

LICENSING SUB COMMITTEE

5 February 2024
10.50 am - 2.00 pm

Present: Councillors McPherson, Pounds and Wade

Also present (virtually) Councillors Smith and Blackburn-Horgan

Officers

Licensing Officer: Alex Beebe
Senior Technical Officer: Stacey Grundy
Legal Adviser: Elizabeth Lanlehin
Committee Manager: Claire Tunncliffe
Meeting Producer: Claire Tunncliffe

Present for the Applicant

Legal Advisor: Graham Goodwill
Applicant: Valmir Dautaj
Applicant's Representative: Parves Khan

FOR THE INFORMATION OF THE COUNCIL

24/1/Lic Appointment of a Chair

Councillor McPherson was appointed as Chair for the meeting.

24/2/Lic Declarations of Interest

No declarations of interest were made.

24/3/Lic Meeting Procedure

All parties noted the procedure.

The Chair advised that the Committee had accepted a late submission of documentation from the applicant in consultation with the legal advisor. The documents were not of a material consideration, no additional statements or text but a pack of photographs showing the interior and exterior and location of the premises, a copy of the food menu and site layout, all of which would not affect the Officer's report in anyway.

24/4/Lic Sunset Lounge Application, Cherry Hinton

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

In response to Member's questions the Licensing Officer said the following:

- i. Confirmed the application was for the sale of alcohol from midday to 10pm, Monday to Saturday.
- ii. Dancing publicised after 10pm was not considered a licensable activity between the hours of 8am to 11pm.
- iii. Opening hours were not considered forceable under the Licensing Act 2023. The Licensing Authority would only investigate at any violations of licensed activity after 10pm.
- iv. Confirmed an e-mail had been received from a member of the public stating the notice of the application was not on public display. Officers had previously received evidence that the notice had been, so contacted the agent immediately who responded this had been taken down due to the windows being cleaned. The notice was put up straight away and it was felt this was not enough to reset the representation period as it had been adequately dealt with by the agent.
- v. The application received covered the entire building including the rear extension as shown in the plans of Appendix 2 of the Officer's report.
- vi. The applicant had sold alcohol under several temporary events notices (TEN). This application was new as there was no existing licence.
- vii. If residents and / or local businesses experienced excessive noise from the premises or possible breaches of the licence, this should be reported to the Environmental Health Team to investigate, which could lead to a review of the license.
- viii. Individuals over the age of 18 years could apply for a TEN to provide licensable activities. There was a limit in place as to how many times a person (and premises) could apply in a calendar year.
- ix. The TEN application had to specify the hours that the licence would cover; over midnight would count as two days of the allowance for the calendar year.
- x. An Application for a standard TEN was ten working days before the date of the event. Police and Environmental Health were the only authorities who were consulted on the application and could submit an objection against the TEN.
- xi. An application for a 'late TEN' would be five clear working days before the event, the applicant would lose the right to appeal should a notice be refused by the Police or Environmental Health.

- xii. When considering the licence this would include the playing of recorded music and amplified live music until 10pm.
- xiii. Each licensing application had to be considered on a separate bases and therefore could not comment if a licenced premises encouraged an increase in noise from those using the venue.
- xiv. The idea of 'drinking up time' in theory assisted with the dispersing of patrons quietly leaving a venue on a staggered basis.
- xv. Many businesses in Cambridge had the 'drinking up time' in place (usually recommended by the Police) and then a closing time, which wasn't enforced by the Licensing Act.
- xvi. How a business advertised their closing time was down to the individual business, whether it was to show the licensed time of the sale of alcohol, the drinking up time or closing time was their choice.

