

Licensing Sub-Committee – Alcohol and Gambling

17th December 2018

Councillors: Roger Whyborn (Chair), Diggory Seacome, Dennis Parsons

Officers in attendance: Phil Cooper, Donna Marks

Also present: Councillor Sudbury, on behalf of local residents
Debbie Coulter (applicant), Jeff Whiteley, Andrew Coulter

Minutes

1. Election of Chair

The sub-committee nominated Councillor Whyborn as Chair of the meeting.

2. Apologies

There were none.

3. Declarations of interest

There were none.

4. Minutes of last meeting

Minutes of the meeting held on 20th September 2018 were approved as an accurate record, without amendment.

5. Determination of an application for a premises licence: My Coffee, 186 Bath Road

The Licensing Officer introduced the application, made under the Licensing Act 2003, for a premises licence in respect of My Coffee, 186 Bath Road Cheltenham. The applicants are seeking a licence to authorise the sale of alcohol for consumption on and off the premises and the playing of recorded music and films. The proposed times for licensable activities are 7.30am – 11pm Monday to Saturday and 9am – 11pm on Sunday.

During the consultation process, none of the responsible authorities commented on the application but 14 representations were received from other people. These are reproduced as an appendix to the report pack.

Some of the comments made by objectors are discussed in more detail at paragraph 7.5 of the report. The consideration for the sub-committee is whether the sale of alcohol and the provision of recorded music and films at the premises will compromise the licensing objectives, which are:

- (a) prevention of crime and disorder;
- (b) public safety;
- (c) prevention of public nuisance; and
- (d) protection of children from harm.

The options available to the sub-committee are to:

- grant the licence as applied for, or with such amendments and conditions as members feel are appropriate for the promotion of the licensing objectives, or
- refuse the application.

As Members did not have any questions for the officer at this stage, Councillor Whyborn invited the applicant to state her case, to be followed by Councillor Sudbury speaking on behalf of local residents. He confirmed that the applicant would get the chance to respond to any objections.

The applicant

The applicant explained that she took on the coffee shop four years ago, always intending to apply for a licence. The business will remain first and foremost a coffee shop, extending its offer to selling beer and wine occasionally; there is no intention to turn it into a bar. Many objectors have misunderstood this – the business will offer food in the evening, and although the application is for 11.00pm Monday-Sunday, it will probably be open till that time only two or three nights a week. Use of the premises may be offered to other people or groups, such as a local film club, but overall, there will be no drastic change.

Councillor Sudbury, on behalf of local residents

There is some concern from local residents about this application. As stated in her own representation, a few things which need clarification, but nothing insurmountable; has no personal criticism of the applicants or the business, and loves and visits Bath Road every week.

Neighbour concerns can be summarised as follows:

- i. Smoking. If people are drinking, some will want to smoke or vape outside; the pavement is busy to the front and narrow to the side of the premises, and anyone walking home may feel intimidated by groups of people blocking pavements. Also, residents in the flat over Parsons Bakery opposite may be disturbed.
- ii. Litter. On the two-way part of Exmouth Street, there is a litter problem, with vans parking here for drivers to get sandwiches etc, and overflowing bins. There are always a lot of cigarette butts in this area, which could increase with My Coffee smokers; will the applicant undertake to sweep the street to the side of the premises, or install a stubber?
- iii. Noise. There will be noise from inside the premises from recorded music, and although a certain level of noise is expected in this area, can a condition be included to prevent a DJ from playing loud music?
- iv. Disposal of glass bottles. This can create noise which travels and could disturb local residents. Can a condition be included to control the timings of handling and disposing of glass to minimise any disturbance?
- v. Traffic. The two-way section of Exmouth Street is busy, and people congregating on the pavement here could be at risk.
- vi. Refreshments. Is the applicant intending to carry on trading as at present, the only difference being the inclusion of alcohol?
- vii. A few residents mentioned current issues of waste liquids being disposed of down the drain and the side door of the premises being left open

Member questions

In response to questions from Members, the applicant stated that:

- i. The coffee shop currently opens until 6.00pm, and the intention is to open until 11.00pm no more than two or three nights a week. Under temporary event notices, it has opened until 11.00pm on Thursday, Friday and Saturday; the most likely scenario going forward will be to open for its own purposes on Friday and Saturday nights, and on an ad hoc basis at other times. It will continue as a coffee shop, as at present.
- ii. A maximum 80 people can be accommodated at one time –this will be very crowded.

