. We propose a terminal hour for Entertainment and Regulated Entertainment of 00.00 hours on all days except for Fridays, Saturdays and Bank Holiday Sundays when the time will be 01.00 hours. Our view is that the Public Nuisance conditions comprehensively address the issue of noise escaping from the premises and therefore a terminal hour of 00.00 hours and 01.00 hours should not present the risk of nuisance.

- **Late night refreshment**
Late night refreshment will be provided inside the premises only.
- **General conditions - all four licensing objectives**
 - 1.1 There shall be no sale or supply of alcohol when there is no designated premises supervisor in respect of this premises licence or at a time when the said premises supervisor does not hold a personal licence or when his/her licence is suspended.
 - 1.2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
 - 1.3 Any person used to carry out a security activity must be licensed by the Security Industry Authority.
 - 1.4 The above mentioned restrictions on the times permitted to sell alcohol do not prohibit the supply to, or consumption by, any person of alcohol in any premises where they are residing.
 - 1.5 The above mentioned restrictions on the times permitted to sell alcohol do not prohibit the taking of alcohol from the premises by a person residing there.
 - 1.6 The above mentioned restrictions on the times permitted to sell alcohol do not prohibit the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of persons so supplied.
 - 1.7 The above mentioned restrictions on the times permitted to sell alcohol do not prohibit the supply of alcohol for consumption on the premises to persons employed there for the purposes of the businesses carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.
- **The prevention of crime and disorder**
 - 2.1 Suitable non-alcoholic beverages must be available whilst the premises are open to non-residents.
 - 2.2 A CCTV (or digital equivalent) system will be maintained. The licence must ensure that the CCTV system is annually maintained and produce a certificate of maintenance by a competent engineer.
- **Public safety**
 - 3.1 Soft drinks will always be available on sale whenever alcohol is sold.

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- **The prevention of public nuisance**
 - 4.1 The maximum number of persons, including staff and performers, permitted to be on the premises shall be 160. This is made up as follows:-
 - Dining Room - 120
 - Bar Area - 60
 - Function Room - 100
 - 4.2 Noise from within the premises shall not be audible at noise sensitive properties between the hours of 23.00 and 07.00 the following day. It shall not increase the ambient noise levels in the locality and there shall be no dominant frequencies.
 - 4.3 Noise from plant and equipment used for heating, ventilation and other ancillary services shall not increase the ambient noise levels at noise sensitive properties and there shall be no dominant frequencies.
 - 4.4 Bottles, bins, barrels and other waste shall not be moved from the building or moved around outside the building and there shall be no deliveries between the hours of 22.00 and 08.00 the following day. Notices shall be maintained on refuse containers instructing that they should not be used between the hours of 22.00 and 08.00 the following day.
 - 4.5 The doors and windows to the licensed area shall be kept closed at all times when amplified music is playing or when any other regulated entertainment is being provided.
 - 4.6 The licence holder shall ensure that all exterior doors at the premises shall be fitted with automatic door closers.
 - 4.7 Door supervisors registered with the Security Industry Authority only shall be employed on the premises when regulated entertainment is taking place. There is no requirement for registered door supervisors at private functions.
 - 4.8 All entertainment must be played through a sound limiter, which is set to an interval noise level of LAeq (such reasonable level to be confirmed by the officers of Bournemouth Borough Council's Environmental Health Service) dB.
 - 4.9 No marquee, tent or other form of temporary shelter will be used in the outside areas of the premises save for sunshades and umbrellas employed for the comfort of customers and removed by 20.00 each day.
 - 4.10 No barbeques are to be conducted within the grounds of the premises.
- **The protection of children from harm**
 - 5.1 No child shall be permitted on the licensed part of the premises between the hours of 19.00 and 00.00 unless accompanied by a responsible adult, and not at all between 00.00 and 07.00.
 - 5.2 The licence holder will implement the SWERCOTS approved 'No Proof of Age, No Sale' scheme. All staff will be trained on the provisions of the scheme and written records of that training

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will be retained on the premises for inspection by any authorised officer.

- 5.3 The licence holder will implement a written 'refusals record' in accordance with SWERCOTS guidance and will retain this on the premises for inspection by any authorised officer. This record shall include details of weekly checks by the DPS or other designated person.

The following persons attended the Board hearing and gave verbal evidence based on their written submissions:

- Applicant - REL Hotels Limited - represented by Mr Andrew Scott, Director and Mr Rob Lewis, Manager
- Interested party - Mrs Helena Teverson, Embassy Court resident and witness Zara Fulmer, Trading Standards Department, Bournemouth Borough Council
- Interested party - Mr Roy Wardle, Chairman of Embassy Court Management Company
- Interested party - Councillor David Smith, Central Ward Councillor representing Embassy Court residents

Members asked various questions to the different parties during the hearing. All parties were given the opportunity to ask questions of each other and to sum up before the Board retired to make its decision.