Applicant's Presentation

The Legal Advisor said the following:

- i. The applicant had received an Enforcement Notice from the City Council's City Planning Department on 17 January 2024 relating to the rear extension. The Notice stated the use of the land as a Shisha Lounge should cease and should be demolished.
- ii. An appeal had been submitted as of today's meeting date. Until this matter had been resolved the applicant would not use the rear extension as Shisha lounge and would mothball the rear extension.
- iii. Would ask that the Licensing Sub Committee consider the application for the main part of the premises only and not the extension as outlined in the application.
- iv. Alleged the applicant had been provided incorrect information from a Planning Officer concerning the rear extension build; had not been treated as commercial build but residential.
- v. Would like the Licensing Sub Committee to consider the application for the sale of alcohol from midday to 10pm, Monday to Sunday, not Saturday as the application stated.
- vi. The applicant had taken out a 10-year assignment of the lease and had spent £160,000 on renovations which included expenditure of the rear extension as shown in the pictures provided.
- vii. The applicant was committed to providing a mid-range restaurant, starters ranging from £10 to £30 for a main course, seeking good quality customers, offering an alternative to the take aways / eateries on Cherry Hinton Road. The Chef had been previously employed by the Loch Fyne restaurant.

- viii. The premise had been opened under several TEN licences and during that time had employed eight people. This would increase to twelve employees when the premises became fully operational.
- ix. The applicant would consider closing the outside seating area at the front of the premises earlier than 10pm asking people to go inside which would assist with the reduction the noise.
- x. Informed the Committee the premises was in a location of mixed retail, other uses, and residential premises. A local supermarket served alcohol until 10pm.
- xi. In 1994 it was determined that the residential premises above the unit had been properly protected from noise without any further work required.
- xii. Believed the restaurant would add a terrific amenity to the community.
- xiii. There was a substantial car park nearby to the premises but hoped that many of the local community would use the restaurant and walk.
- xiv. Aware that neighbours had expressed concerns but believed these concerns were linked primarily to the extension. The application was no longer concerned with the rear extension until the matter of enforcement had been resolved.
- xv. The application should be seen as a proper legitimate restaurant in the main premises which should be granted.

In response to the questions raised by the Licensing Sub Committee and the registered speakers, the Legal Advisor representing the applicant said the following:

- i. There would be thirty covers in the main premises with sixteen seats outside.
- ii. The kitchen had been upgraded as part of the renovations. A new canopy had been installed with silencers installed.
- iii. The toilets were self-contained in the main building to the left of the rear extension as shown on p33 of the agenda pack.
- iv. There was a storage room behind the door shown on page 7 of the photo pack.
- v. Confirmed there was a speaker on the window on p10 of the photo pack.
- vi. The extension could hold thirty covers, the main intention was to use this area for relaxation, but this was not being considered today.
- vii. The TEN's had requested the sale of alcohol until 10pm.
- viii. A drinks menu had not been provided with a copy of the food menu as this had simply been an oversight.
- ix. The applicant would take any necessary measures as part of any conditions of the licence to ensure the safety of the residents and users. CCTV was installed on the premises.

- x. Had been appointed as a Legal Representative to the Applicant in the last few days before the meeting; had noted there was a need to present photographs of the premises and surrounding area. Did not believe that the photographs had been 'handpicked' and had shown all aspects of the premises and provided a good representation of the surrounding area.
- xi. The extension took up most of the back outside space except for bin storage. The outside space which was left was limited.
- xii. Sound would be kept to a reasonable level with the position of the amplifier in the best location to help reduce the sound level.
- xiii. Residents would experience a reduction in sound immediately as the rear extension which had been used under the TEN and under this application would not be used.
- xiv. The kitchen had been in existence for over thirty years. When the original planning was obtained in 1994 an investigation determined there was no need for any additional noise restriction in kitchen and public area of the then takeaway, which applied today.
- xv. If residents believed that there were experiencing excessive noise this should be reported to the Environmental Health Officers at the City Council.
- xvi. Two silencers had been installed on the extractor fans in the kitchen to reduce the noise.
- xvii. Believed that complaints had been made about the extractor fans when they had not been on.
- xviii. Stated there was a premises two doors away from the application which had the 'old fashioned' extractor fans that made noise.
- xix. The total number of covers inside the main property and outside the front would be sufficient financially but the long-term goal would be to use the rear extension. Aware that a variation of the licence or a new application would have to be made when and if this occurred.
- xx. This was the first time the premise had been used as a restaurant. The previous takeaway had a very limited seating for a few people to sit in and eat.

