



STROUD DISTRICT COUNCIL

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LICENSING ACT 2003

PREMISES NAME	Capones Night Club
PREMISES ADDRESS	13 Long Street, Dursley, GL11 4HL
APPLICANT NAME/S	Stavros Antonio
APPLICATION TYPE	VARIATION OF PREMISES LICENCE
APPLICATION REFERENCE	23/00672/LAPRV
DATE OF HEARING	22 AUGUST 2023
DATE OF DECISION	22 AUGUST 2023

BACKGROUND

The application is to vary the conditions attached to the premises licence as follows:-

Current Condition - There shall be present at the Premises at all times at which they are open: a. a minimum of 1 door supervisors per 100 patrons; and b. a minimum of 4 of door supervisors between the hours of 2200 and the time at which the Premises close. A minimum of 2 door supervisors shall be stationed on Long Street at the front of the adjoining premises for not less than 30 minutes following the departure of the last patron from the Premises.

Proposed amended Condition - There shall be present at the Premises at all times at which they are open: a. a minimum of 1 SIA registered Door Supervisor per 100 patrons; and b. a minimum of 2 of Door Supervisors between the hours of 00:00 and the time at which the Premises close.

A minimum of 2 Door Supervisors shall be stationed on Long Street at the front of the adjoining premises for not less than 30 minutes following the departure of the last patron from the Premises.

For any events, Bank Holidays, Christmas Eve and New Year's Eve, the DPS will ensure that an event/date specific Risk Assessment is carried out and recorded prior to the event or date taking place. The Risk Assessment will take into account the type of event, date, anticipated number of attendees, and any associated risks reasonably to be expected. If the Risk Assessment identifies the reasonable need for additional SIA Door Supervisors to those numbers identified above, then the DPS must ensure that these are employed as per the same hours identified above. A copy of the Risk Assessments will be produced to authorised officers of the Licensing Authority or Police upon request and in any event, within 7 days of any request being made.

A Security Log Book will be maintained, recording names and SIA badge numbers of Door Supervisors and the hours worked. A copy of this Book will be produced to authorised

officers of the Licensing Authority or Police upon request and in any event, within 7 days of any request being made.

Current Condition - An incident book shall be maintained at the Premises in which shall be recorded the time, date and circumstances of all refusals of entry of persons to the Premises and removals of persons from the Premises together with the name or a description of the person ejected.

Proposed amended Condition - An Incident Book shall be maintained at the Premises in which shall be recorded: (a) all crimes reported to the venue (b) all ejections of patrons, including description or name of patron ejected if known (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system (g) any refusal of entry or refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service. Entries must be completed within 24 hours of the incident occurring and a copy of this Book will be produced to authorised officers of the Licensing Authority or Police upon request and in any event, within 7 days of any request being made.

Current Condition - The "Challenge 21" Scheme shall be adopted and adhered to at the Premises and a recognised form of identification will be requested from any person appearing to be under the age of 21 years before that person is served with an alcoholic drink.

Proposed amended Condition - The "Challenge 25" Scheme shall be adopted and adhered to at the Premises and a recognised form of identification (Passport, Photographic Driving Licence, Proof of Age Card, Ministry of Defence ID Card) will be requested from any person appearing to be under the age of 25 years before that person is served with an alcoholic drink. If no ID is produced then the sale must not be made.

Current Condition - All staff at the Premises shall receive training regarding their obligations in terms of preventing the sale of alcohol to minors. Such training will be delivered as part of the induction programme for new staff and thereafter at intervals not exceeding 3 months. A register of such training shall be kept and shall be signed by staff upon receiving the training.

Proposed Amended condition - All staff at the premises shall receive training regarding their obligations in terms of preventing the sale of alcohol to minors, proxy sales and drunk sales. Such training will be delivered as part of the induction programme for new staff and thereafter at intervals not exceeding 6 months. A register of such training shall be kept and shall be signed by staff upon receiving the training. Copies of training records will be produced to authorised officers of the Licensing Authority and Police upon request and in any event, within 7 days of any request being made.

