From: Michael Lavender
Sent: 21 June 2012 13:30
To: Peter Barnett
Subject: AWDM/0672/12: Cafe Cube Southwick Square, Southwick,
Attachments: CMS_202653_LAs_Live_Music_230312.pdf

Follow Up Flag: Follow up
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Hi Peter,

It is difficult to advise on appropriate hours for the above Café, as during the day it has traditionally A3 use, with most customers dining. However, the evening use appears more akin to A4 use, it has been reported that customers mainly go to have a drink and watch the football or play cards. The following is copied and pasted from Google, if you press CTRL and click it will open.

1. Omaha and in ! - The Weekly Poker Club
   www.theweeklypokerclub.com/news/article/593
   Omaha Pot Limit was enjoyed by 8 Weekly Poker Club members last night at **Cafe' Cube** in **Southwick**. Winner of the first game was Babyface Papworth and **...**

I have asked licensing to look into this matter.

The applicant indicates that the change of hours is to reflect the hours already granted under the Licence. I should make it clear that the Home Office's Amended Guidance Issued Under Section 182 of the Licensing Act 2003" states the following:

PLANNING AND BUILDING CONTROL

13.57 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.

13.58 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

Therefore what is important hear is that we preserve the amenity of residents living in the square by not allowing inappropriate development and not just duplicate licensing conditions that are set to achieve different objectives.

You will be aware that the Council amended the lease agreement with the applicant permitting more generous operating times than was permitted under planning permission SW/29/92/TP. This permission stated that:

1, "The premises shall not be open for trade or business on Sundays or Public Holidays nor at any other time except between the hours of 8.45am-10.30pm, and there
shall be no external illumination on the premises outside these specified hours."

2, "The premises shall not be used for the sale of food and drink for consumption off the premises."

Both for the interests of residential amenity.

The lease agreement states " The hours of opening will be approximately 8.45am to 11:30pm Monday to Saturday (inclusive) and 8:45am to 10:30pm Sundays. On the 31st December each year the hours may be extended to 2am on the 1st January"

I am not sure what 'approximately' means in this case; is it a couple of minutes either way or a couple of hours either way? However, the hours requested in the application are beyond what the lease agreement allows.

My own views are that up to 11pm is a reasonable time for an A3 use in this area surrounded by residential properties, 10:30pm on a Sunday. I understand the Turkish restaurant trades to 11pm and the fish and chip shop trades to 9pm. Therefore the hours requested are inconsistent with other similar premises in the square and allowing hours beyond 11pm would change the character of the area and would impact on amenity of residents who may subsequently have their sleep disturbed by customers leaving the premises late at night. With regards to start times I would suggest they stick to what is agreed in the lease.

Finally, there have been issues with noise from music emanating from the building in the past. (I understand the café is situated in what used to be a store room for a shoe shop) This was dealt with under the licensing Act as they had no license for regulated or live music. However, changes to the licensing regime will mean that amplified live music or other recorded music in relation to certain dancing will not be covered by licensing in the future. Attached are further details of the proposed changes. Therefore, I would request that a planning condition be attached prohibiting the playing of recorded music, other than background music, and the playing of live music; until such time a scheme to sound insulate the current structure has been submitted and approved by the planning department.

Kind Regards

Michael Lavender

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Please think before you print this and save paper

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CMS 202653/mk

Chief Executives of
Licensing Authorities in England and Wales

23 March 2012

CHANGES TO THE LICENSING ACT 2003

You may be aware that the Live Music Act (the Act), which was a Private Members Bill with Government support, recently completed its passage through Parliament and received Royal Assent today. The Act does not come into force straight away and I am writing to confirm the likely timetable for commencement of the new legislation.

Once the Live Music Act comes into effect, it will remove the licensing requirements for:

- amplified live music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises;
- amplified live music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment); and
- unamplified live music between 8am and 11pm in all venues.

Where a premises continues to operate licensable activities (such as the sale of alcohol), any conditions relating to the activities above will be suspended unless they have been added following a licence review. It would also be possible to reinstate or impose conditions about live music following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises.

The Live Music Act will also remove licensing requirements for the provision of entertainment facilities. In addition, it will widen the licensing exemption for live music integral to a performance of morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music instead of unamplified live music.

host government department of the Olympic and Paralympic Games

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Following discussions with the Local Government Association and the police, I intend to commence the Live Music Act in line with the usual requirements and conventions, which includes consulting on and issuing guidance under section 182 of the Licensing Act 2003 and adhering to the common commencement dates for new regulations. I therefore expect the changes to come into force on **1 October this year**.

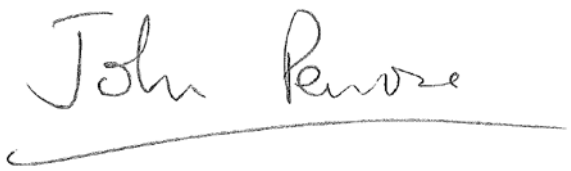
We will, of course, work with local government representatives and others in drawing up guidance on how to implement the new arrangements. I want to ensure that licensing officers, venue operators and enforcement agencies all have a clear understanding of the changes in good time before they come into effect. I am separately considering the responses to the consultation on wider reform of entertainment licensing, including the helpful contributions from many licensing authorities, but no final decisions have yet been made on those measures.

You will also be aware that, as well as looking to relax the regulatory burden on entertainment activities; the Government is rebalancing the Licensing Act 2003 by introducing a number of alcohol licensing reforms in the Police Reform and Social Responsibility Act 2011. Subject to Parliamentary processes, Home Office colleagues expect to bring those reforms into effect in April 2012, except for those that require complex secondary legislation (namely: early morning alcohol restriction orders, the late night levy and locally set fees). The measures intended for April 2012 include giving licensing authorities greater powers and flexibility to crack down on irresponsible premises, including making them responsible authorities in their own right under the Licensing Act 2003 and lowering the evidence threshold for decisions making. The Home Office will communicate with you further about these changes shortly.

Some local authority colleagues have been seeking confirmation on whether there will be any automatic extensions of licensing hours during the Olympics along the lines of those put in place for the Royal Wedding last year and that the Home Office has announced will be put in place during the weekend of the Queen's Diamond Jubilee celebrations in June (further information is available via the Home Office website http://www.homeoffice.gov.uk.).

The Government considers such cases on their merits and has no plans to introduce extensions to licensing hours for the Olympics and Paralympic Games. The Games continue over several weeks and, unlike other special occasions, there is not an obvious date or dates on which there will be a particular focus which would warrant the automatic extended hours. Additionally, the police have emphasised the need for them to have notice of additional events and activities so that they can plan resources during a period which will place additional demands on forces across the country. Of course, hosting the Olympic and Paralympic games will be a cause for celebration across the country and there will be an important role for licensed premises and community events to mark this unique occasion. Many towns and

cities will already have links with communities from across the globe and others will be hosting different national teams which will mean a whole variety of different events at different times. It is therefore likely that there will be an increase in Temporary Event Notices and licence variations in some areas and these should be processed in the usual way, liaising with the police as necessary. I hope that a pragmatic approach will be taken and that community events will be encouraged.



John Penrose MP
Minister for Tourism and Heritage