

LICENSING COMMITTEE

28 JULY 2003

WARDS AFFECTED: Dunkirk and Lenton

Item:

REPORT OF THE ACTING CITY SECRETARY

**APPEAL AGAINST REFUSAL TO VARY PUBLIC ENTERTAINMENT LICENCE –
ISIS, REDFIELD WAY, LENTON, NOTTINGHAM -
CREATION OF THE CROCODILE CLUB**

1. SUMMARY

This Report informs Members of the result of an appeal heard on 26 June 2003 in relation to the above matter.

2. RECOMMENDATION

That the contents of this report be noted.

3. BACKGROUND

Members will recall a report presented to this committee on 23 June 2003 which informed them of the appeal which had been lodged relating to this application and sought clarification in relation to certain issues relating to the appeal.

As members may be aware from articles which have subsequently appeared in the press the applicants won their appeal and the magistrates decision is attached as appendix 1. It will be noted from this that the lack of evidence linking such establishments with a risk of sexual assaults and the fact that there were no objections from the police was one of the main reasons for allowing the appeal. Whilst the magistrates still had regard to public opinion the fact that there was no such evidence led them to the conclusion that the Committee had made the wrong decision. This case therefore acts as a good reminder of the need to thoroughly assess the evidential basis surrounding public opposition to applications (of any nature) in determining what weight such objections carry.

Whilst it was argued that conditions should be imposed on the licence in accordance with the Committee's resolution of 23 June 2003, the magistrates did not accept that the operational hours of the club should be restricted nor did it require the removal of the proposed booths inside the premises. However whilst not prohibiting total nudity the magistrates did impose a condition regulating the content of such dancing. A copy of the conditions imposed on the licence is attached at appendix 2.

As anticipated the applicants sought a costs order against the Council for over £6000, however the Court failed to award costs on the basis that it was satisfied that the Council had acted honestly soundly and reasonably in what it felt was the public interest.

The views of the Chair, Vice Chair and Opposition Spokespersons of the Committee have been sought and the decision taken not to appeal the matter any further.

6. OBSERVATIONS OF OTHER OFFICERS

None.

7. EQUAL OPPORTUNITIES IMPLICATIONS

None.

8. CRIME AND DISORDER IMPLICATIONS

Licensing for public entertainment is an opportunity for the City Council to work in partnership with the Police to reduce the risk of crime and disorder occurring both within and immediately outside licensed premises, having regard to the affect of the proposals on both customers and residents.

**Glen O'Connell,
Acting City Secretary,
The Guildhall, Nottingham, NG1 4BT
Contact Officer: Ann Barrett, Extension 54526**

APPENDIX 1

Appeal Against Refusal to Vary Public Entertainment Licence for Isis, Redfield Way, Lenton, Nottingham Before Nottingham Magistrates' Court 26th June 2003

Having heard evidence and submissions from both parties we have decided to grant the appeal and to vary the conditions of the Public Entertainment Licence.

We have heard the case in relation to the Isis Nightclub and the proposal by David Keetley, Debra Mullen and Sian Newall. This relates to their application to convert the part of the first floor, as outlined in the plan in the bundle provided, to form what is to be called the Crocodile Club. This will be operated as a Table Side Dancing Club and would have a capacity of 400 persons, with potential for up to 40 dancers operating. As such, it would require the addition of special conditions 7 and 8 in the document provided to us, which amend and reinterpret conditions 24 and 25 in the standard conditions of entertainment licences of Nottingham City Council. This is an appeal against the refusal of Nottingham City Licensing Committee to vary the PEL at a hearing before them on 17th March 2003. The appeal arises under part 17 of Schedule 1 of Local Government (Miscellaneous Provisions) Act 1982.

