

## Licensing Sub Committee-Alcohol and Gambling

Wednesday, 4th November, 2020  
Times Not Specified

| Attendees                  |   |
|----------------------------|---|
| <b>Councillors:</b>        | Tim Harman, Paul McCloskey and Jo Stafford  |
| <b>Also in attendance:</b> | Vikki Fennel (OneLegal) Jason Kirkwood (Snr Licensing Officer)<br>Gareth Jones (Environmental Health) |

### Minutes

**1. APOLOGIES**

There were none.

**2. DECLARATIONS OF INTEREST**

There were none although it was confirmed that the Senior Licensing Officer and 2 Members of the committee did visit the property.

**3. ELECTION OF CHAIR**

The Legal Officer announced that Councillor Paul McCloskey had been elected as the chair of the committee.

**4. NO 2 CRESCENT TERRACE, CHELTENHAM**

The process of the Committee was explained by the Chair.

The Senior Licensing Officer presented his report as published, he also explained that he and several Members did a site visit to the premises on the day of the meeting.

The matter then went to the Members for Member questions

- Is the venue a wine bar or a café – the Senior Licensing Officer explained that it was a table service venue.

The Objectors were then asked if they had any questions for the Senior Licensing Officer:

- Attention was bought to the fact that although there were only a few objectors there will be 100 people moving into John Dower House.
- Also concerned that there will be people wandering around the Crescent.
- The courtyard that the applicant proposes to use is overlooked by children's bedrooms and that will cause a problem for them being able to sleep or disturbing their sleep.
- There was concern raised that property value will be decreased by approximately 35% if the neighbouring property becomes a wine bar.
- Is there a strategy to keep the heritage houses – as the bus station will go and understood that there will be more residential properties.

The Chair then went to the applicant, he clarified points as follows:

- Although the property is known as a wine bar it is a restaurant and is a sit down restaurant.
- Although the application states closing at 2am – Environmental Health suggested 11pm and the applicant refused that and he accepted a compromise may be needed but there wasn't one in place. Alcohol is only served from 12 and they would look at closing earlier on some days of the week.
- They have 8 properties in the UK where they are based in residential areas and have had no issues with neighbours and are proud of that.
- It is hoped that it will have a reputation as a high end casual restaurant.
- Alcohol sale is generally in bottles.
- There is CCTV both inside and outside the property.
- Floor seating will not change from how it is, there will be signs showing exit and managed by staff.
- They will also implement "Challenge 25"
- They hope that they will be able to operate with neighbours and are willing to compromise with opening hours, however detrimental to business if shuts at 10.

Chair asked Environmental Officer if he had any more points to make. He confirmed that the problem with the application is that there will be some noise from garden, entering and exiting the building and noise of ventilation for the kitchen. He views that the hours are the problem as the noise is inevitable – he stated that they have tried to pursue more reasonable hours but that the applicant has refused to compromise on this.

Members then had the opportunity to question the applicant and the objectors:

The following points were raised:

- To the applicant – will there be events on the premises run by other organisers or will they be 100% in charge of the facility? No that will not be the case they will always control anything that is in place ie an office Christmas Party.
- To the applicant – with the small courtyard where will your bins and bottle bins be? They will be in the front at the bottom of the stairs.
- To the applicant – Do you envisage having to employ door staff? Due to the size of the venue this doesn't seem necessary. Also smoking would not be allowed in the courtyard
- To the applicant – 20 cover inside and possibly 12/14 outside. Confirmed that this was correct.
- To the applicant – response to the police talks about CCTV and the property being well ventilated – can you confirm what you are proposing for ventilation? There will be air conditioning units in the property. There will be no outdoor extraction fan for the kitchen. The food they concentrate on is meats and cheeses and pizzas.
- What external fan does the air conditioning use? There may be planning issues for that.
- To objector – with the comment about looking into childrens bedrooms? Please can you clarify where the bedrooms are? Can see from son's bedroom into the courtyard and also from daughter's room. Will also be able to see the people in the courtyard from their own balcony. The

objector also raised that planning and licensing should have joined up thinking.