Current condition - The Premises shall be fitted with closed circuit television of the highest available standard which shall operate continuously throughout the opening hours of the

Premises and which shall capture a clear view of: a. the head and shoulders of all persons entering and leaving the premises; b. all external areas of the Premises; c. all bars and tills; d. all internal areas of the Premises to which Patrons have access save for the toilets; e. all of the external part of the entrance to the Premises together with the alleyway leading up to it Page 20 of 28 All footage shall display the date and time at which it was recorded, shall be retained for not less than 31 days and shall be handed over to the Licensing Authority or the Police upon request.

Proposed amended condition - The Premises shall be fitted with closed circuit television of the highest available standard which shall operate continuously throughout the opening hours of the Premises and which shall capture a clear view of: a. the head and shoulders of all persons entering and leaving the premises; b. all external areas of the Premises; c. all bars and tills; d. all internal areas of the Premises to which Patrons have access save for the toilets; e. all of the external part of the entrance to the Premises together with the alleyway leading up to it All footage shall display the date and time at which it was recorded, shall be retained for not less than 31 days and shall be produced to authorised officers of the Licensing Authority or the Police upon request and in any event, within 7 days of the request being made. Weekly checks must be carried out and recorded by the DPS or nominated member of staff, to ensure that the CCTV system is working and recording correctly. These checks will be recorded in a CCTV Log Book, which shall include the name of the person carrying out the checks, time and date carried out, any faults found and action taken to rectify any such faults. A copy of this Book will be produced to authorised officers of the Licensing Authority or Police upon request and in any event, within 7 days of any request being made

No other change is proposed to the licence hours or activities.

HEARING

The Panel comprised of Councillors Gordon Craig (Chair), Ken Tucker and John Jones.

The Applicant, Mr Stavros Antonio attended.

Councillor Loraine Patrick (Dursley Ward Councillor) and Councillor John Rubin (Dursley Town Council) attended as the Other Parties,

No Representations were received from the Responsible Authorities.

The Panel heard from the Licensing Manager, Rachel Andrew.

LEGAL MATTERS

The Panel had due regard to:

1. The provisions of the Licensing Act 2003 which confer the powers of the Licensing Authority to deal with the application;
2. The obligation to promote the four licensing objectives; and
3. The relevant sections of the Council's Statement of Licensing Policy and Statutory Guidance.

The Panel considered that it must carry out its functions with a view to promoting the four licensing objectives, as set out in Section 4(2) of the 2003 Act. The Panel cannot take into account any matters or representations which do not relate to one or more of those licensing objectives and acknowledges that any representations which are received must be relevant and evidenced-based.

APPLICANT'S REPRESENTATIONS

Mr Antonio explained that he has monitored the numbers of attendees since reopening after Covid and on average there are approximately 50 people at the premises on Fridays & maximum of 100 on Saturdays. He stated that the SIA government guidelines recommends 1 SIA registered door supervisor per 100 patrons but he had made the application to make his business viable and to have flexibility to staff appropriately.

Mr Antonio explained that it was not economically viable for him to have 4 SIA door supervisors to facilitate customers throughout the entirety of a Friday and Saturday night and the clientele has changed through his tenure. He stated he was now entertaining the children & grandchildren of previous regular customers. He also stated that there had been a gentrification of Dursley and there were new cosmopolitan residents. He also stated he gives the residents of this town a nice, safe venue to enjoy and that there was evidence to show there was still a demand for his premises. Mr Antonio stated that he saw that the role of the SIA staff was to check entry into the premises and sometimes deal with incidents inside the premises.

When asked about capacity the applicant stated that the downstairs is licensed for 250 and the upstairs was 80. This figure had been historically set by the fire service and did not form part of his premises licence. The number of patrons has dropped, and the average number of patrons is between 80 and 100.

Mr Antonio explained he has a bank of staff and there is a facility to bring in extra staff on the night. If required, they would be present within ½ hour. The risk assessment would be done as part of any temporary events. Mr Antonio stated that he does not currently have a SIA badge. He stated that he is considering reapplying for the badge and undertaking the qualification. Mr Antonio stated that he would not consider himself as one of the number of registered SIA staff who would be required to be present in accordance with any condition.

Mr Antonio was asked about the risk assessment. He stated that the only ticketed events are special events such as music festivals. The risk assessment is also completed when a TEN is applied for considering previous figures. When an application for a TEN is made then he always agrees to carry over the conditions from the premises licence.

In respect of the CCTV Mr Antonio was asked about checking the CCTV and whether this would in practice every night. Mr Antonio confirmed that it would not be a problem to require the checks to be carried out before every opening.

