

LICENSING SUB COMMITTEE

20 June 2022
10.00 am - 2.00 pm

Present: Councillors Carling, Page-Croft and Bennett

Officers

Senior Technical Officer: Luke Catchpole
Environmental Health Officer: Daniel Imagine Flower
Legal Adviser: Paul Weller
Committee Manager: Claire Tunnicliffe
Meeting Producer: Sarah Steed

Present for the Applicant

Applicant: Mr. Gustavo Enrique Garcia Lopez
Applicant Representative: Mr Heath Thomas (Harrison, Clark, Rickerbys Solicitors)
Noise Consultant: Mr Veale (Veale Associates)
Representatives from the company engaged to supply SIA door staff for the premises once open.

Other Persons

PC Clare Metcalfe
PS Shawn Emms.
Ward Councillor: Tim Bick

FOR THE INFORMATION OF THE COUNCIL

22/1/Lic Appointment of a Chair

Councillor Page-Croft was appointed as Chair for the meeting.

22/2/Lic Declarations of Interest

No declarations of interest were made.

22/3/Lic Meeting Procedure

All parties noted the procedure.

22/4/Lic Cuba Libre Hearing Report

The Licensing Enforcement Officer presented the report and outlined the application.

In response to Members' questions the Licensing Enforcement Officer made the following points:

- i. Additional hours for Bank holiday and Sunday opening and closing times could be requested through the application.

Applicants presentation

The Applicant and Agent said the following:

- i. The applicant had submitted the application individually without the benefit of legal advice and was not aware of the pre-application discussions for advice and support with officers and external agencies.
- ii. Referenced the old Pizza Hut licence held at the property as a starting point identifying relevant points of consideration
- iii. The Pizza Hut licence had been surrendered due to the restaurant closing down. The licence had not been revoked due to issues caused by crime or disorder or public nuisance.
- iv. Reminded the Committee that the Cumulative Impact Assessment should never be absolute.
- v. The Statement of Licensing Policy should allow for each application to be considered on individual merit.
- vi. Believed the application was appropriate that sat in a Cumulative Impact Area (CIA) and was similar to the previous Pizza Hut licence.
- vii. Highlighted an amendment to the licensing hours to allow thirty minutes 'drinking up time' before closing which were as follows (deleted text struck through, additional text underlined):
 - Sunday to Thursday: Sale of alcohol, ~~1am~~ 12.30am
 - Friday to Saturday: Sale of alcohol, ~~3am~~ 2.30am
- viii. The applicant was responsible for running another licenced premises in the city.
- ix. Believed the application gave an opportunity to provide something different in the city that was not currently on offer, a restaurant and lounge bar while enjoying live music which would complement the Latin American theme.
- x. The live music would be played at level where customers could enjoy conversation without raising their voices, the same for the recorded music.
- xi. Live music would finish at midnight with recorded music played afterwards.

- xii. Reiterated the venue would not become a nightclub (there was no dance floor) or a live music venue.
- xiii. The premise allowed for 85 seats in the restaurant and all customers would be required to be sat down, there was no vertical drinking in the premise.
- xiv. Due to the limited capacity the users would be encouraged to book in advance.
- xv. Hoped to give the customers an experience that did not exist in the City; did not have to leave the premises after a meal but could stay and enjoy a drink and live music.
- xvi. The applicant had engaged the services of a security company who would supply one member of security staff, Sunday to Thursday. With two members, Friday to Saturday to recognise the extended opening times.
- xvii. With a booking system in place did not expect queues of people outside; there would be a dispense bar area for people who were waiting to be sat at tables (the option to eat in this area could be available). The venue would be table service.
- xviii. If there was a queue, this would be around the side of the building and would be expected to be short. Security would work with staff, particular the individual staff member greeting to risk manage any queue.
- xix. There would be no external smoking area.
- xx. Would accept no admittance after 12:00am, Sunday to Thursday and 1:00am, Friday to Saturday.
- xxi. Table service would allow greater supervision of individuals to monitor their alcohol consumption.
- xxii. Highlighted an error in the application that late night refreshment had been omitted.
- xxiii. Intended to be open from 8am to serve breakfast; the opening time should not be a contentious issue.
- xxiv. Would like the Committee to consider a condition to allow non-diners of limited number to enter the premises for a drink only which would be table service.
- xxv. Acknowledged the concerns expressed by the Police but felt these had been addressed.
- xxvi. Referenced a 2012 Brew Dog premise application which had been granted (on appeal) in a Cumulative Impact Area as they had distinguished themselves from other venues, as had the applicant.
- xxvii. Reminded the Committee that the applicant had submitted the application with no pre-application consultation as had not been aware of the procedure and apologised; believed he had done the right thing.

