

LICENSING SUB COMMITTEE

8 June 2015
10.00 am - 1.00 pm

Present: Councillors Gawthrope, Owers and Pippas

Officers

Licensing and Enforcement Manager: Robert Osbourn

Assistant Licensing Officer: Luke Catchpole

Legal Advisor: Carol Patton

Committee Manager: Sarah Steed

Present for the Applicant

Niall McCann Solicitor

Rupert Lindsay Clark CEO City Pub Company East

Responsible Authorities

Environmental Health Officer: Daniel Bayles

Other Persons

Rob Beardwell Downing College

FOR THE INFORMATION OF THE COUNCIL

5 Appointment of a Chair

Councillor Gawthrope was elected as Chair for the meeting.

6 Declarations of Interest

No interests were declared.

7 Meeting Procedure

All parties noted the hearing procedure.

8 The Old Bicycle Shop, 104 Regent Street, Cambridge, CB2 1DP

The Assistant Licensing Officer presented the report and outlined the application for the Premises Licence under section 17 of the Licensing Act

2003 in respect of The Old Bicycle Shop, 104 Regent Street, Cambridge, CB2 1DP.

In response to Members' questions the Licensing & Enforcement Manager stated:

- i. Paragraph 1.3 of the Officers' report contained the conditions proposed by the Applicant. Further conditions were agreed between the Police and the Applicant, some conditions were re-worded and the Police Licensing Officer confirmed he was happy with the re-worded conditions as detailed in paragraph 1.5 of the Officer's report.
- ii. Members could ask for conditions that were not contained within paragraph 1.3 or 1.5 of the Officer's report.
- iii. Once members had heard from all parties, the discussion regarding the fire escape may be relevant in terms of public safety.

Applicant's Representative

Mr McCann made the following points on behalf of the Applicant:

- i. A meeting took place between the Applicant, the Police and Environmental Health regarding the roof terrace, photographs of the roof terrace were circulated during the meeting.
- ii. The roof terrace would not be used for drinking and would not cause a nuisance as it was well shielded and covered by trees.
- iii. Regrettably the noise nuisance report was not available for the meeting today.
- iv. The statement of case should provide reassurance to Members as an additional condition was proposed that if the Environmental Health Officer was not satisfied with the independent noise nuisance report then they could veto the use of the roof terrace.
- v. If the fire escape was built as per the specification on the plans then there should be no problems with the fire escape. If members granted permission today and the Applicant could not implement the fire escape then the permission was useless.
- vi. The nature of the proposed operation was not a large brewhouse.
- vii. In relation to the cumulative impact, the Applicant was happy to include the additional conditions proposed by the Police and the additional condition proposed in the statement of case.

Members Questions:

In response to Members' questions, the Applicant's Representative made the following statements:

- i. A premises licence and planning permission would need to be in place before the premises could open.
- ii. The beer garden was a small space surrounded by 8 foot walls, this was an area for smokers to keep them off the pavement.
- iii. If the Applicant did not obtain permission to build the fire exit the licence would not be able to be used in its current form. The Applicant would have to go back to the architect and apply for a licence variation. Other alternatives were available, this was plan A.
- iv. The roof terrace was currently not fit to be used as a roof terrace and would need to go through the planning process.

Environmental Health Representative:

Daniel Bayles made the following points:

- i. People who smoke need to be kept away from the pavement so that they do not obstruct the pavement. The beer garden would provide an area for the smokers to use.
- ii. For health and safety purposes Environmental Health would be the enforcing authority and would have input under the licensing objection for public safety.
- iii. Raised concerns regarding the roof terrace and the fire escape to the rear.
- iv. The premises were in a cumulative impact area and public nuisance needed to be considered.
- v. Regents Street was very noisy compared to the rear of the premises which was very tranquil, residents are within 50 meters.
- vi. Trees were porous to noise.
- vii. A noise report had not been submitted therefore there was no evidence to rebut the presumption against granting the application.
- viii. Was not convinced the measures proposed would prevent noise being a nuisance to Downing College residents.

Member Questions

In response to Members' questions the Environmental Health Officer made the following statements:

- i. If Members did not approve the new roof terrace condition, the Applicant would have to come back to Committee for a variation.
- ii. The noise environment changed as the evening drew in, traffic will mask noise during the day however the environment to the rear is very tranquil.

Downing College Representative:

Rob Beardwell made the following points:

- i. Downing College sought to optimise academic achievement and would oppose anything which affected students.
- ii. Concerned about the security of the Master's Lodge.
- iii. The photographs circulated of the roof terrace were taken during a leafy time of year and did not resolve the privacy issue.
- iv. If permission was granted for the roof terrace it would completely change the nature of the area and would compromise the use the area could be utilised for.

Member Questions

In response to Members' questions the Downing College Representative confirmed that the beer garden was less of an issue than the roof terrace.

The Licensing & Enforcement Manager stated that the decision Members' had to make related solely to the Licensing Act 2003 and the four licensing objectives. Planning permission was a separate hurdle the applicant would have to get over. The premises were in a cumulative impact area where the presumption was that an application would be refused if there were adverse impacts on one or more of the licensing objectives.

Summing up

Applicant's representative

- i. The conditions contained in the statement of case were watertight and enforceable.
- ii. There were other premises that overlooked Downing College.
- iii. Without an agreed fire strategy the Applicant could not move forward.
- iv. This was an unusual application and it was hoped that the application was granted.

Members withdrew at 11:02am and returned at 12:35pm. Members stated they were minded to grant the licence with a condition to remove the use of the roof terrace. Representations were sought from interested parties on the fire escape issue.

