

CAMBRIDGE CITY COUNCIL

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REPORT OF: The Licensing Manager

TO: Licensing Sub-Committee 6<sup>th</sup> December 2010

APPLICATION: Application for a new Premises licence:  
Stickybeaks Café Ltd, 42 Hobson Street, Cambridge

WARD: Market

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## 1 INTRODUCTION

- 1.1 To consider and determine this application for a new premises licence for Stickybeaks Café Ltd, 42 Hobson Street, taking into account the representations of the interested party detailed in paragraph 5 and the policy considerations detailed in paragraph 6 of the report.
- 1.2 Lucy Robinson and Catherine Bolton are seeking a new premises licence for Stickybeaks Café Ltd as follows:

Recorded Music (background only), indoors

Mon – Sun 07:30 to 22:00

Sale/supply of alcohol (on the premises)

Mon – Sun 10:00 to 22:00 (but see paragraph 4.1 below)

Hours premises are open

Mon – Sun 07:30 to 22:00

- 1.3 A copy of the application and plan is attached at Appendix A.
- 1.4 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; and
  - (d) the protection of children from harm.

## 2 BACKGROUND

- 2.1 The applicant describes the premises as a daytime café with emphasis on good quality home cooked food. There will be an open plan kitchen to create a social environment, suitable for cookery demonstrations. The opening times stated in the application are the maximum times. The premises will usually close at 19:00 but the applicants would like the flexibility to open approximately twice a month until 22:00 hours and serve alcohol. There is no history of grant of a premises licence under the Licensing Act 2003. Historical use shows the premises as

being previously used as a shop. There are no planning restrictions on opening hours or sales.

- 2.2 Hobson Street is situated within a cumulative impact area and is therefore subject to a special policy on cumulative impact. The special policy creates a rebuttable presumption that applications within cumulative impact areas for new premises licences will normally be refused if relevant representations are received about the cumulative impact on the licensing objectives, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants will need to address the special policy issues in their operating schedule in order to rebut such a presumption. The special policy is set out in section 5 of the Council's Statement of Licensing Policy.

### **3. LICENSING OBJECTIVES ADDRESSED BY APPLICANT**

- 3.1 The Operating Schedule submitted by the applicant in part P of the application addresses the four licensing objectives. The applicant has proposed a number of steps in support of the licensing objectives. Paragraphs 8.41-8.45 and Section 10 of the government guidance refer to the operating schedule and licence conditions. Proposals will very often translate directly into conditions that will be attached to the premises licence. They should be realistic and within the control of the applicant/management responsible for running the premises.

The following could be considered as appropriate conditions:

#### The Prevention of Crime & Disorder

Staff shall be trained to understand the social responsibilities associated with the sale of alcohol. Customers shall be prevented from leaving the premises with bottles or glass. There shall be no 241 offers or happy hour promotions.

Please see paragraph 4.1 below for additional conditions.

#### Public Safety

Full risk assessments shall be carried out as appropriate. Staff shall be trained in first aid.

#### The prevention of public nuisance

Staff shall ensure that customers leave the premises quietly and efficiently.

#### The protection of children from harm

All children shall be accompanied by an adult.

Staff shall be trained to comply with the law in relation to the sale of alcohol.

On occasions when the premises are open for the sale and consumption of alcohol, the DPS or relevant person will actively operate a 'Challenge 21' policy. This will include a voluntary agreement to only accept identity cards with a 'Pass' accreditation, passports or photo ID driving licences, or any future identification card as approved by central government, as bona-fide recognised forms of identification.

### **4. REPRESENTATIONS FROM RESPONSIBLE AUTHORITIES**

- 4.1 Discussions have taken place between the applicant and the police regarding their application and it has been agreed that a representation would not be made providing a number of conditions were attached to the licence. The following conditions should therefore be attached to the licence, having been agreed by both parties (Please see Appendix B attached). The conditions are:

#### The Prevention of Crime & Disorder

1. Save for condition 2 below alcohol shall not be sold or supplied on the premises otherwise

than as and ancillary to persons consuming food.

2. Alcohol may also be sold or supplied to persons attending bona fide prearranged events limited to 4 occasions a month. A book shall be kept to record details of those events and will be made available for inspection by a police officer or authorised person at any reasonable time.