In summing up Mr Antonio stated that this is a business decision, and it is an issue about staffing. He has liaised with the police, and they have agreed to the conditions. It was his business and that Dursley had changed, and this application was to keep the current model working. If there was a problem going forward, he was sure the police and/or licensing department would be in touch. He is aware of the concerns but also the town centre had changed but the premises have been there for a long time and wanted to continue.

INTERESTED PARTY'S REPRESENTATIONS

Dursley Town Council and a Ward Councillor lodged objections to the variation to reduce to 2 SIA staff after 00:00 stating that the variation was unacceptable. The Councillors stated that they supported the other elements of the application including the improvements to the recording of incidents, training, CCTV and adopting the Challenge 25 scheme.

Councillor Rubin stated that the Town Council was content with many of the amended conditions. He did however state that he had questions about how the risk assessment would work in practice and how the dynamics of the risk assessment would work. Councillor Rubin stated that there was a need for robust door supervision later in the evening.

Councillor Patrick stated she was speaking on behalf of the Town Council and the residents who live by the club. Councillor Patrick stated that when the current conditions were added this was after a long negotiation. Since then, there has been a great improvement. The Town Council are concerned about the potential impact on the staff and having sufficient authority to deal with any issues that might arise. Councillor Patrick stated that it has worked well and did not understand why it should be changed. Councillor Patrick noted that there was a street drinking byelaw in Dursley.

Councillor Patrick stated in summing up that if there were two staff outside, that Mr Antonio sought accreditation as soon as possible and did not count himself within the number of SIA staff then this would go some way to meet the concerns of the Town Council.

DECISION

The Panel considered the representations from the Applicant and the Interested Parties.

The Panel decided that as the application to vary the premises licence meets the licensing objections, it would be granted subject to the following amendments to the conditions on the premises licence: -

Current Condition 2 - There shall be present at the Premises at all times at which they are open: a. a minimum of 1 door supervisors per 100 patrons; and b. a minimum of 4 of door supervisors between the hours of 2200 and the time at which the Premises close. A minimum of 2 door supervisors shall be stationed on Long Street at the front of the adjoining premises for not less than 30 minutes following the departure of the last patron from the Premises.

Amended Condition 2 - There shall be present at the Premises at all times at which they are open: a. a minimum of 1 SIA registered Door Supervisor per 100 patrons; and b. a minimum of 2 of Door Supervisors between the hours of 00:00 and the time at which the Premises close.

A minimum of 2 Door Supervisors shall be stationed on Long Street at the front of the adjoining premises for not less than 30 minutes following the departure of the last patron from the Premises.

For any events, where it anticipated that numbers might be higher than average or there is an increased likelihood of risk, including Bank Holidays, Christmas Eve and New Year's Eve, the DPS will ensure that an event/date specific Risk Assessment is carried out and recorded prior to the event or date taking place. The Risk Assessment will take into account the type of event, date, anticipated number of attendees, and any associated risks reasonably to be expected. If the Risk Assessment identifies the reasonable need for additional SIA Door Supervisors to those numbers identified above, then the DPS must ensure that these are employed as per the same hours identified above. A copy of the Risk Assessments will be produced to authorised officers of the Licensing Authority or Police upon request and in any event, within 7 days of any request being made.

A Security Log Book will be maintained, recording names and SIA badge numbers of Door Supervisors and the hours worked. A copy of this Book will be produced to authorised officers of the Licensing Authority or Police upon request and in any event, within 7 days of any request being made.

Current Condition 3 - An incident book shall be maintained at the Premises in which shall be recorded the time, date and circumstances of all refusals of entry of persons to the Premises and removals of persons from the Premises together with the name or a description of the person ejected.

Amended Condition 3 - An Incident Book shall be maintained at the Premises in which shall be recorded: (a) all crimes reported to the venue (b) all ejections of patrons, including description or name of patron ejected if known (c) any complaints received concerning

crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system (g) any refusal of entry or refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service. Entries must be completed within 24 hours of the incident occurring and a copy of this Book will be produced to authorised officers of the Licensing Authority or Police upon request and in any event, within 7 days of any request being made.

Current Condition 8 - The "Challenge 21" Scheme shall be adopted and adhered to at the Premises and a recognised form of identification will be requested from any person appearing to be under the age of 21 years before that person is served with an alcoholic drink.