DECISION MADE:

That the application for a new premises licence for The Orchid Hotel, 34 Gervis Road, be granted subject to the inclusion of the following additional conditions and amendments to the general operating schedule:

- **Live music**
Monday to Thursday - 11.00 hours until 23.00 hours
- **Recorded music**
Monday to Thursday - 11.00 hours until 23.00 hours
- **Anything similar to live music and recorded music**
Monday to Thursday - 11.00 hours until 23.00 hours
- **Late night refreshment**
Late night refreshment after 23.00 hours to be restricted to inside the premises
- **The prevention of public nuisance**
 - No live or recorded music, or regulated entertainment in outside areas at any time.
 - That the premises licence holder, within six weeks, makes arrangements for an acoustic consultant to undertake an assessment of the premises. The report of which will be passed to the Environmental Health Department, Bournemouth Borough Council for consultation and agreement with the

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- premises on appropriate sound levels and any other necessary actions.
- That appropriate signage be placed in the outside areas reminding guests to be mindful of their noise levels, in order to not disturb neighbouring guests and properties.
- That Monday - Sunday from 21.30 hours onwards, half hourly inspections of the outside areas be undertaken by staff, to monitor the areas and to remind guests to be mindful of their noise levels where necessary.

REASONS FOR DECISION:

The Chairman explained that the Board had taken account of the written evidence that had been submitted before the meeting along with the verbal submissions made by all parties at the meeting.

The Board was satisfied that with the additional conditions the applicant would uphold the prevention of public nuisance licensing objective and had every confidence in the management at the hotel.

The Chairman encouraged the applicant to strictly adhere to the conditions on their licence, with particular regard to the use of a noise limiter, and to continue to work closely with the local residents at Embassy Court. Furthermore, he wished them every success in running a vibrant and responsible business.

The Senior Solicitor advised that any persons aggrieved by the decision would have the right of appeal to the Magistrates Court, and any such appeal should be lodged within 21 days of receiving the decision letter.

125. APPLICATION FOR A PREMISES LICENCE - VIPER BAR, TERRACE/EXETER ROAD

The Board considered an application made by JCP Law on behalf of Samurai Jake Limited for a new premises licence for Viper Bar, Terrace/Exeter Road. The application was made to transfer an identical licence from the adjoining Hamptons Bar and Club, to the Viper Bar, and to amend a number of unenforceable conditions on the licence. Should the application be granted, the applicant would surrender the existing licence for Hamptons Bar and Club. The application, with the agreement of Dorset Police, was for the following licensable activities:

- **Films**
 - Sunday to Thursday - 07.00 hours until 02.00 hours
 - Friday and Saturday - 07.00 hours until 03.00 hours
 - Seasonal Variations
- **Live music**

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- Sunday to Thursday - 11.00 hours until 01.30 hours
- Friday and Saturday - 11.00 hours until 02.30 hours
- Seasonal Variations
- **Recorded music**
 - Sunday to Thursday - 07.00 hours until 02.00 hours
 - Friday and Saturday - 07.00 hours until 03.00 hours
 - Seasonal Variations
- **Performance of dance**
 - Sunday to Thursday - 11.00 hours until 01.30 hours
 - Friday and Saturday - 11.00 hours until 02.30 hours
 - Seasonal Variations
- **Anything similar to live music, recorded music or Performance of Dance**
 - Sunday to Thursday - 11.00 hours until 01.30 hours
 - Friday and Saturday 11.00 hours until 02.30 hours
 - Seasonal Variations
- **Provision of facilities for making music**
 - Sunday to Thursday - 11.00 hours until 01.30 hours
 - Friday and Saturday - 11.00 hours until 02.30 hours
 - Seasonal Variations
- **Provision of facilities for dancing**
 - Sunday to Thursday - 11.00 hours until 01.30 hours
 - Friday and Saturday - 11.00 hours until 02.30 hours
 - Seasonal Variations
- **Provision of facilities for entertainment of a similar description for making music and for dancing**
 - Sunday to Thursday - 11.00 hours until 01.30 hours
 - Friday and Saturday - 11.00 hours until 02.30 hours
 - Seasonal Variations
- **Late night refreshment**
 - Sunday to Thursday - 23.00 hours until 02.00 hours
 - Friday and Saturday - 23.00 hours until 02.00 hours
 - Seasonal Variations
- **Supply of alcohol**
 - Sunday to Thursday - 07.00 hours until 02.00 hours
 - Friday and Saturday - 07.00 hours until 03.00 hours
 - Seasonal Variations
- **Hours open to the public**
 - Monday to Sunday - 24 hours

The Senior Licensing Officer summarised the application as set out in Report '5'. Consultation on the application had resulted in two representations, from Environmental Health and Consumer Services and Councillor David Smith, Central Ward Councillor, respectively. The representations were made on the prevention of public nuisance licensing objective. No representations were made by any of the responsible authorities to the application.