- xxviii. The premise had previously held a licence and there had been no concerns raised by pedestrians or cyclists due to its location; a different street scene in the evening.
- xxix. Believed there would be no noise nuisance to the residents. Security would ensure that people dispersed in a calm and quiet manner.
- xxx. Security would monitor those who left the premise to go out to smoke and drinking vessels are not permitted to leave the premises.
- xxxi. Hoped the presentation in the meeting had addressed the comments by Environmental Health as the application considered at the meeting was different to the one in the application.
- xxxii. Referenced the professional noise assessment that had been undertaken.

In response to the questions raised by the Licensing Committee the Applicant, the Agent and Door Staff representative said the following:

- i. Disagreed that Pizza Hut would be classed as a fast food restaurant. Perhaps there was a different dwell time, but people would eat and stay for a length of time far longer than a fast food outlet.
- ii. The applicant had experience of running a public house in a Cumulative Impact Area, named The Emperor, including managing the public and working with security to ensure no crime or disorder or public nuisance.
- iii. Security would be placed inside the premise at the front which would give a view of the bar.
- iv. Security would make a note of how many people were exiting and entering the building.
- v. Reference to the Safety Clubbing Guidance in the application had been an error on part of the applicant, there was no need to have included this in the application.
- vi. A variation to the application would have been submitted to allow food to be served. Suggested the kitchen to be open until 12.00pm and then a limited menu on offer afterwards.
- vii. Drinkers would be monitored by table service.
- viii. A general allowance time of two hours would be allocated to diners, they could be moved to a different table (taller in height) to continue the table service if the dining tables were required for a second sitting.
- ix. The noise generated would give rise to a noise nuisance to the residential units. An agreed limit on the noise could be set to an agreed level with Environmental Health.
- x. Regarding the potential for the spiking of drinks the table service offered some security, tables were booked and so they would be filled with groups of people known to one and another, not strangers sharing. Believed that this issue did not apply to the type of premises but to vertical drinking.

In response to the questions raised to the application by the Police the Applicant and Agent said the following:

- i. Acknowledged Officer Metcalfe's comments that it was a shame that the applicant had not undertaken any pre-consultation. But this had been acknowledged at the start of the meeting.
- ii. Suggested that no more than 25 persons at one time for the sale of the consumption of alcohol ancillary to the table meal.
- iii. Those customers not consuming food would be served via table service to keep a log of the alcohol consumed; would provide flexibility but keep a record of the number of people in the building to ensure the conditions were being met.
- iv. Two SIA door staff would be available from 10.00pm to close, in addition to the meet and greet staff.
- v. Did not expect people to queue to enter the building but would be at the front of the building away from the main road. Believed there was sufficient width outside to have any impact on passing pedestrians and cyclists.
- vi. The queue would be managed by a member of the door staff with the staff member who would be meeting and greeting customers.
- vii. Those customers smoking would be supervised by the door staff to ensure they were not in a location which could affect pedestrians and cyclists. The number of people going in and out of the building would be monitored.
- viii. There was no recorded evidence that smoking outside of the building had created any issues with the previous licence.
- ix. Would provide a written queue policy which would be shared with external parties.
- x. Last entry Sunday to Thursday, midnight, Friday to Saturday, 1:00am.
- xi. At present it was the intention for the kitchen to close at 11:00pm. If the application were granted the applicant would seek to vary the application to provide late night refreshments (a meal to midnight).
- xii. Confirmed on the external wall there was a recessed external door which would be used a fire escape.
- xiii. The applicant would be the Designated Premise Supervisor; if the application granted then he would cease to be DPS at the Emperor public house.

