

CAMBRIDGE CITY COUNCIL

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REPORT OF: The Licensing Manager

TO: Licensing Sub-Committee

4<sup>th</sup> April 2011

APPLICATION: Application for a new Premises licence:  
The Earl Grey PH, 60 King Street, Cambridge, CB1 1LN

WARD: Market

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## **1 INTRODUCTION**

- 1.1 To consider and determine this application for a new premises licence for The Earl Grey PH, 60 King Street taking into account the representations of the responsible authority detailed in paragraph 4, the interested parties detailed in paragraph 5 and the policy considerations detailed in paragraph 6 of the report.
- 1.2 The applicant, Mr Edward Hoskins, is seeking a new premises licence as follows:

Live Music (indoors)

Fri and Sat 20:00 to 23:30

Sun 20:00 to 23:00

Non standard timings

New Year's Eve 00:30

Supply of Alcohol (on and off the premises)

Mon – Thurs 12:00 to 23:00

Fri and Sat 12:00 to 23:30

Sun 12:00 to 22:30

Non standard timings

New Year's Eve 01:30

Hours premises are open

Mon – Thurs 09:30 to 23:30

Fri and Sat 09:30 to 00:00

Sun 09:30 to 23:00

Non standard timings

New Year's Eve 02:00

- 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 Earl Grey public house closed in 1968 and became a licensed betting shop. This continued until approximately 3 years ago when the property became vacant and it has remained closed since.

The applicant is proposing to return the property to its previous use and open a traditional style bar / restaurant, namely a cider tap. The bar area is to be laid out with the intention of the majority of customers being seated. The applicant is seeking on and off sales of alcohol to allow provision for the occasional customer who may wish to purchase a sealed bottle to take away for later consumption.

There is no history of grant of a premises licence under the Licensing Act 2003. Previous planning history as a public house pre 1968 remains, with no conditions or restrictions in place.

- 2.2 King 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. All staff shall be fully trained in effective and responsible management and will be BII house members or greater.
2. Staff will notify other bars of troublesome patrons.
3. Staff shall operate a 100% zero tolerance to drugs and the use of drugs. Anyone caught will be reported to the Police without exception and other licensed premises on King Street will be notified. Such patrons will be barred permanently from the premises.
4. Patrons that appear drunk will not be served alcohol.
5. Staff will not operate any promotional drinking schemes or permit the consumption of alcohol in competition.
6. During opening hours the exterior of the premises will be illuminated by sign lighting and street lighting.
7. Alcohol will not be provided for take away unless in sealed containers and glass will only be allowed inside the premises.

#### Public Safety

1. A fully integrated fire alarm system with both illuminated alarms for the hearing impaired and sound alarms shall be in place.
2. The layout of the bar and associated seating and tables shall allow staff to maintain a full view of the entire premises and all patrons from behind the bar.
3. Patrons will be asked to keep glasses inside the premises but where necessary plastic glasses will be provided.

#### The prevention of public nuisance

1. Patrons will be asked to leave and arrive in a considerate manner.
2. Waste storage shall be provided in the rear courtyard.

#### The protection of children from harm

1. Any patrons that appear to be under age will be required to provide an accredited form of identification prior to being served.
2. Only accompanied children will be allowed to enter the premises during reasonable times and any person who appears to be under the age of eighteen or those that are included in a group of which members may appear under eighteen will all be required to prove their age. Only acceptable forms of identification will be accepted.

3.2 Although cumulative impact has not been referred to, the applicant submitted a supporting letter along with the application. This is attached in its entirety at Appendix B.

3.3 In the interest of public safety and to prevent any crime or disorder on or around the premises, the applicant later submitted the two additional conditions below:

1. The business will become part of the Pubwatch scheme and also join up to the Cambac radio link system.

2. The property will have CCTV installed. There will be a camera on the front of the property, to compliment the City's camera directly opposite the property. We will also install a camera inside the property along with an additional camera covering the rear courtyard, therefore covering all areas of the premises.

A copy of the amendment is attached at Appendix C.

3.4 The applicant has experience of pub/bar and restaurant ownership and states that The Earl Grey is being designed with the intention of encouraging responsible customers. The bar will not be stocking Alco-pops or any lager that would be instantly recognisable to younger drinkers. The emphasis is on opening a cider tap and for the bar to become an outlet for local cider producers.

#### **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 D. 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.

Two supporting documents have been submitted by the Police and are attached to the report as Appendix E and Appendix F respectively:

Cambridge City Cumulative Impact Policy Review 2010, V3

An introduction to Anti-Social Behaviour (ASB) in Cambridge City

- 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 Discussions have taken place between the applicant and the Team Leader, Environmental Protection and it has been agreed that a representation would not be made providing the following measures are converted into conditions on the licence:

The prevention of public nuisance

1. Drinks shall not be consumed in the rear Courtyard after 10pm on Sunday to Thursday evenings; 11pm on Friday and Saturday evenings or on any other night when the premises are open until midnight. Signs shall be prominently displayed at the exit to the rear Courtyard informing patrons of this requirement.
  2. Doors and windows shall be kept shut during regulated entertainment, with the exception of the main entrance and entrance to the rear Courtyard to allow access and egress, which shall be kept shut so far as reasonably practicable.
  3. Bottles and refuse shall not be disposed of outside the premises between 11.00 p.m. and 7.00 a.m.
- 4.4 No representations have been received from Cambridgeshire Fire & Rescue, the Food & Occupational Safety Team Leader, Planning, Child Protection and Trading Standards, the remaining Responsible Authorities.

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

- 5.1 Fifty Five 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.

Nineteen representations oppose the application, thirty-six representations are in support. One of the representations opposing the application includes a petition containing sixty-seven signatures. A number of signatories on the petition have made representation in

their own right.

The ordinary meaning of vicinity is 'near'. The representations are attached in their entirety at Appendix G. 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
- 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.

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 representations, 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 Debbie Stoker on 01223 457879.  
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