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Following consultation on the application, the applicant offered the following conditions and additions to the general operating schedule to be included on the licence, following the representations made by Environmental Health and Consumer Services and Councillor David Smith:-

1. A CCTV system shall be maintained in accordance with Dorset Police's reasonable guidelines. CCTV recordings shall be maintained and preserved for at least 31 days and copies made available to the Police on request (subject to the Data Protection Act 1998). At all times that the premises are open to trade there will be at least one member of staff on duty who is trained to use the CCTV system and in particular to show playbacks and make recordings.
2. The premises will operate a 'Challenge 21' policy and appropriate signage will be displayed to this effect throughout the premises.
3. The only identification that will be accepted will be PASS or successor organisation approved, UK photo driving licences and passports.
4. Live music will be restricted to a pianist, jazz ensemble or similar.
5. The Company shall use door supervisors. A risk assessment shall be undertaken to determine the number of door supervisors to be used to work at the premises and their deployment both within and outside the premises. The risk assessment shall take account of the day of the week, the hours of the day, dispersal of people from inside and outside the premises, the nature of the event taking place at the premises and the anticipated attendance at each event. A copy of the risk assessment shall be provided to the Licensing Authority and Police on request. Door supervisors shall be deployed in accordance with the risk assessment or as might otherwise be agreed with the Police. All SIA licensed door supervisors working at the entrance to the premises or on the public highway outside the premises shall wear yellow high visibility jackets/covers (or such other wear agreed with the Police) when on duty.
6. All staff serving or selling alcohol will be trained in and comply with relevant aspects of licensing laws. Staff training records will be retained for a period of 12 months. The training will encompass relevant aspects of the Licensing Act 2003 and Challenge 21 Policy or such other policy that may supersede it.
7. Staff training records will be retained for a period of 12 months and made available to an authorised officer on request.
8. The Company will adopt and operate a policy that no customers under 18 will be admitted to the premises between 19.00 hours and close of business on Fridays and Saturdays,

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- unless dining or attending a private event and accompanied by a responsible adult over the age of 21.
9. There will be no off sales of alcohol permitted at the premises.
 10. The site will actively participate in Bournemouth Townwatch for so long as it remains in existence and will be a part of the 'Doorlink' radio scheme or its replacement.
 11. No drinks will be served in glass vessels between 21.00 hours and the end of licensable activities.
 12. Substantial food will be available and advertised whenever alcohol is offered for sale and at least 45 seats shall be available for customers in the mezzanine area and 25 seats shall be available on the ground floor throughout trading hours.
 13. Persons will be encouraged to leave the premises in an orderly manner so as not to cause a nuisance to neighbouring residential premises. Customers failing to comply with this requirement may be barred from future entry. Appropriate signage will be displayed to this effect.
 14. When the external patio area is used by customers between the hours of 00.00 and close of business the area shall be supervised by at least one door supervisor who will be deployed at the entrance and exit point and whose remit will be to procure the good behaviour of customers and to avoid noise nuisance.
 15. During the use of the external patio between 00.00 hours and close of business a senior member of staff shall monitor noise levels of customers using that area at nearby residential properties. If the noise is clearly audible then steps shall immediately be taken to reduce the noise levels from customers accordingly.

The following persons attended the Board hearing and gave verbal evidence based on their written submissions:

- Applicant - JCP Law - represented by Julia Palmer on behalf of Samurai Jake Limited - represented by Mr Richard Carr
- E.N.L Acoustic Consultants - represented by Mr Ronald Parker and Mr Paul Gunter
- Interested party - Environmental Health and Consumer Services - represented by Lynn Bar, Senior Technical Officer and Nananka Randle, Principal Environmental Health Officer
- Interested party - Councillor David Smith, Central Ward Councillor representing local residents

Following the consultation period, the applicant confirmed that the following condition had been offered to replace condition 15, above:-

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15. The Licensee will install and maintain a CEL type 1 sound meter to monitor noise emissions from the external area set at a level approved by the Environmental Health Team and with readings made available to the Environmental Health Team on request.

Members asked various questions to the different parties during the hearing. All parties were given the opportunity to ask questions of each other and to sum up before the Board retired to make its decision.

DECISION MADE:

That the application for a new premises licence for Viper Bar, Terrace/Exeter Road, be granted subject to the inclusion of the conditions offered above.

REASONS FOR DECISION:

The Chairman explained that the Board had taken account of the written evidence that had been submitted before the meeting along with the verbal submissions made by all parties at the meeting.

The Board was satisfied that with the additional conditions the applicant would uphold the prevention of public nuisance licensing objective.



Particular attention was drawn to the comprehensive sound monitoring arrangements through the installation of a sound meter. Members were encouraged by the accuracy of the readings.

The Senior Solicitor advised that any persons aggrieved by the decision would have the right of appeal to the Magistrates Court, and any such appeal should be lodged within 21 days of receiving the decision letter.

Councillor Anniina Davie left the meeting at 12:40 pm.

The meeting adjourned between 11:10 am and 11:21 am, and 12:40 pm and 12:54 pm.

The meeting closed at 1.45 pm.

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