

CAMBRIDGE CITY COUNCIL

REPORT OF: The Licensing Manager

TO: Licensing Sub-Committee

17th January 2011

APPLICATION: Application for a new Premises licence:
Greene Room, 42 Hobson Street, Cambridge

WARD: Market

1 INTRODUCTION

1.1 To consider and determine this application for a new premises licence for the Greene Room, 42 Hobson Street, taking into account the representations of the responsible authorities detailed in paragraph 4, the interested parties detailed in paragraph 5 and the policy considerations detailed in paragraph 6 of the report.

1.2 Poppleston Allen, solicitors acting for No Saints Ltd, is seeking a new premises licence as follows:

Sale/supply of alcohol (on and off the premises), plays, films, indoor sporting events, live music, recorded music, performances of dance, provision of facilities for making music, provision of facilities for dancing (indoors).

Mon – Sun 10:00 to 02:00

Non standard timings

An additional hour to the standard and non-standard times on the day when British summer time commences.

New Years Eve – from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day

Late Night Refreshment (indoors)

Mon – Sun 23:00 to 02:00

Non standard timings

An additional hour to the standard and non-standard times on the day when British summer time commences.

New Years Eve – from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day

Hours premises are open

Mon – Sun 10:00 to 02:30

Non standard timings

An additional hour to the standard and non-standard times on the day when British summer time commences.

New Years Eve – from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day

- 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 late night lounge and entertainment venue focussing on high quality staged-based live entertainment of all descriptions with a small holding bar and substantial patron seating area. Useage will be spread over five floors and roof area. The applicant is applying for the grant of a new premises licence. A premises licence was granted in September 2005 under the Licensing Act 2003 to Albanwise Ltd in the name of Gala Bingo and remains current. The applicant has indicated that agreement has been reached between the parties that if this application is granted, the existing premises licence will be surrendered.
- 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. 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 applicant has proposed a number of steps in support of the licensing objectives which could be considered as appropriate conditions:

The Prevention of Crime & Disorder

1. Where required by the police, a text, pager or radio will be used to keep in contact with other premises in Cambridge.
2. Such text, pager or radio shall be kept in good working order and shall be monitored by a responsible member of staff.
3. Relevant incidents of crime or disorder shall be reported to the police via the text, pager or radio.
4. A risk assessment will be carried out to determine the number of door staff who shall be on duty for each public opening.
5. A register of door staff will be maintained indicating the number of door staff on duty, their identity and the times they were on duty.

6. No person who is drunk or disorderly will be allowed access to or be allowed to remain on the premises.
7. No customer will be allowed to bring open or sealed bottles onto the premises.
8. No person shall be allowed to leave the premises with any bottle or glass except to go to the outside area.
9. CCTV shall be provided on the premises and shall be kept in good working order and any recordings from the CCTV shall be retained for a period of 30 days for internal cameras and 7 days for external cameras.
10. A notice shall be displayed at the entrance to the premises that CCTV is in operation in the premises.
11. The premises will be a member of any local pubwatch scheme.
12. An incident book will be kept at the premises in which will be recorded all incidents of crime and disorder. This book will be reviewed by senior management in association with the Designated Premises Supervisor.

Public Safety

1. There shall be a suitable number of adequately trained staff to prevent overcrowding in parts of the premises, keep exit routes clear and to ensure the safe evacuation of people from the premises. In the event of an emergency such staff will have been issued with specific duties in the event of an emergency.
2. A full fire risk assessment including an evacuation plan will be prepared by the Premises Licence Holder.
3. All staff shall have received training on the safe evacuation of premises in the event of an emergency and such training shall be repeated at least annually. A record of the training provided shall be kept at the premises for at least 12 months and will be made available to the fire service or Council.

The prevention of public nuisance

1. The applicant will adopt a bespoke dispersal policy for the premises and shall provide any of the responsible authorities with a copy of it if requested.
2. Noise or vibration from within the premises or from any plant machinery or equipment shall not emanate from the premises so as to cause a nuisance to any residential dwelling.