The Licensing Officer advised he believed that the TEN's application had been for the sale of alcohol up to 11pm, not 10pm as had been stated.

Coleridge Ward Councillor's Presentation

- i. The submission of last-minute paperwork by the applicant had been far from ideal.
- ii. The premises had previously been a takeaway restaurant; therefore, residents were used to a reasonable amount of noise, from the premises, the kitchen and people standing outside.

- iii. There was a diverse range of shops and restaurants which added character to the area. Residents were not in principle opposed to shops and restaurants.
- iv. Ward Councillors were supportive of local businesses, this was not about wanting a business in the location, not wanting the applicant to succeed, but about particular issues that residents had raised, such as noise.
- v. There had been reports of public nuisance incidents that had been reported to Ward Councillors; this had created significant concern about the granting of an alcohol licence.
- vi. Had been advised that residents above the premises could hear conversations from the kitchen, the sound was causing vibrations, all of which had not occurred before.
- vii. There needed to be significant improvement to the sound proofing to support the residents above.
- viii. The noise travelled through the floor and windows at the front and back. The noise started from lunch time through to 11pm, later at weekends, preventing quiet enjoyment of resident's homes.
- ix. Residents had stated that the noise issue had become an impact on their health.
- x. Also had received reports of an increase in littering particularly cigarette butts.
- xi. The premises was on a mixed-use street with retail, but the photographs shown by the applicant's legal representative did not fully represent the number of residential properties that were on Cherry Hinton Road.

Queen Edith's Ward Councillor Presentation

- i. The Queen Edith's Ward Councillors objections to this license was accepted as valid under one or more of the four licensing objectives outlined within the Licensing Act 2003, and sat alongside Cambridge City Council's own Licensing policy and planning regulations, due to change of use of this premises with the Shisha use creating a mixed use at the property which required planning permission as does not fit with its current registration as Class E.
- ii. IAS Institute of Alcohol Studies (2023) state "It wants to see licensing support diverse, inclusive and sustainable communities, without undermining local areas and putting undue pressure onto the public sector. Alcohol is used and enjoyed by many, but it could also be the cause of significant social and personal problems; licensing should have a key role to play in addressing and preventing many of these problems."

- iii. Raising an objection to the application for an alcohol license as the licensing objectives including preventing public nuisance has not been met.
- iv. The Prevention of Crime and Disorder: Residents are concerned that failure to consider the wider circumstances of this application places risk on residents to deal with the noise and nuisance consequences of this venue operating in this way in a residential area. This does not fit within the Purple Flag Accreditation and ensuring customer, visitor, residents' safety.
- v. The opening times on the application do not relate to the current advertised opening hours indicating the business will be open until 11pm Monday to Friday.
- vi. It was not clear how, in practice, that last hour of operating potentially "licensable activity" would be enforced. IAS (2023) state "Late night opening has spread crime and disorder back into the early hours, causing significant problems for the police. Most police forces had to rearrange their shift patterns and allocate increased resources to the nighttime economy to address this change."
- vii. Parking was a key creator of Anti-Social Behaviour in Cambridge and with this venue abutting and within residential roads, attenders of the premises were likely to choose to park on the residential roads not the main road where there was limited legal parking, creating late-night noise and risks to residents (there was evidence of these ASBs by the Rathmore Club).
- viii. Public Safety: What other measures were being taken to aid the prevention of crime and disorder, to ensure public safety, to prevent public nuisance and to put in place measures for the protection of children in this residential area from harm? How was the applicant resourcing, implementing, and reviewing these for their effectiveness?
- ix. The main part of the premises to be licensed appears to be an extension. This extension directly abutted a residential family housing and was surrounded by residential properties.
- x. A previous HM Planning Inspectorate report into a proposed late-night takeaway use for this property refused the application, concluding:
"Residents of the area should be free from unnecessary disturbance at times when they should enjoy a greater degree of peace and quiet." Has a subsequent planning application been submitted and approved?
- xi. This application appeared to be a bar with alcohol and Shisha, live music, and dancers.
- xii. The Prevention of Public Nuisance: The "alcohol boundary" detailed on the plans did not clearly delineate the building boundary, the plans