In response to the questions raised to the application by the Ward Councillor, the Applicant and Agent said the following:

- i. The relevance to the previous Pizza Hut licence is that it was a licenced premise in a CIA. The licence was not lost through crime and disorder but was surrendered due to closure.
- ii. The starting point for a new licensing application in a CIA was that there was a rebuttable presumption that no new licences should be granted. However, there should be at the very least a licence the same as the Pizza Hut licence rather than no licence at all at this particular location.
- iii. Confirmed there would be no admission at the times specified.
- iv. Door staff would continually monitor those customers exciting for a cigarette. Groups would be dispersed if those smoking were joined by large groups of members of the public. Could deny entry and work with the Police if required.

In response to the questions raised to the application by the Environmental Health Officer, the Noise consultant said the following:

- i. At the present time there had been no formal testing concerning noise levels.
- ii. The nature of the venue and the type of music would not be loud music, but quiet in its volume level, allowing conversations to be heard.
- iii. There was a proposal of electronic monitoring of the music level which would cut the sound out if the noise level threshold were exceeded after a twenty second warning.
- iv. The genre of music suited a low volume of playing, i.e. no drum kit but bongos.

Police presentation

- i. Thanked the applicant and agent for the additional points raised in the meeting to the original application.
- ii. If the applicant had applied for the same terms and conditions as the Pizza Hut licence the Police would have less concerns.
- iii. Was still concerned about the lateness of closing time, timings of the closure of the kitchen which would give the potential of four-hour drinking time after a meal had been consumed.
- iv. The restaurant conditions were sufficient but expressed unease regarding the 25 people for the sale of alcohol only.

No questions or points of clarification were asked to the Police.

Environmental Health Officer's presentation

- i. The main concerns were the issue of noise which had partially been addressed by the Noise Consultant. However, there was the issue of noise from customers leaving the venue at night.
- ii. Questioned how individuals would be managed when outside of the building, such as when a group of people go out for a cigarette or fresh air.
- iii. There was the potential for people to be highly intoxicated when leaving the venue. There was approximately 57 residential units around the venue whose residents could be disturbed by noise and / or anti-social behaviour.

No questions or points of clarification were asked to the Police

Ward Councillor's Presentation.

- i. Had submitted written representation to the application with fellow Ward Councillor, Councillor Porrer.
- ii. Market ward consisted of the largest concentration of licensed premises in the city. Recognised this was a feature of a city centre but this application did not fit with those licensed premises and the night-time economy.
- iii. Expressed concern at the first three licensing objectives but public nuisance was especially concerning and the failure to respond to the CIA.
- iv. A former licensed premises did not automatically justify a future one. Each application should be considered on its individual merits.
- v. The location of the building was ill suited for this type of application, particularly with the extended opening hours and the inclusion of music.
- vi. Representing those people who lived close to the location and had dealt with those residents' complaints regarding noise and anti-social behaviour in the past, including complaints concerning music.
- vii. Believed that the matter of smoking was unmanageable due to space in the public realm.
- viii. There needed to a balance for those residents who lived in close proximity to the Council.
- ix. The application lacked essential detail and was different to what had been heard at the meeting. Questioned if the applicant would be able to deliver what had been stated in the meeting.

In response to the questions raised by the Licensing Committee the Ward Councillor said the following:

- i. Had not received any representations from residents in the area regarding the application but had built close working relationships and understood the pattern of their concerns.