We have heard evidence from Councillor Derek Cresswell and Mr. Michael Bussell and submissions of Mrs. Barrett on behalf of the City Council, live evidence from Mr. David Keetley, Mrs. Sian Newall and Mr. Philip Jenkinson and a written statement of Nicholas Landells and submissions of Miss. Poppleston on behalf of the appellants. We have also noted the content of the agreed bundle, including the petitions and letters of objection to this application from members of the public.

We take note of the reasons found by the City Council Licensing Committee for their decision as contained in the bundle and we give due weight to that decision of an elected body. Furthermore, we take notice of the fact that the statutory authorities have not objected to this application and that their demands have been, and will be, complied with by the licensees.

We have heard no criticism of the licensees and note Mr. Keetley's 25 years experience in the leisure industry, Mrs Newall's 19 years in the sector and the fact that both have been accepted as fit and proper people to hold Justices' On-Licences.

We wish to consider the reasons given by the City council in turn but do not propose to repeat them in full:

Ground 1

We find that the proposed location of the Crocodile Club, on the 1st floor of the Isis Nightclub premises is appropriate. The entrance to the premises would be on a different face of the building to the entrance to Isis, and as such would not lead to a crossover of customers. The other leisure-related premises located in the Redfield Way area, including Smiling Sams, The Megabowl and Showcase Cinema, do attract a mixed age-range clientele, including substantial numbers of children and young

people. However the entrance to the Crocodile Club is not readily visible from these other premises and there will be no signage pointing in the direction of the entrance to the club to indicate the nature of the activities. We have heard the evidence of the complainants in this matter who state that Isis Nightclub only allows admission to Over-18s and this has not been refuted. There is no internal access or line of sight from Isis to the Crocodile Club. The premises stand apart from other amenities in the area and are served by a separate access road and parking area. This is a non-residential area of the city. We therefore feel that there is no reason for non-club users to cross into that area. We have heard no objections from any other leisure company on-site

Ground 2

There is no evidence to suggest that such establishments give rise to a risk of a sexual assault. We have heard that there will be a substantial security presence at all times, both in the building and at entrances and we note that it is the policy of the club to deal with any problems calmly and not to eject people whilst in an irate state. CCTV cameras will be installed and their positioning has been agreed with the police. We again note that the police do not object to this application.

Ground 3

We have regard for the views and concerns expressed in petitions and letters of objection. We note that the majority do not reside in the immediate area. We take account of the fact that we are unable to ascertain how these views were canvassed. Although this had an influence on the Council's decision we have heard no evidence that the public is at risk from granting a licence allowing this activity to take place.

In light of the above we feel that the City Council Licensing Committee were wrong in their initial decision not to vary the conditions of the Licence.

Special Conditions

Turning to the proposed special conditions. We impose the special conditions as agreed by both parties. We have been asked to consider 3 issues which are not agreed upon. We make the following determinations.

Firstly, the hours of operation- paragraph 2. We understand that Mr. Keetley intends to attract the lunchtime business. We see no reason to vary the times from noon until 2am, Monday to Friday. As already stated we find that the concerns about young people in the locality are unfounded.

Secondly, the booths- paragraph 11. We do not feel that it is necessary to remove the booths from the plan as we feel that when dancers are performing adequate supervision and CCTV coverage will be provided to prevent any improper conduct and will also provide some measure of privacy.

Thirdly, the question about level of nudity-paragraph 18 &19. We are minded to impose the condition contained in paragraph 19 in order to prevent any possible breach under the criminal law.

For the sake of clarity, we re-impose the standard conditions as set out in the document in the bundle with the special conditions referred to above.