- submitted may not be in line with the demise of the property and may require further review. How would this extension to be blocked off and how would this not be used and how was the "alcohol boundary" going to work in practice?
- xiii. What resources were being put in place to ensure the above is upheld and review its effectiveness?
- xiv. The license should not cover the rear extension as this was under Planning Enforcement currently.
- xv. The policy also requires that measures are followed for example: Applicants should consider to control noise nuisance from the premises
- should include sound limitation devices
 - should include acoustic lobbies
 - should include acoustic double glazing
 - should include noise insulation
 - should ensure non-amplified allowing only acoustic music
- xvi. The extension currently has a retractable roof that fully opens, is open on one long side, are the walls acoustically dampened as if not these factors appear not to meet the licensing measures required above? Where in the application had these required measures been demonstrated?
- xvii. The key licensing objective was to prevent public nuisance. What measures were being taken, is it only a notice requesting customers to leave quietly?
- xviii. Residents already stated the premises are having live music, dancers, customers leaving up to 12pm causing noise disturbance.
- xix. The Protection of Children from Harm: The application for an alcohol license was in a premises that intends to run as a late-night drink and Shisha bar, which had already featured live entertainment dancing. This was inappropriate as it was adjacent to and in a predominantly residential area with many family homes with young children.
- xx. Cambridge City Council outlines protections it applies for residents in its licensing policy 'Stricter conditions on noise control are likely to be imposed in the case of premises that are situated in predominantly residential areas.'
- xxi. This business abuts a family residential property and sits within a family residential area, a license for alcohol until 10pm weekdays does not support the Councils Community Safety Partnerships aim to work proactively to stop Anti-Social behaviour and nuisance noise.
- xxii. IAS (2023) state "We need to protect the wider environment in which alcohol is licensed, so it does not unduly undermine society and lead to health and social hazards."

- xxiii. The premises have already had an alcohol license turned down as the Council felt it would be a public nuisance, and that was for the front shop only.

Summing Up

The Licensing Officer said the following:

- i. The decision before the Licensing Sub Committee was to determine a new premise license application for the Sunset Lounge, taking into consideration the licensing objectives and the Council Statement of Licensing Policy.

The Applicant's Legal Representative concluded:

- i. Residents above the premises had a procedure that could be followed to report what they believe to be excessive noise; sound recordings could be taken and investigated by the Environmental Health Team. This matter should not be used in relation to the general licensing application.
- ii. None of the documentation presented related to specific issues of the alleged noise from the kitchen.
- iii. Highlighted the photographic evidence of two large silencers fitted; the necessary advice had been taken and actioned to minimise noise.
- iv. The application was for a restaurant licence to include the sale of alcohol Monday to Sunday, midday to 10pm.
- v. The restaurant would close at 11pm allowing people an hour to finish their food and drink.

The Chair closed the meeting at 12.26pm for the Licensing Sub Committee to consider to the application on its individual merit in private session.

The Decision

To refuse the granting of alcohol licence to Sunset Lounge of 106 Cherry Hinton Road, Cambridge.

Reasons for reaching the decision are as follows:

- i. We do not consider that the current application supports or promotes the 4 licensing objectives.
- ii. The historic use of the TENS Licenses would indicate the future aspirations of the current owners.
- iii. Residents' concerns had not been adequately addressed.

The meeting ended at 2.00 pm

CHAIR