

## CENTRAL BEDFORDSHIRE COUNCIL

### Record of Licensing Sub Committee hearing convened under The Licensing Act 2003 (Hearings) Regulations 2005 on Thursday, 7 March 2013

#### Licensing Sub Committee Composition

Cllr K Janes K Janes (Chairman) Cllr C C Gomm  
Mrs D B Green

#### Members' Interests

There were none.

#### Name of Applicant

Lord John Shayler

#### Premises Address

4 Church Street  
Amphill  
Bedfordshire  
MK45 2EH

#### Name of Parties (including the Applicant, Observers and Persons who have made relevant representations together with any persons who have made relevant representations together with any person representing each party)

Cllr K Janes – Central Bedfordshire Councillor  
Cllr Mrs D Green – Central Bedfordshire Councillor  
Cllr C C Gomm – Central Bedfordshire Councillor  
Mr M Woolsey – Managing Solicitor  
Mrs M Clampitt – Committee Services Officer  
Mrs J Borthwick – Service Manager  
Mrs S Childerhouse – Head of Public Protection  
Mr F Fender – representing the Applicant  
Cllr P Duckett – on behalf of Mr & Mrs Silcock  
Cllr M Smith – on behalf of Amphill Town Council  
Cllr M Blair – Central Bedfordshire Councillor  
Ms P Mareri – Manager, Shaylers

51 relevant representations were made by members of the public

Mr & Mrs T Hudson – Objector  
Ms C Laursen – Objector  
Mr & Mrs P Hoare – Objector  
Mr P Webster – Objector  
Ms H Armitage – Objector

Mr & Mrs Redman – Objector  
Ms J Hutley – Objector  
Mrs S Hinkin – Objector  
Mr S Wilson - Objector  
Mr & Mrs B Wright – Objector  
Dr W De Groot – Objector  
Mrs J Mayhead – Objector  
Mrs M Coleman – Objector  
Mr & Mrs Tebbitt  
Mrs J Pelling on behalf of Mr A Pelling – Objector

**Names of Parties submitting representations and indications of their representations**

**Procedures for the Hearing of applications - Sex Establishment Licensing Licensing under the Local Government (Miscellaneous Provisions) Act 1982 as amended by S27 of the Policing and Crime Act 2009**

The Procedures for the hearing of applications – Sex Establishment Licensing, the Local Government (Miscellaneous provisions) Act 1982 as amended by S27 of the Policing and Crime Act 2009 was noted.

**Licensing Procedure**

The Sub-Committee noted the Licensing Procedure to be followed at the Hearing for a variation to the Premises Licence.

**Licensing Objectives**

The Sub-Committee noted the four Licensing Objectives.

**Name of parties submitting representations and indications of their representations**

**Request for an Adjournment**

Mr Fender advised the Sub-Committee that a request for additional information had been made to the Licensing Officers on 15 February requesting the number of visits made before and since Shayler's had opened. The information was today provided by Licensing Officers, which has not provided time for consideration of the information.

The Sub-Committee agreed to a 30 minute adjournment.

**THE HEARING ADJOURNED AT 1.45PM AND RECONVENED AT 2.15PM**

## **Amendment to the Application**

There were no amendments to the applications.

## **The Application**

The applications were for the following:

1. A variation of the premises licence to extend the hours of operation, under the Licensing Act 2003, at Shaylers, 4 Church Street, Ampthill, Beds MK45 2EH.
2. A variation to a Sex Establishment Licence to extend the hours of operation of a Sexual Establishment Venue at Shaylers, 4 Church Street, Ampthill, Beds MK45 2EH.

## **A hearing called to vary Premises Licence and Sex Entertainment Licence in respect of Shaylers, 4 Church Street, Ampthill, Beds**

The Sub-Committee received and considered a report from the Head of Service, Public Protection which advised that two applications had been submitted for the following:

1. A variation to the Premises Licence to extend the hours of operation; and
2. A variation to the Sex Establishment Licence to extend the hours of operation.

The Applicant's solicitor and the Manager of Shayler's attended the meeting and made representations.

The Chairman outlined the procedure to be followed.

The Chairman invited the Head of Public Protection to present the report to the Sub-Committee. The Sub-Committee were advised that the Applicant, Lord Shayler, had submitted two applications for variations to the hours of operation for their premise licence and Sex Establishment Licence. The applications sought the following:

1. Extension to the current licensed hours for the Premises Licence:
  - For the sale of alcohol to 03.30 Thursday to Saturday;
  - To extend the hours for regulated entertainment (live and recorded music) Thursday to Saturday to 04:00;
  - To extend hours for sale of late night refreshment Thursday to Saturday to 04:00
  - To add performance of dance as a licensable activity from 18:00 to 04:00 Thursday to Saturday and 18:00 to 01:00 on Sundays
  - To extend opening hours for the premises Thursday to Saturday to 04:00

2. Extension to the current licensed hours for the Sex Establishment Licence:
  - 19:00 to 00:30 Monday, Tuesday and Wednesday
  - 19:00 to 04:00 Thursday, Friday and Saturday
  - The premises will be closed as a Sexual Entertainment Venue on a Sunday

The Chairman invited the Applicant's solicitor to present their case to the Sub-Committee. The applications for a variation to the premise licence and the sex establishment licence were set out as detailed in paragraphs 1 and 2 above.