3. Substantial food and non-alcoholic beverages including drinking water shall be available at all times the premises are open to the public

4. No draft beer will be sold or supplied

5. The hours for the sale or supply of alcohol shall be limited to 10:00 to 19:00 each day except for events under condition 2. above when alcohol may be sold or supplied until 22:00 hours.

6. Save for condition 2 alcohol shall only be served to persons seated at tables or at the bar

4.2 No representations have been received from, Cambridgeshire Fire & Rescue, the Environmental Health Managers, Planning, Child Protection and Trading Standards, the remaining Responsible Authorities.

## 5. REPRESENTATIONS FROM INTERESTED PARTIES

5.1 One representation has been received from an 'interested party' defined as: persons living in the vicinity; persons involved in a business in that vicinity and bodies representing persons living or involved in such a business. The ordinary meaning of vicinity is 'near'. The representation is attached in its entirety at Appendix C. Not all matters raised within the representations may be relevant matters for consideration under the Licensing Act 2003.

## 6 POLICY CONSIDERATIONS

6.1 In carrying out its licensing functions, the Licensing Authority must have regard to its Statement of Licensing Policy and any statutory guidance issued under Section 182 of the Licensing Act 2003.

6.2 **The Council's Statement of Licensing Policy:** the following sections/paragraphs are applicable to this application:

- Objectives, section 2.4
- Fundamental principles, section 4
- Cumulative impact, section 5
- Licence Conditions, section 8

6.3 **The Statutory Guidance:** the following sections/paragraphs are applicable to this application:

Sections 2.1- 2.50 of the guidance cover the four licensing objectives. Sections 2.32 – 2.40 of the guidance cover public nuisance. Section 2.32 considers it important that that licensing authorities focus on impacts of the licensable activities at the premises on persons living and working in the vicinity that are disproportionate and unreasonable.

Section 8.5 – 8.11 covers interested parties.

Section 9 covers the determination of applications, with sections 9.3 – 9.13 giving guidance to cover situations where representations have been made.

Sections 9.4 –9.6 address the issues of relevance and vicinity. Section 9.12 recommends that in borderline cases the benefit of doubt should be given to the interested party making the representation. The subsequent hearing would provide an opportunity for the person to amplify and clarify it. If it then emerged that the representation should not be supported, the licensing authority could decide not to take any action.

Section 10.15 – 10.18 covers duplication and other statutory provisions.

Sections 13.24 -13.39 cover cumulative impact. Section 13.29 sets out the effects of adopting a cumulative impact policy. There is a rebuttable presumption that applications for new premises licences will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

- 6.4 Members should only impose conditions, which are proportionate and are necessary to promote the licensing objectives (10.11, 10.13 &10.14). Conditions which are imprecise or difficult for a licence holder to observe should be avoided (10.4).

## **7. CONCLUSIONS**

- 7.1 The Licensing Authority has a duty under the Licensing Act 2003 by promoting the Licensing Objectives. Each objective has equal importance. In carrying out its licensing functions, the Licensing Authority must also have regard to its Statement of Licensing Policy, any Statutory Guidance under the Licensing Act 2003 and is bound by the Human Rights Act 1998. The Council must also fulfil its obligations under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in Cambridge.

## **8. OPTIONS**

- 8.1 Members should, having regard to the representation, take such steps as they consider are necessary for the promotion of the licensing objectives.
- 8.2 The steps are to grant the licence subject to conditions, modified as necessary, to exclude a licensable activity, or to reject the application. Conditions are modified if they are altered, omitted or any new condition added. (Licensing Act 2003 section 18(4) & (5)).
- 8.3 Members should consider Section 13.29 of the Act and Section 5 of Cambridge City Council's Statement of Licensing Policy relating to cumulative impact. Licences will normally be refused, following relevant representation, unless the applicant can demonstrate in the operating schedule (see section 3 above) that there will be no negative cumulative impact on one or more of the licensing objectives.

## **9 RECOMMENDATION**

- 9.1 That members' determine the application on its individual merits.

## **BACKGROUND PAPERS:**

The following are the background papers that were used in the preparation of this report:

- Guidance issued under section 182 of the Licensing Act 2003
- The Council's Statement of Licensing Policy

To inspect these documents contact Christine Allison on ext. 7899.

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