Amended Condition 8 - The "Challenge 25" Scheme shall be adopted and adhered to at the Premises and a recognised form of identification (Passport, Photographic Driving Licence, Proof of Age Card, Ministry of Defence ID Card) will be requested from any person appearing to be under the age of 25 years before that person is served with an alcoholic drink. If no ID is produced then the sale must not be made.

Current Condition 9 - All staff at the Premises shall receive training regarding their obligations in terms of preventing the sale of alcohol to minors. Such training will be delivered as part of the induction programme for new staff and thereafter at intervals not exceeding 3 months. A register of such training shall be kept and shall be signed by staff upon receiving the training.

Amended condition 9 - All staff at the premises shall receive training regarding their obligations in terms of preventing the sale of alcohol to minors, proxy sales and drunk sales. Such training will be delivered as part of the induction programme for new staff and thereafter at intervals not exceeding 6 months. A register of such training shall be kept and shall be signed by staff upon receiving the training. Copies of training records will be produced to authorised officers of the Licensing Authority and Police upon request and in any event, within 7 days of any request being made.

Current condition 14 - The Premises shall be fitted with closed circuit television of the highest available standard which shall operate continuously throughout the opening hours of the Premises and which shall capture a clear view of: a. the head and shoulders of all persons entering and leaving the premises; b. all external areas of the Premises; c. all bars and tills; d. all internal areas of the Premises to which Patrons have access save for the toilets; e. all of the external part of the entrance to the Premises together with the alleyway leading up to it Page 20 of 28 All footage shall display the date and time at which it was recorded, shall be retained for not less than 31 days and shall be handed over to the Licensing Authority or the Police upon request.

Amended condition 14 - The Premises shall be fitted with closed circuit television of the highest available standard which shall operate continuously throughout the opening hours of the Premises and which shall capture a clear view of: a. the head and shoulders of all persons entering and leaving the premises; b. all external areas of the Premises; c. all bars and tills; d. all internal areas

of the Premises to which Patrons have access save for the toilets; e. all of the external part of the entrance to the Premises together with the alleyway leading up to it All footage shall display the date and time at which it was recorded, shall be retained for not less than 31 days and shall be produced to authorised officers of the Licensing Authority or the Police upon request and in any event, within 7 days of the request being made. Daily checks must be carried out and recorded by the DPS or a nominated member of staff prior to opening, to ensure that the CCTV system is working and recording correctly. If the CCTV is found to be non-operational the Police must be informed immediately. These checks will be recorded in a CCTV Log Book, which shall include the name of the person carrying out the checks, time and date carried out, any faults found and action taken to rectify any such faults. A copy of this Book will be produced to authorised officers of the Licensing Authority or Police upon request and in any event, within 7 days of any request being made.

The Panel made a minor amendment to the wording of the amended Condition 2 to provide greater clarity as to when risk assessment would be carried out.

The Panel also made a minor amendment to the wording of wording of the amended Condition 14 so that CCTV checks would be carried out daily prior to opening and a report made to the police if it is found to be non-operational. The Applicant indicated in his submissions that he already undertook these checks. The Panel felt that the amended condition would promote the licensing objective of the prevention of crime and disorder and nuisance by ensuring that the CCTV was fully functional.

The Panel also noted that Mr Antonio indicated that he was intending to undertake the SIA training and obtain certification. This was welcomed by the Panel.

APPEAL

All parties are reminded that there are rights of appeal against this the Licensing Authority's decision pursuant to Section 181 of and Schedule 5 to the Licensing Act 2003. An appeal must be made to the Magistrates' Court and commenced within 21 days of notification of the Council's decision.

REVIEW

All parties are reminded of the procedures contained within the Licensing Act 2003 relating to the potential review of a premises licence. This provision allows the public, businesses or Responsible Authorities to apply for a review of a premises licence where problems arise, such as: crime and disorder, risks to public safety, public nuisance or failure to protect children from harm.

The Licensing Authority respectfully reminds all parties that for any review to be successful in restricting a licence, evidence would need to be collected of incidents occurring that demonstrated that the licensing objectives were not being adequately

promoted. The Council's Environmental Health Service can be contacted out of hours to report complaints of excessive noise nuisance.