Summing up

The Senior Technical Officer said the following:

- i. Whilst having reference to the information provided by the applicant and the information raised in the representation and also Cambridge City Council's Statement of Licensing Policy and Cumulative Impact Assessment, the Sub-Committee's decision must be made with a view to promoting one or more of the four licensing objectives, namely:
 - a. The prevention of crime and disorder.
 - b. Public safety.
 - c. The prevention of public nuisance.
 - d. The protection of children from harm.
- ii. Members should take such steps that they consider are necessary for the promotion of the licensing objectives. The Sub-Committee may resolve:
 - a. to grant the licence subject to the mandatory conditions and those conditions offered by the applicant which may be modified to such extent as the authority considers necessary for the promotion of the licensing objectives.
 - b. to exclude from the scope of the licence any of the licensable activities to which the application relates.
 - c. to refuse to specify a person in the licence as the premises supervisor.
 - d. to reject the application.
- iii. Members must give reasons for their decision

The Applicant's Agent concluded:

- i. The purpose of the meeting was to discuss the application.
- ii. This was not an application that should be refused.
- iii. There had been no change in use on the premises but had remained closed since the licence was surrendered.
- iv. The Committee had the power to change the licence conditions if relevant.
- v. It was right and proper to bring to the Committee's attention to the previous Pizza Hut licence, in operation pre 2005 before closing in 2020.

- vi. The presentation had set out clearly what the applicant hoped to achieve.
- vii. A capacity of 85 persons in the premises, all sat at tables. There would be no vertical drinking.
- viii. No persons would be able to take a drink outside of the premises.
- ix. The door would be monitored by staff and door staff from an experienced security company.
- x. No evidence from the previous licence that smoking had created anti-social behaviour.
- xi. The Ward Councillor had not been contacted by local residents to raise their concerns concerning this application.
- xii. The applicant was experienced in operating a licensed property who had been unchallenged in what he was delivering.
- xiii. There were a number of conditions and restrictions referenced in the meeting that the applicant would be willing to make, including those requested by Environmental Health.

Following advice from the legal officer concerning the consideration of the application that the committee were to consider the application on its individual merit. The Chair closed the meeting at 2.17pm

The decision

To grant the licence subject to the mandatory conditions and those conditions offered by the applicant where they are not contained in the schedule of additional conditions.

Accordingly, the grant of the licence will be for the following hours: Hours premises open to the public

Sunday to Thursday 08:00 to 00:00 hrs.

Friday and Saturday 08:00 to 01:00 hrs.

Sale of Alcohol

Sunday to Thursday 11:00 to 23:30 hrs.

Friday and Saturday 11:00 to 00:30 hrs.

Live Music

Wednesday 18:00 to 23:00 hrs.

Thursday and Friday 18:00 to 00:00 hrs.

Saturday 12:00 to 00:00 hrs.

Sunday 12:00 to 23:00 hrs.

Recorded Music

Sunday to Thursday 08:00 to 00:00 hrs.

Friday and Saturday 08:00 to 01:00 hrs.

Schedule of additional conditions

1. Save for no more than 25 non-diners at any one time, all sales or supplies of alcohol for consumption within the premises shall be ancillary to a table meal where the service of alcohol by waiter/waitress service shall be to persons who are seated.
2. On any occasion the premises provides licensable activities after 00:00 hours, a minimum of one SIA registered security staff will be employed at the premises, on Sundays to Thursdays from 22:00 hours until close, and a minimum of two on Fridays and Saturdays, from 22:00 hours until close. Door supervisors will be engaged on other occasions subject to individual written risk assessment.
3. The venue must retain on the premise's door staff profiles, which includes photo ID other than their SIA badge and a utility bill which must not be dated later than 6 months previously. The Licence Holder shall ensure that such profiles are made available for inspection by the Police or local authorities at any time and kept in a secure location. If any door supervisors leave the premises, the profile shall be retained on the premises for at least three months, following their departure.
4. The premises licence holder shall ensure that any patrons using the outside area of the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance.
5. There shall be no entry to the premises after midnight Sunday to Thursday, or after 0100 hours Friday and Saturday.
6. It is proposed that children will be permitted access to the premises in accordance with the provisions of the Licensing Act 2003.
7. Mandatory conditions will apply requiring a proof of age policy to be implemented in the premises. The premises will adopt a Challenge 25 scheme. Any person who appears to be under the age of 25 years will be required to show photographic identification prior to the supply of alcohol.
8. Challenge 25 posters shall be displayed in prominent positions at the premises.
9. All relevant staff will be trained in the law regarding the sale of alcohol to underage persons. This training will be documented and made available upon request of the police or authorised member of the licensing authority.