Legal officer clarified that if the Licensing committee approve something this does not necessarily mean that the Planning Committee will do the same.

The Chair asked the objectors if they had any questions for the applicant – they confirmed that they didn't.

Senior Licensing Officer shared his photos from the earlier site visit.

The matter then went to Member debate:

- There were concerns that when the Members had visited the premises just how close it was to the residential property and the size of the courtyard. Wondered how he would feel if it was next to his house. He note that there were 2 successful businesses there already with different hours. Given the Environmental Officer does not approve of the new opening hours he will not support the application for fear of not being able to promote the licensing objectives.
- Senior licensing officer confirmed that they could vote to approve the application with restrictions.
- Support was offered for the fact that it would be a no smoking courtyard however concerned as to how this was going to be enforced? As smoke would go straight into the residential property next door. Also concerned that the long opening hours are an issue in a residential mixed use area.
- There are concerns regarding the bin storage and no door security.
- Would be happier to look at different reduced hours.

Legal Officer explained that the Committee can change the hours from those hours applied for by the application.

- The Members agreed that there are more concerns other than the opening hours.

The Senior Licensing Officer then re iterated a couple of points:

- The police did not believe that the premises needed security staff.
- He stated that the Committee could put a restriction on regarding when the recycling would take place.

The applicant had a final right of reply :

- With regards to door staff for a Friday and Saturday night it would cost approx. £400 and with the amount of covers it doesn't seem viable.
- The business is sustainable with longer hours but not if it has to close at 2300. Would agree that the outdoors would close earlier than the indoors.
- This venue would hopefully open during the first ¼ of 2021 but until he knows that he can look at longer times he will not know if this is viable.

Member then stated if the police don't see the necessity for door staff then happy with that conclusion. Also would be happy to put a restriction on recycling.

Applicant was then asked what hours he would be happy with, he stated close at 2230 Sunday to Wednesday and stop serving at Midnight the other days and shut the courtyard at 2200 at weekend and 2100 in the week.

The Chair then explained the 3 voting options as follows:

- Grant the application with the mandatory conditions offered in the application only.
- As above but with added conditions placed on the application by the Committee, which may include revised hours
- Refuse the application as it does not fall within the Licensing policy.

The Legal Officer then suggested the matter went to the vote in order.

Grant the application as it was submitted:

For: 0

Against: 3

Abstain: 0

The Legal Officer suggested that the Committee talked about the conditions that they would want to impose and also to give the objectors the opportunity to speak.

- The Environmental Officer stated the recommended hours in his report were broadly in line with the venue No3 in the same area. A Member asked what happens if the licence is granted and there are complaints? The Member was informed that the complaints would be investigated and an abatement notice could be served. He stated that as the area is residential that the tolerance of noise will be low and the premises will be at high risk of being served and abatement notice if the noise is excessive after 0100.
- If bottles and refuse are a problem then the Committee can place a condition on the collection time.
- Also if smoking is prohibited in the Courtyard this moves the problem to the front of the building.
- The objectors were then asked if there was anything that they wanted to add. The objectors felt that it was still a very late hour, sympathised with the applicant and didn't see it as a good enough amendment. It was also raised that an establishment such as this was looking in the wrong part of town. Objector asked for understanding with regard to how individuals would feel if this was happening outside their property.

Legal Officer stated that we are now looking at granting the application but with added conditions with regards to the recycling and the opening hours offered by the applicant. The Legal Officer reminded the Committee that it needs to consider if changing the timings will promote the Licensing objectives. If they feel this is not the case then they have to refuse the application:

For: 0

Against: 3

Abstain:0

One councillor voted against due to the noise and the issue with smoking, the remaining Members agreed and were influenced by the report of the Environmental Health Officer.

The application was therefore refused and the process of appeal was explained by the Legal Officer.

**5. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION**

There were none and the meeting ended 1845.

**Chairman**