- iii. The small pavement at the side is too narrow for smokers to use. There is currently a stubber by the Co-op next door; maybe smokers could use this, or it could be improved?
- iv. If used to show films, this will be just for small groups of people. A film club has already made an approach, considering the premises ideal for its needs.
- v. No glass, bottles or china will be allowed outside. The only drinks to be taken outside will be a 'coffee cocktail' in a paper coffee cup.
- vi. The intention is to dispose of bottles first thing in the morning.
- vii. The music to be played will be predominantly background music, as now. There is no intention to play loud music or hold late-night parties. The target customers are most likely to be older people who want to sit and talk.
- viii. A condition to limit the music to recorded background music would not be an issue, although ideally live music, such as open mic nights, would be an option;

The licensing officer explained at this point that a lot of entertainment no longer needs a licence as the government has deregulated it. Incidental recorded music, such as background music, does not need a licence. In addition, premises that are licensed to sell alcohol for consumption on the premises can, without needing a music licence, put on performances of live music up to 11pm as long as the audience is below 500. There is therefore no need for any kind of music licence in the scenario presented, and this part of the application could be removed.

- ix. Confirmed that the main intention is to create a continental-style bar, open for coffee, food and alcohol throughout the day.
- x. Confirmed that a condition to establish an agreed smokers' station is acceptable.
- xi. Confirmed that a condition that no alcohol be taken onto the street is a good thing, and should minimise the amount of time smokers spend outside.
- xii. Confirmed that there will not be any door staff, but that the coffee shop has enormous glass windows, which will allow staff to keep a close eye on what is happening outside.

The Chair allowed Councillor Sudbury to make a further comment at this point of the meeting; she stated that, had neighbours known that an alcohol licence included permission for live music during the licensed hours, there would have been many more objections. There are different types of live music, and this is a long-running issue in other parts of the town, with businesses and residents suffering because there are no conditions regarding decibels, windows and doors being shut etc. As this point had not been raised previously, the Chair said that common sense would have to prevail, and such issues would have to be covered by a planning application rather than licensing.

In response to questions from Members, the licensing officer confirmed that:

- i. A condition can be included to restrict the times at which glass bottles can be disposed of. This could constitute public nuisance at certain times, and could be controlled under a statutory noise order if necessary, through environmental health officers.
- ii. With regard to customers buying 'coffee cocktails' to take away, and whether this would contravene public protection on drinking on the street, in Cheltenham people are allowed to drink in public but if they refuse to stop on being told to do so by an authorised officer, they commit an offence.
- iii. A carefully-worded condition can be included to allow customers to take alcoholic drinks away, but not allow them to take them outside while smoking.

Applicant summing-up

The applicant was happy that all issues had been covered, and reiterated the analogy with a continental coffee bar; the intention is not to create a pub or bar. Noise will be limited, any

obstruction to the pavement will be monitored and dealt with, and litter swept up. My Coffee is not trying to be a nuisance, but to create a new offer to local residents.

Member summing-up

In response to the discussion, the Chair suggested that the application was acceptable, subject to the following conditions:

- i. A smokers' station to be installed on Bath Road, in close proximity to the premises, to cater for smokers and their litter.
- ii. Alcohol must not be taken onto the street, except for off-sales to be taken away.
- iii. Noise will be controlled, particularly the disposal of bottles, which won't be done after closing time or any other unreasonable hours.

The application for the playing of recorded music is not needed and could be refused, to keep matters simple.

Before moving to the vote, Members, officers and the manager of My Coffee looked at a satellite image of the premises, and agreed that there was no room on the front of the building for a stubber. Councillor Parsons felt that Exmouth Street would be an acceptable location for smokers and a stubber, and that other people will have to walk round them if necessary.

The applicant confirmed that she was happy for the application to be amended, to remove the recorded music element.

Vote

Vote on granting premises licence as set out in application, with exception of recorded music element, subject to the following conditions:

- i. Smokers' station to be installed on Exmouth Street, as near as possible to Bath Road
- ii. No alcohol to be taken onto the streets, other than off-sales
- iii. Noise to be controlled, with due regard to residents – no glass disposal after closing time or before opening time (7.30am on weekdays, 8.00am on Saturday, 9.00am on Sunday)

Precise wording to be delegated to officers

3 in support – unanimous

Vote on refusing application for recorded music as this is not required:

3 in support – unanimous

The legal officer advised the applicant that the licence will be issued by the end of the week, and any aggrieved parties have 21 days in which to object, through the Magistrate's Court. The licence will commence with immediate effect, from today's date.