

CAMBRIDGE CITY COUNCIL

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REPORT OF: The Licensing Manager

TO: Licensing Sub-Committee 28<sup>th</sup> February 2011

APPLICATION: Application to vary Premises licence:  
Calcutta Club, 44 Mill Road, Cambridge

WARD: Petersfield

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## 1 INTRODUCTION

- 1.1 To consider and determine this application to vary the premises licence for the Calcutta Club, taking into account the representations of the interested parties detailed in paragraph 5 and the policy considerations detailed in paragraph 6 of the report.
- 1.2 The applicant, Ibrahim Miyah, is seeking to vary the existing premises licence for the Calcutta Club as follows:

### The removal of licensable activities

The provision of live music, recorded music and the provision of facilities of a similar description (indoors).

### Hours premises are open

Mon – Thur & Sun 12:00 to 23:00

Fri & Sat 12:00 to 00:00

(previously Mon – Thur 10:00 to 23:30, Sun 12:00 to 23:30, Fri & Sat 10:00 to 00:30 with an extra hour at bank holidays and New Year opening as listed in the current licence)

### Removal of terms, conditions or restrictions

To remove:

Annex 2, condition 5: The person nominated as the DPS will join and actively support the Cambridge Pub and Club watch, whilst it is in existence and support its aims and objectives as given in its charter. This includes support of its agreed banning policy and attending meetings, personally or by sending an authorised representative of the venue. This condition is only binding whilst the pub watch

scheme is in existence.

Annex 2, condition 6: Video/CCTV equipment must be installed inside/outside the premises and maintained in working order.

Annex 3, condition 6: DPS will agree and operate a drugs and search policy, the contents of which are to be subject to approval by the police.

Annex 3, condition 7: Full CCTV to be installed and maintained in working order, providing coverage of all areas including the front of the premises and the back garden. The location of the cameras to be subject to approval by the police and the images to be retained for inspection by the police for a period of 31 days

Annex 3, condition 8: Staff training to be undertaken with details of training in support of the licensing objectives to be made available to the police and licensing authority on request.

Annex 3, condition 13: Toughened/shatterproof glass to be used.

Annex 3, condition 16: Toilets to be risk assessed for drug consumption.

Annex 3, Condition 18: Cambac radio link to be maintained.

Annex 3, condition 20: The external garden to the rear to be fenced, enclosed and only to be accessible through the premises and not used after 32:00 hours except on New Years Eve and not for the consumption of alcohol.

Annex 3, condition 22: Local residents to be provided with a contact number of the duty manager of the premises to be used in the event of any complaint.

Addition of terms, conditions or restrictions:

1. Intoxicating liquor shall not be sold/supplies on the premises otherwise than to persons taking table meals there for consumption by such persons as ancillary to their meals.
  2. The sale/supply of alcohol shall be by way of waiter/waitress service for consumption by those persons seated at tables as ancillary to a meal.
  3. Substantial non-alcoholic beverages including drinking water shall be equally available for consumption with or otherwise as ancillary to meals served at the premises.
- 1.3 A copy of the relevant variation application, plan and existing licence 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 Calcutta Club, formerly known as The Locomotive is located in Mill Road. It was converted into a restaurant approximately 2 years ago. It has been a licensed premises for many years. There are no planning restrictions or conditions.
- 2.2 The premises licence in the name of The Locomotive was converted from a Justices' on licence with a variation for extended hours and regulated entertainment in June 2005. The licence was subject to a summary review request from the police in August 2008, a number of additional conditions were added as a result and the Locomotive ceased trading. In September 2009, a transfer was received, the name was changed from the Locomotive to the Calcutta Club and the premises re-opened as a restaurant with the conditions imposed in August 2008 attached. A variation was submitted in September 2010, but was withdrawn.
- 2.3 A request has now been submitted to vary the licence conditions and to remove the regulated entertainment elements to reflect the restaurant nature of the premises. The opening hours have also been amended.
- 2.4 Mill Road 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 or variations that are likely to add to the existing cumulative impact 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. Cumulative impact has not been referred to in the representations received.

## **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 8.28-8.32 and Section 10 of the Government Guidance refer to the operating schedule and licence conditions. Proposals can be translated directly into conditions attached to the premises licence. They should be realistic and within the control of the applicant/management responsible for running the premises. In the variation application, the applicant has stated that the steps proposed

will remain the same.

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

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

#### **5. REPRESENTATIONS FROM INTERESTED PARTIES**

- 5.1 Four representations attached at Appendix B have been received from 'interested parties' defined as: a person living in that vicinity; a person involved in the business in that vicinity; a body representing persons living in, or involved in such a business, or a member of the relevant licensing authority. The representations have been attached in their entirety. 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
  - 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 2.32 – 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 10.15 – 10.18 covers duplication and other statutory provisions. The Guidance states 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. If existing law 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 13.24 – 13.39 cover cumulative impact.

Annex D covers conditions relating to the prevention of public nuisance. The Environmental Protection Act 1990 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). Conditions which are imprecise or difficult 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 fulfill 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 representations, take such steps as they consider are necessary for the promotion of the licensing objectives. The steps are to modify the conditions of the licence or to reject the whole or part of the application. Conditions are modified if they are altered, omitted or any new condition added. (Licensing Act 2003 section 35(4)).

## **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. 7879.

The author and contact officer for queries on the report is Christine Allison, on extension 7879.

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