The protection of children from harm

1. The premises shall adopt a Challenge 21 policy.
2. All staff shall be trained to ensure that no person under the age of 18 years will be sold intoxicating liquor including the need for any person who looks under 18 to provide evidence of their age.
3. Signs shall be displayed at the bar stating that any person who appears under the age of 18 will not be served with intoxicating liquor.
4. Photographic driving licences, passports or in agreement with the police a form of identification with the PASS hologram will be used as evidence of anyone who appears to be under the age of 18.

- 3.2 The applicant is aware of the cumulative impact policy and addresses the matter in the application. The applicant has considerable experience of operating licensed premises and emphasises that the application is not for a nightclub in any sense. The applicant is confident that the replacement of the licence, albeit with later hours and of a different style, will not adversely affect the current situation in the city in terms of crime and disorder and public nuisance. Capacity is also referred to.

4. REPRESENTATIONS FROM RESPONSIBLE AUTHORITIES

- 4.1 A representation has been received from the Police relating to three of the four licensing objectives and is attached in its entirety at Appendix B. The police state a number of reasons in their representation, giving rise to the view that the grant of such a licence would have a negative cumulative impact and would result in adverse consequences for the prevention of crime and disorder, public nuisance and the protection of public safety. Conditions are not referred to.
- 4.2 Furthermore, the police believe that they would be failing in their obligation under Section 17 of the Crime and Disorder Act 1998 as amended, when exercising

functions to give due regard to the likely effect of the exercise of those functions on, and the need to do all that they reasonably can to prevent crime, disorder anti-social and other behaviour adversely affecting the local environment, including the misuse of drugs, alcohol and other substances in its area.

- 4.3 A representation has been received from the Team Leader, Environmental Protection (TLEP) and is attached at Appendix C. At the time of writing the report, the TLEP had received insufficient information to allay concerns about the effects the activities may have on nearby residential accommodation or to advise suitable conditions to prevent public nuisance.
- 4.4 Planning has responded that the premises has a lawful planning use as D2 assembly and leisure use and the use of a music/concert hall would be permitted. Planning advise the applicant to contact the planning department if they believe the predominant use of the building will not fall within this use. No objection has been raised at this point.
- 4.5 No representations have been received from, Cambridgeshire Fire & Rescue, the Health & Safety Environmental Health Manager, Child Protection and Trading Standards, the remaining Responsible Authorities.

5. REPRESENTATIONS FROM INTERESTED PARTIES

- 5.1 Eleven representations have been received from 'interested parties' 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 representations are attached in their entirety at Appendix D. Not all matters raised within the representations may be relevant matters for consideration under the Licensing Act 2003.
- 5.2 One representation, attached at Appendix E, was received after the cut off date for receipt of representations. The person making the representation has been informed.

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
 - Licensing Hours, section 6
 - 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.

Sections 3.32 – 3.39 cover the provision of late night refreshment.

Section 8.5 – 8.8 covers interested parties, Sections 8.9 – 8.15, the role of local councillors and Sections 8.16 – 8.21, responsible authorities.

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. Sections 9.8, 9.10 and 9.11 covers relevance in more detail, including guidance on frivolous and vexatious representations. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. 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.

Sections 10.15 – 10.18 covers duplication with other statutory provisions. If other existing law already places responsibilities on the employer/operator of the premises, then it cannot be necessary to impose the same or similar duties on the premises licence. Sections 10.17 & 10.18 state that the Licensing Act 2003 does not affect the continued use of the powers of an environmental health officer in respect of statutory noise nuisance under the Environmental Protection Act 1990. However these general duties will not always adequately cover specific issues arising in connection with, for example, certain types of entertainment. It is only where additional and supplementary measures are necessary to promote the licensing objectives that necessary, proportionate conditions will need to be attached to a licence.

Sections 10.19 – 10.21 and 13.40-13.42 cover licensing hours and the hours of trading. Section 13.41 states that providing consumers with greater choice and flexibility is an important consideration, but should always be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet.

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 or variations that are likely to add to the existing cumulative impact, 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.

Annex D covers conditions, with Part 4 relating to the prevention of public nuisance. The Environmental Protection Act 1990, the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005 provide some protection to the general public from the effects of noise nuisance. The police can close premises that are causing nuisance resulting from noise emanating from the premises. The Secretary of States guidance states that these

matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

- 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 Guidance 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.

The author and contact officer for queries on the report is Christine Allison, on extension 7899.

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