10. All staff to receive training and refresher training every 6 months on their responsibilities under the Licensing Act 2003. The training is to be documented and made available to an authorised officer of a responsible authority upon request.
11. All customer facing staff will be given relevant training on welfare and vulnerability, including 'Ask for Angela' safety initiative.
12. Digital CCTV with appropriate recording equipment will be installed, operated and maintained throughout the premises internally to cover all public areas (apart from toilets) with sufficient numbers of cameras agreed with Cambridgeshire Police. The system will be switched on and live during all times that the public have access to the premises for licensable activities. The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy and will be changed when British Summer Time starts and ends. The CCTV at exit points will record a clear facial image of every person entering in any light condition. Footage shall be stored for a minimum of 31 days. In the event that images are requested from a constable or authorised officer of a responsible authority the management will ensure a staff member who is conversant with the operation of the CCTV system shall be on the premises at all times the premises are open to the public. This staff member shall give full and immediate cooperation and technical assistance to them in the event that CCTV footage is requested for the prevention and detection of suspected or alleged crime or offence and be able to show a police officer or authorised Council officer recent data or footage. In order to comply with the above requirement management staff will be trained to download images from the system onto relevant media.
13. Notices advising that CCTV has been installed on the premises shall be posted up so that they are clearly visible to the public within the licensed premises
14. No customers carrying opened vessels of alcoholic drink upon entry shall be admitted to the premises at any time they are open to the public.
15. No customer will be allowed to take opened drinks off the premises.
16. Any alcohol supplied before 12:00 noon will be served ancillary to a meal.
17. The person nominated as the DPS will join the Cambac Nightsafe/Pub watch scheme, have a Cambac radio and support its aims and objectives. This includes support of its agreed banning policy and attending meetings; personally, or by sending an

- authorised representative of the venue. The condition is only binding whilst the Nightsafe/Pub watch scheme is in existence.
18. The premises shall devise and implement a dispersal policy to ensure patrons do not congregate outside the premises, and they disperse from the premises in an orderly and quiet manner so not as to disturb residents within the vicinity.
 19. Notices shall be displayed in prominent positions at the exits to remind customers to respect any residential neighbours and keep noise to a minimum.
 20. The designated premises supervisor shall authorise in writing the names of the staff members/individuals suitably trained to be responsible for the sale of alcohol at the premises in his/her absence.
 21. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: a. all crimes reported to the venue b. all ejections of patrons c. any complaints received concerning crime and disorder d. any incidents of disorder e. any refusal of the sale of alcohol f. any visit by a relevant authority or emergency service
 22. The premises shall devise and implement a customer search policy.
 23. A fire risk assessment will be conducted and implemented in the premises.
 24. A sound management plan indicating how sound and frequency would be managed with limitations to 80dB with additional options to limit levels of bass sound and frequency shall be in place and available for inspection by responsible authorities upon request
 25. Weekly records of sound testing shall be kept confirming levels are adhering to set requirements which shall be available for inspection by responsible authorities upon request.
 26. A queue management plan setting out how potential issues caused by congestion from patrons obstructing the highway whilst awaiting entry would mitigate nuisance and danger to passing pedestrians and cyclists.
 27. A noise limiting device (calibrated multi band brick wall limiter system) shall be installed and set to a level with agreement with Environmental Health and prior to commencement of any regulated entertainment.

The reasons for reaching the decision are as follows:

1. The Sub-Committee were prepared to grant the licence because the premises had, until late 2020, been a licenced premises. That previous licence had been surrendered by that operator rather than

revoked and there were no known incidents or issues relating to the premises.

2. The Sub-Committee reduced both the operating hours and the hours for the licensable activities so that they were in accordance with the operator's proposal that the premises operate as a restaurant.
3. The additional conditions contained in the schedule were agreed between the applicant and the responsible authorities and were sufficient for the promotion of the licensing objectives.

The meeting ended at 2.00 pm

CHAIR