Mr Fender explained to the Sub-Committee the following points:

- There had been no indications of any problems at the premises;
- The Police, the Fire Service, Planning, Environmental Health, the Licensing Authority, Trading Standards and Child Protection Services had not made any representations to the applications
- The number of inspection visits to the premises had resulted in a 'low risk' rating being given to the premises
- There is a demand for the venue to be open longer hours
- The number of objections was half the amount received for the granting of the initial sex establishment licence last year

The Chairman invited the rest of the Sub-Committee to question the Applicant's Solicitor.

The Chairman invited the Applicant's Solicitor and the Head of Public Protection to ask questions of each other.

The Chairman invited objectors to make representations.

Cllr Blair on behalf of Ampthill Town Council expressed their strong objection to the applications and urged refusal.

Mrs Armitage represented Ampthill Community Safety and stated that 120+ residents lived within shouting distance of Shayler's. There had been vomiting, broken glass.

Cllr P Duckett on behalf of Mr and Mrs Silcock highlighted the noise nuisance established in a recent hearing. 120+ adults and children do not want further noise nuisance.

Mrs Hudson on behalf of Mrs Pelling asked if you are allowed to take alcohol off of the premises how is this a 'low' risk?

The Chairman invited the Applicant and the Head of Public Protection to sum up their cases.

The Sub-Committee adjourned to deliberate upon the application. The Managing Solicitor for Central Bedfordshire Council joined the panel to provide clarification of questions.

## Decision

That having taken into account the Licensing Act 2003 Guidance issued under Section 182, Central Bedfordshire Council's Licensing Policy for the variation of the premises licence and having taken into account Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, Central Bedfordshire Council's Statement of Licensing Policy for Sex Establishments for the variation to a Sex Establishment Licence and the merits of the two applications and the representations (including supporting information) presented by all parties, the applications be **refused** for the following reasons:

The variation to the premises licence reasons for refusal:

1. No measures had been proposed to deal with the outbreak of noise from smokers outside of the premises;
2. There was a lack of measures for the expedient dispersal of patrons upon the closing of the premises;
3. It was considered that the likely impact of a late licence, later than any other licence in the locality, will result in additional noise and sleep deprivation for the residents in the immediate locality;
4. It was not clear as to whether, the premises would be operated as a licensed premises or a Sexual Entertainment Venue, which may lead to confusion for:
  - a. Individuals seeking to attend and an unknown clientele for the premises to considered appropriate management controls; and
  - b. For any attempts to regulate minimal measures proposed for dispersal, for example, the number of taxis that will be present.
5. Real concern that there could be future problems with such operation
6. There is no comprehensive record of either positive control or negative control because the premises have only been opened on that single occasion.

The variation to the Sexual Establishment licence reasons for refusal:

1. The locality of Ampthill has changed since the closing of the White Hart public house, with no premises being open (except Shayler's) after midnight;
2. The locality is residential and people have a right to be able to expect not to be disturbed by patrons leaving venues in the late early hours of the morning;
3. The locality means that it is inappropriate for such activities to continue to the requested times because it will change the locality in a manner which is not considered desirable:
  - a. The change to locality including;
    - i. Increasing the number of people in the area at 04:00 hours
    - ii. The likely increase in the noise from individuals and vehicles

The Sub-Committee had based their reasons for refusal on the following Findings of Fact:

- The premises has only been open since 30 November 2012, a period of just over 14 weeks
- The licensed premises has only been operated for one single weekend in all of that time

- There is no comprehensive record of either positive control or negative control because the premises have only been opened on that single occasion
- There are no representations from responsible authorities
- There is no evidence of any calls having been made to the Police
- The premises has no garden area for patrons to sit
- The closest outside seating area is in the middle of the market square
- There is no evidence of the licence having been breached in the 14 weeks that the premises have been opened
- It is not clear as to whether, the premises will be operated as a licensed premises or a Sexual Entertainment Venue, which may lead to confusion for
  - Individuals seeking to attend and an unknown clientele; and
  - For any attempts to regulate minimal measures proposed for dispersal, for example, the number of taxis that will be present
- The premises appear professional and well run, with control exercised by the premises management
- The Manager is very credible and seems to have a firm grip of all matters
- The premises have not operated during any warmer months, when you would expect individuals to be out later into the evening/night
- The arguments raised by the residents are compelling, especially the individuals who have formed the Amptill Street Watch
- The extension request is a long extension late into the early hours of the morning
- There is a real concern that there could be future problems with such operation
- No measures have been proposed to deal with the escape of noise caused by people leaving the premises for a cigarette
- Evidence has been presented to show that the location of the premises attracts groups of people, including youths, and such action causes a nuisance with the groups remonstrating
- There is no help, other than 999, after 03:00 hrs in the morning when low level nuisance is likely to be suffered
- The area is largely a residential area
- There is no public transport in the area at 04:00
- The majority of complaints relate to late night drinking and noise
- Individuals have already suffered from sleep deprivation due to late night revellers, accepted not yet from Shaylers
- It is a town centre, not out of town
- There is a lack of measures for the dispersal of individuals
- Since the decision of the licensing sub-committee on the 30 July 2012 there are no longer any other premises in the locality open beyond midnight.

Applicants or any person who has made a relevant representation who is dissatisfied with this decision has the right of appeal to the Magistrates Court within 21 days of the date on which they were notified of the decisions.

(Note: The meeting commenced at 1.30 p.m. and concluded at 6.10 p.m.)