The Licensing & Enforcement Manager made the following comments:

- i. The fire escape formed part of the application and the plans. If members were satisfied that the plans met the requirements then Members could consider whether to grant the licence.
- ii. Whether the licence could be implemented was a matter for the Applicant.
- iii. If the Applicant proposed alternative arrangements this would be done by an application to vary the licence granted.
- iv. The Applicant would not be able to conduct licensable activities until the fire escape was implemented.
- v. It was not the role of Members' to see whether the Applicant could conduct discussions with Downing College this was a matter for the Applicant to resolve.

The Applicant's Representative stated that if a commercial settlement could not be agreed with Downing College another solution would be explored. If the Applicant could not implement the approved plans the licence could not be used.

The Environmental Health Officer and the Downing College Representative had no comments to add in relation to the fire escape issue.

Members withdrew at 12:27pm and returned at 12:52pm. Whilst retired and having made their decision, Members received legal advice on the wording of the decision.

Decision

The Sub-Committee decided to grant the licence as applied for, with a unified version of the conditions outlined in the report at paragraphs 1.3 and 1.5 which were approved by the Chair of this Sub Committee. A new condition stating that the roof terrace is not to be used for any licensable activity will also be placed on the Premises Licence.

The conditions in order to promote the licensing objectives are:

Prevention of Crime and Disorder

1. Alcoholic drinks shall not be removed from the premises in open containers.
2. Persons in possession of open containers of alcoholic drink shall not be permitted to enter the premises.
3. A written or electronic log shall be kept of all refusals to admit persons. The Premises Licence holder shall ensure that the log is checked on a regular basis. The log shall be kept and maintained at the premises and available to an authorised officer or police officer on request.
4. The licence holder or Designated Premises Supervisor shall undertake a written risk assessment to determine when door supervision is required to control access to the premises. The assessment shall take into account advice provided by the police, in particular with regard to specific dates or events and shall be reviewed and updated at least every six months.
5. All staff undertaking door supervision must have accredited training and licensed by the Security Industry Authority.
6. Digital CCTV, with appropriate recording equipment, shall be installed, operated and maintained with sufficient cameras to cover all public areas, including the external frontage of the premises.
 - The system shall be operational and live at all times when licensable activity is taking place.
 - Images shall be recorded and shall display accurate dates and times (including changes at the start and end of British Summer Time) and shall be capable of recording a clear facial image of persons entering and leaving the premises under all light conditions.
 - Images recorded shall be retained for a minimum of 31 days and shall be made available to authorised officers or police officers immediately upon request.
 - Management arrangements shall ensure that a staff member who is fully trained and competent in the operation of the CCTV system is available at all times that the premises are open to the public.
 - Staff shall give full and immediate cooperation and technical assistance to authorised officers and police officers in the event that CCTV footage is requested for the purpose of the prevention or detection of crime or offences and show officers recent data or footage on request.
 - Staff shall also be trained and able to download images from the system on to other relevant media.
7. Substantial food refreshment shall be available at all times when the premises are open to the public.

8. Clear written information shall be displayed within the premises regarding local taxi services and other public transport.
9. The Designated Premises Supervisor, or other suitable person nominated by the licence holder, shall join the CAMBAC Nightsafe scheme (whilst such a scheme is in existence) and shall be able to demonstrate active support for its work, including use of banning policies and regular attendance at meetings, either personally or by proxy.

Prevention of Public Nuisance

10. Prominent and Legible notices shall be displayed at all exits, requesting patrons to leave the premises and area quietly, so as to respect the needs of local residents.
11. The licence holder shall devise and implement a policy for the dispersal of patrons who seek to congregate outside the premises and this shall include consideration as to when to seek police assistance.
12. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
13. Effective supervision of all areas must be maintained at all times when the premises is open to the public to ensure that no public nuisance is caused.
14. The roof terrace shall not be used for any licensable activity.

Protection of children from harm.

15. At all times when the premises is offering alcohol for sale, a "Challenge 21" policy shall be operated actively to ensure that alcohol is not supplied to any person who is under age. Acceptable forms of identification shall be only identity cards with a "PASS" accreditation, passports or a photo ID driving licence (or such identification cards as may be approved by central government).
16. All staff authorised to sell alcohol shall, before being authorised, have been trained regarding necessary precautions to prevent the sale of alcohol to persons under the age of 18 years. Refresher training will take place every six months.
 - Up to date written records of such training shall be maintained on the premises and available to an authorised officer or police officer on request.
17. A written or electronic log shall be kept of all refusals to sell alcohol. The log shall be kept and maintained at the premises and available to an authorised officer or police officer on request.

18. Children under the age of 16 years shall not be permitted to enter or remain in the premises after 22:00 when any licensable activity is taking place unless they are a resident, dining with an adult or attending a pre-booked function.

The Sub Committee provided the following reasons for their decision:

- i. The council's policy on cumulative impact stipulates that a new premises licence that is likely to add to the existing cumulative impact will normally be refused, subject to the rebuttal of that presumption, if relevant representations are received about the cumulative impact on any of the licensing objectives. Only two such representations were received in this case, which related predominantly to the issue of the impact on public nuisance arising from the use of the roof terrace for licensable activities. By excluding the roof terrace from the scope of the premises licence, the Sub Committee believed that the spirit and letter of the cumulative impact policy would be adhered to.
- ii. If the plans for the premises, as submitted with the application, cannot be put into practice, the Premises Licence cannot be used and an application to vary the Premises Licence would be required.

The meeting ended at 1.00 pm

CHAIR