

CAMBRIDGE CITY COUNCIL

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REPORT OF: The Licensing Manager

TO: Licensing Sub-Committee

27<sup>th</sup> June 2011

APPLICATION: Application for a new Premises licence:  
The Jam House, 21 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 the Jam House, 21 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 We Are Dancing Ltd, is seeking a new premises licence as follows:

Sale/Supply of alcohol (on and off the premises), Films, Live Music, Recorded Music, Performance of Dance, Entertainment of a similar description, Provision of facilities for making music, Provision of facilities for dancing, Provision of facilities for entertainment of a similar description (indoors)

Sun 12:00 to 00:00

Mon – Sat 10:00 to 00:00

Non standard timings

New Year's Eve – from end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

Late Night Refreshment (indoors)

Mon – Sun 23:00 to 00:00

Non standard timings

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

Hours premises are open

Sun 12:00 to 00:30

Mon – Sat 10:00 to 00:30

Non standard timings

New Year's Eve – from end of permitted hours on New Year's Eve to the start of permitted hours on New Year's 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 live music venue providing alcohol and quality food with a wide range of entertainment consisting of 4 floors. 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 addresses two of 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. A digital CCTV system with appropriate recording equipment will be installed, operated and maintained throughout the premises to cover all public areas with sufficient numbers of cameras as agreed with Cambridge Police.
2. Such images shall be retained for 31 days and made available to the police or authorised officer on reasonable request.
3. The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy with GMT.
4. The premises licence holder will conduct a risk assessment as to whether and how many door supervisors are required whenever the premises are open to the public for licensable activities.
5. Waiter and waitress service is available for food and drink.

## Public Safety

### The prevention of public nuisance

1. Before the licensable activities, hereby permitted are undertaken, a scheme for the insulation of the building in order to minimise the level of noise emanating from the said building shall be submitted to and approved in writing by the Team Leader Environmental Protection, Cambridge City Council and the scheme As approved shall be fully implemented before use hereby permitted is commenced.
  2. The scheme shall include, but not be limited to; lobbies between the performance areas and the external areas, secondary glazing, acoustic seals around the fire exits and detail of the screens surrounding the third and fourth floor external smoking terrace areas including height, appearance and acoustic details. To prevent patrons 'shouting down' these screens shall prevent a direct line of sight from the terraces to the ground below
  3. No amplified or unamplified music and/or voices will be played in or transmitted to the smoking terrace
  4. All furniture in the smoking terrace shall have plastic, rubber or similar feet to prevent the noise of scraping
  5. Staff shall remind noisy patrons on the smoking terrace of the need to keep noise to a reasonable level
  6. When regulated entertainment is held, all external doors and windows including the doors to the smoking terrace shall be shut at all times, apart from the main entrance door(s) (that allow general ingress and egress) which shall be kept closed so far as reasonably practicable.
  7. Prominent, clear and legible notices shall be displayed at the exit, requesting patrons departing to respect the needs of local residents and to leave the premises and the area quietly. Staff shall remind noisy patrons of the need to keep the noise at a reasonable level.
  8. The premises shall adopt a Challenge 25 policy in relation to the sale of alcohol.
  9. No customers will be allowed to leave the premises with bottle or glasses.
  10. Arrangements will be made with a local taxi company to facilitate the dispersal of customers who wish to take a taxi as efficiently and quietly as possible and this will include management and staff at the premises ordering taxis for customers and notices explaining the arrangements; customers will be permitted to remain in the premises while waiting for a taxi to arrive.
  11. Substantial food will always be available whenever the premises are open for licensable activities.
  12. An incident log will be kept at the premises and will be available for inspection by the police and the licensing authority.
- 3.2 The applicant is aware of the cumulative impact policy and addresses the matter in the application. The applicant is an experienced operator and the emphasis is very much on live music, and food and then alcohol.
- 3.3 The licensable activities and hours of operation of the existing premises licence, formerly Gala Bingo are the same as those contained within the application. The only proposed changes are to the internal structure that is from a bingo layout to a live music/restaurant layout.

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

- 4.1 A representation has been received from the Police relating to three of the four licensing objectives the prevention of crime and disorder, public nuisance and the protection of public safety. This is attached in its entirety at Appendix B. The police state a number of reasons in their representation.
- 4.2 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 proposed 10 conditions in support of the prevention of public nuisance objective. Conditions 2-10 have been agreed by the applicant. The TLEP is of the opinion that lobbies are necessary and recommends that the following 10 additional conditions be added to the licence if granted.

1. Before the licensable activities, hereby permitted are undertaken, a scheme for the insulation of the building in order to minimise the level of noise emanating from the said building shall be submitted to and approved in writing by the Team Leader Environmental Protection, Cambridge City Council, and the scheme as approved shall be fully implemented before use hereby permitted is commenced.

The scheme shall include, but not be limited to.

- a. Lobbies between the performance areas and the external areas.
  - b. Secondary glazing
  - c. Acoustic seals around the fire exits.
  - d. Detail of the screens surrounding the third and fourth floor external smoking terrace areas including height, appearance and acoustic details. To prevent patrons 'shouting down' these screens shall prevent a direct line of sight from the terraces to the ground below.
2. No amplified or unamplified music and or voices will be played in or transmitted to the third and fourth floor external smoking terrace areas.
  3. All furniture on the third and fourth floor external smoking terrace areas shall have plastic, rubber or similar feet to prevent the noise of scraping.
  4. Staff shall remind noisy patrons on the third and fourth floor external smoking terrace areas of the need to keep noise to a reasonable level.
  5. When public regulated entertainment is held all external doors and windows including the doors to the smoking areas shall be shut at all times, apart from the main entrance door/s (that allow general ingress and egress) which shall be kept closed so far as reasonably practicable.
  6. Prominent, clear and legible notices shall be displayed at the exit, requesting patrons departing to respect the needs of local residents and to leave the premises and the area quietly. Staff shall remind noisy patrons of the need to keep noise to a reasonable level.
  7. Before the licensable activities, hereby permitted are undertaken, full details of the on-site storage facilities for trade waste, including waste for recycling shall be submitted to and approved in writing by the Team Leader Environmental Protection, Cambridge City Council, details shall identify the specific positions of where wheelie bins, paladins or any other means of storage will be stationed and the arrangements for the disposal of waste. The approved facilities shall be provided prior to the commencement of the use hereby permitted and shall be retained thereafter unless alternative arrangements are agreed in writing by the local planning authority.
  8. The placing of waste including bottles into receptacles outside the premises and the emptying of premises waste receptacles by waste contractors shall only be permitted to take place between the hours of 0700 hrs and 2300 hrs to minimise disturbance to nearby properties.
  9. Plant noise when measured 1 metre from the façade of 18 Hobson Street and 22 Sidney Street shall not exceed  $L_{Aeq(5\text{ minutes})}$  40 dB
  10. Before the licensable activities, hereby permitted are undertaken, a scheme for the lighting of the use shall be submitted to and approved in writing Team Leader Environmental Protection, Cambridge City Council, and the scheme as approved shall be fully implemented before the use permitted is commenced.
- 4.4 No representations have been received from, Cambridgeshire Fire & Rescue, the Health & Safety Environmental Health Manager, Planning, Child Protection and Trading Standards, the remaining Responsible Authorities.

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

- 5.1 Fourteen 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. Twelve representations oppose the application and two are in support of it.

## 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 – 10.20 and 13.40-13.41 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 Christine Allison on ext. 7899.

The author and contact officer for queries on the report is Trish Kaye, on extension 7667.

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