APPENDIX 2

Isis/Crocodile Club Special Conditions

The Following Special Conditions shall apply to the licence in general :-

1. The maximum occupancy for the premises (excluding staff,) shall be:-

1. Ground Floor – 1000
2. First Floor Bar - 200
3. Crocodile Club - 400

2. Hours of operation for Isis:-

Monday – Wednesdays	Noon – 2am
Thursdays	Noon – 3am
Fridays/ Saturdays	Noon – 4am
Sundays	Noon – 2am
Sundays preceding bank holidays (except Easter)	Noon – 6am

Hours of Operation for the Crocodile Club:-

Mondays – Fridays	Noon - 2 am
Saturdays	7pm – 2am

3. On Sundays this licence will not be utilised beyond the permitted hours for the sale of alcohol.
4. Both music and dancing are permitted on the ground floor. There shall however, be no public dancing on the first floor though music and dancing by performers/entertainers only are permitted.
5. (a) The Instructions and Guidance contained in the operating manual provided for use with the gas extraction system installed in the building shall always be complied with. No amendments shall be made to the contents of the manual without the written consent of the City Council.

(b) A copy of the operating manual shall be kept on the premises at all times and shall be readily available for reference by staff.

(c) A log book shall be provided and maintained on the premises and the following information recorded:-

- (i) Details of the daily and weekly checks following the closure of the premises for 48 hours or more, including details of the results of the checks and any renewal action taken.
 - (ii) Details of the 3 monthly and 6 monthly checks maintenance and servicing checks required to be carried out by a specialist contractor, indicating faults found and remedial action taken. Alternatively the Contractor may provide service sheets which shall include the above information and these service sheets shall be kept with the log book.
 - (d) The log book and any service sheets referred to above shall be kept at the premises at all times and shall be available for inspection by an authorised officer of the City Council
6. A CCTV system must be installed and maintained to the satisfaction of the police. All video tapes/recorded images must be retained for a minimum period of 31 days and made available for inspection by the police or authorised officers of the City Council on request.

For the areas outlined in blue on plan number 859.06C and known as The Crocodile Club the special conditions listed below apply. Reference to the “operational guidelines” is to those guidelines submitted to Nottingham Magistrates Court on 26 June 2003 or such further amended guidelines as may have been approved by the City Council in accordance with condition 9 below :-

7. Whilst General Condition 24 shall apply the provision of tableside dancing shall not be regarded as a breach of that condition provided that the licensee adheres to the operational guidelines for the time being in force.
8. General Condition 25 shall be amended to read as follows:-
- “Lap dancing, pole dancing, and all forms of entertainment , dancing or displays that include nudity or sexual performances of any kind are prohibited with the exception of tableside dancing and dancing on the stage carried out in accordance with the operational guidelines for the time being in force.”
9. There shall be compliance with the operational guidelines at all times in respect of all matters contained therein and no alterations shall be made to the operational guidelines (except with regard to the drugs policy) without the written consent of the City Council.
10. There shall be annual meetings with the police in relation to revision of the clubs drugs policy and the licensee shall lodge any amendments to this policy with the Council. The drug policy shall relate not only to customers but also to all staff, security and performers employed at the club.
11. The premises shall be constructed and maintained in accordance with plan 859.06C and no alteration shall be made to the premises without the agreement in writing of the council.
12. No person under the age of 18 shall be admitted to this area.
13. The dancing permitted by this licence shall only be given by paid performers/ entertainers engaged for the purpose and the performance will be restricted to dancing and the removal of clothes. There shall be no audience participation

during the performance and physical contact with the audience save for the receipt of payment in the hand or garter is prohibited.

14. Dancers shall re-clothe immediately at the conclusion of their dance/performance. Dancers/entertainers who are not performing/dancing shall not appear in any public area wearing less than a G string for males, and G string/bikini bottom and top for females.

15. No performer /entertainer shall be less than 18 years old.

16. No Photographs or other images indicating the type of entertainment which takes place in the club shall be displayed outside the premises.

17. There shall be notices displayed at the entrance to the premises in a prominent position so that they can be easily read by persons entering the premises signs in the following terms:-

“No person under 18 years of age will be admitted”

18. Performers shall at no time during the entertainment display their anus and, (if female,) their genitalia and shall not perform any actual or simulated sexual acts.

