

**LICENSING SUB COMMITTEE**

22 June 2015  
10.00 am - 1.00 pm

**Present:** Councillors Austin, Benstead and Owers

**Officers**

Licensing and Enforcement Manager: Robert Osbourn  
Legal Advisor: Carol Patton  
Committee Manager: Sarah Steed

**Present for the Applicant**

Applicant: Mr Amirthanathan Anton Mariyarasa  
Applicant's Representative: Mrs Mary Anton Mariyarasa  
Applicant's Representative: Mr Sathooshan Anton Mariyarasa

**Other Persons**

Police Sergeant: Nigel Leadbeater  
Police Constable: Clare Metcalfe  
Police Sergeant: Kevin Misik  
Police Constable: Lee Nutbeam  
Police Constable: Peter Sinclair

<b>FOR THE INFORMATION OF THE COUNCIL</b>
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**6 Appointment of a Chair**

Councillor Benstead was elected as Chair for the meeting.

**7 Declarations of Interest**

No interests were declared.

**8 Meeting Procedure**

All parties noted the hearing procedure.

**9 Pink Elephant, 16 Milton Road, Cambridge, CB4 2JF**

The Licensing & Enforcement Manager presented the report and outlined the application under section 34 of the Licensing Act 2003 to vary the Premises Licence in respect of The Pink Elephant, 16 Milton Road Cambridge CB4 1JY.

In response to Members' questions the Licensing & Enforcement Manager confirmed that the Premises was not within in the cumulative impact area.

### Applicant's Representative

Mrs Mariyarasa made the following points on behalf of the Applicant:

- i. The additional conditions imposed had been followed for one and a half years without any difficulties.
- ii. Attended the Committee meeting for the business and its future
- iii. Asked to be given a chance and for trust to be put in the management of the Premises.

The Applicant requested that a statement which had not been circulated prior to the meeting was provided to members.

Members adjourned the meeting at 10:15am so that the Police as a Responsible Authority could consider the representation. The Police objected to the statement being shown to members.

Members returned to the meeting at 10:33am and the Legal Advisor asked that the Applicant did not refer to anything in the statement during the meeting.

### Member Questions

In response to Members' questions, Mrs Mariyarasa made the following statements:

- i. The variation application was made to try and get customers back. Customers that were unable to buy the alcohol that they wanted did not return to the shop and their custom was lost.
- ii. Street drinkers did not purchase alcohol from the shop.
- iii. The extended hours were sought to try and catch office workers and to get customers back.

### Police Representatives

Pc Sinclair made the following statements:

- i. This application followed a Licensing Sub Committee meeting last year, the Police had applied for the licence to be revoked however the decision of the Licensing Sub Committee imposed additional conditions.
- ii. The applicants were advised that the additional conditions could be appealed following the Committee's decision.
- iii. In October 2014, the applicants asked if the hours and alcohol strength conditions on the licence could be varied. This suggested that the applicants had not grasped the problems associated with their sale of alcohol.
- iv. Five breaches of the licence conditions were noted on the 2 and 14 February 2014 which included the sale of alcohol above 5.5%

Sergeant Misik made the following additional point after reading from the prepared witness statement which had been submitted as part of the police's representation:

- i. The anti-social behaviour issues would return if the application to sell alcohol earlier was granted.

Members were invited to read the witness statements of Pc Shayle and PCSO Dawson which had been submitted as part of the police's representation.

Pc Nutbeam read from the prepared witness statement which had been submitted as part of the police's representation.

Sergeant Leadbeater made the following additional point after reading from the prepared witness statement which had been submitted as part of the police's representation:

- i. Empathised with a business that had to compete against supermarkets but the Applicant did not appreciate the impact that their business had on the local community.
- ii. Across the City there is a campaign to reduce the sale of alcohol with a strength of 6.5% and above.

### Members Questions

In response to Members' questions the Police Representatives made the following points:

- i. The Licensing pack contained information regarding the alcohol that could be bought with a strength under 5.5%.
- ii. There had been a reduction in anti-social behaviour generally across the City but since the conditions had been imposed on this Premises Licence there had been a reduction of anti-social behaviour at Mitchams Corner far in excess of the rest of Cambridge.
- iii. Most shops sold alcohol responsibly, on occasion there were problems but in the main they were responsible.
- iv. Personal Licence holders have detailed training and the Licensing Team have introduced a new training session.
- v. A visit to the Premises was undertaken on the 14 February 2014 which recorded breaches of the Premises Licence conditions.

The Applicant was given the opportunity to ask the Police Representatives questions. The Legal Advisor reminded the Applicant that questions could not be asked on the statement that had not been put before the Committee members.

### Summing up

Applicant's representative:

- i. Requested a chance to run the business and a chance to prove themselves to the Police.
- ii. The Applicant would attend training provided by the Council.

Police Representatives:

- i. If the variation application was granted there would be a resurgence of anti-social behaviour and crime in the area.
- ii. Concerns remained regarding the management of the Premises.

The Licensing & Enforcement Manager reminded Members to determine the application on its individual merits.

Members withdrew at 11:30am and returned at 12:45pm. Whilst retired and having made their decision, Members received assistance on the wording of the decision by the Legal Advisor but no legal advice was provided.

### Decision:

The Sub-Committee decided not to grant the application.

The Sub-Committee provided the following reasons for their decision:

- i. The current conditions were put in place following a review of the premises licence in January 2014. Since they have been put in place, the evidence shows that there has been a significant decrease in incidences of public nuisance and crime and disorder in the immediate vicinity of the Pink Elephant. The weight of police evidence shows that there has been a causal link between the imposition of these conditions and the decrease in these incidences. In particular, it appears that disallowing morning sales, which are a particular issue in this location due to the habit of streetdrinkers to congregate nearby in the day, and the proximity of Overstream House, which also attracts people with a street-based lifestyle and alcohol issues, has had an impact on promoting the Licensing Objectives. In addition, the condition that required the premises to cease sales of beers and ciders above 5.5% ABV also appears to have constricted the supply of high-strength alcohol in such a way as to help reduce the instances of excessive inebriation which contributed significantly to the public nuisance and crime and disorder experienced in that area. To remove the condition and increase the hours of sale would be highly likely, therefore, to compromise the Licensing Objectives, particularly the prevention of public nuisance and the prevention of crime and disorder.
- ii. In addition, no evidence was presented by the applicant to show any substantial positive change in the management regime of the Pink Elephant premises. The Sub Committee found that if the variation was granted, the situation would revert back to its pre-January 2014 state, which would compromise the Licensing Objectives.

The meeting ended at 1.00 pm

**CHAIR**