

Licensing Sub Committee-Alcohol and Gambling

Thursday, 2nd July, 2020
10.30 am - 2.00 pm

Attendees	
Councillors:	Mike Collins, Simon Wheeler and Roger Whyborn (Chair)
Also in attendance:	Jason Kirkwood (Senior Licensing Officer), Vicky Fennell (One Legal)

Minutes

1. ELECTION OF CHAIR

Councillor Whyborn was nominated as Chair of the meeting by Councillor Collins, seconded by Councillor Wheeler. He informed those present that the meeting would be streamed on YouTube and recorded for training purposes, and if there were any breaks in transmission, the meeting would adjourn while any technical issues were sorted out. He reminded Members that they needed to be present for the whole of the debate in order to vote, and advised the public that the fact that all three Members of the Committee belong to the same political party was of no relevance, as Licensing is a quasi judicial function, and party political considerations are set aside in determining applications.

He welcomed the applicant and members of the public (as listed), and explained how the meeting would be conducted:

- James Elias, the applicant
- Councillor Seacome, on behalf of local residents
- Revd. Mills, on behalf of local residents
- Sharman Davies, on behalf of residents of Somerset House
- Ellen Francis, neighbour
- Felicity Gray, neighbour
- Zinovia Zervakis, neighbour
- George Theodolou, neighbour
- Rani Boyal, neighbour

2. APOLOGIES

There were none.

Louis Krog (Head of Licensing) joined the meeting after the lunchtime adjournment.

3. DECLARATIONS OF INTEREST

There were none.

4. THE ST JAMES' CLUB, GIBSON HOUSE. CHELTENHAM

Officer introduction

The Senior Licensing Officer introduced the application, reminding those present that it must be determined against four statutory licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

He highlighted the key issues and considerations, as set out in the report, and confirmed that 219 objections have been received from members of the public, but none from the responsible authorities (police and environmental health officers). While acknowledging the concerns of neighbours, he reminded those present that the local authority is bound by legislation and case law and must act accordingly – if it does not, it is open to appeal and potential costs. It is the authority's statutory duty to give full and clear reasons for its decision, in order to inform the public, help the aggrieved party to know why the decision was made, and inform the Magistrates Court in the event of an appeal.

Every case must be decided on its own merits, and the licensing sub-committee will either:

- grant the application with mandatory conditions
- grant the application with mandatory conditions and amended with conditions as it sees fit, which are appropriate, precise and enforceable
- refuse the application as appropriate to promote the licensing objectives

The aggrieved party may appeal to the Magistrates Court within 21 days of the written notification of the decision.

Member questions to Senior Licensing Officer

In response to questions from Members, the Senior Licensing Officer confirmed that:

- the police and environmental health officers were given the opportunity to raise any concerns about anti-social behaviour in the area or about the application in general, but did not;
- the Licensing team is unaware of any connection between the current applicant and the previous management of the previously licensed premises;
- the application does not include any specific information about the smoking area and how it will be managed.

The applicant did not have any questions for the Senior Licensing Officer

Applicant's case

The applicant set out his case, as attached.

Member questions to applicant

Members thanked the applicant for making a thorough and comprehensive case, and for his flexible approach in addressing potential objections and issues that may arise.

In response to Members' questions, the applicant confirmed that:

- although the name 'Chemistry' appears on some of the floor plans, his client has leased the premises from the freeholder and has no connection with the previous occupants;
- the licensing application currently under discussion is for the basement only; he is unaware of any plans for the rest of the building;
- regarding parking, the same rules will apply to clients as to everyone else; if security staff see club-users parking illegally, they will ask them to move to the nearest car park;
- smokers will be accommodated on the pavement to the side of the building, and security staff will manage the situation and any resulting litter;
- litter will be picked up both during and at the end of each night;
- drinking-up time will be the 30 minutes after the licensable activities (serving alcohol, dancing, music) stop, allowing people to leave gradually in an orderly manner;
- to avoid noise disturbance, glass bottles will not be disposed of on closing, but the following day, after 10.00am and before 6.00pm;
- the venue will only be open for pre-booked events; the applicant is happy for a condition to be attached to this;

Representations from the public

The Chair informed objectors that they could raise questions during their submissions which the applicant will answer at the end.

The following concerns were raised by members of the public:

- the prospect of anti-social behaviour – in particular from people who have been drinking and from drug dealers - continues to be a worry to local residents, based on previous experience with these premises. People are afraid. This is a residential area; some pubs operate in such areas without causing any problems, and people know there is a pub nearby when they buy a property, but this is being imposed on local residents;
- the club will not be liable or responsible for people's behaviour after they leave the premises;
- inconsiderate parking could cause problems, blocking private drives and the pavement;
- the proximity of the church should be borne in mind – though hopefully will not be a problem, in view of the club's opening hours, and security staff;
- the proximity of the club to the school, and the potential risks of harm to the emotional well-being of children;
- management of the smoking area will depend on the quality and quantity of the door staff;
- there are four other licensed premises in the area, all of which co-exist with residents quite well; another one isn't needed;
- the possibility of the club operating as a sexual entertainment venue in the future;
- how tickets for events will be distributed;
- there was no liaison with the community before the application was submitted;
- potential noise and disturbance at all times of day;
- potential safety issues for residents;
- potential loss of property value;

- the application only concerns the basement - there is no indication of what the applicant may be planning for the remainder of the building.

Members thanked the public for their input, and said that the personal perspectives were useful and interesting. A member felt the point about lack of liaison was very valid, and highlighted the fact that it was a good idea to invite community input early on. A member pointed out that the fact that there are already a number of drinking establishments in the area was not material and could not be considered as a reason to object.

The Senior Licensing Officer agreed all applications must be considered on their merits and where appropriate to grant with conditions to manage the sale of alcohol and other concerns where possible. It is hoped that the management will try to control what happens beyond the premises, and neighbours should take assurance from the fact that CBC has great partnerships with NightSafe and BID, and has been awarded Purple Flag status for its management of the night-time economy

At this point, the Chairman proposed an adjournment for lunch before continuing with proceedings.

BREAK FOR LUNCH

Following the lunchbreak, the Chair asked the applicant to respond to questions from the public before members began their debate.

In response to questions from the public, the applicant confirmed that:

- all events will be ticketed, but how the tickets are distributed will be down to the client. It will depend on the event, and tickets may be sold to charity events, but they will not be distributed on the street, and no member of the public will be admitted without a ticket;
- it is difficult to say precisely what type of dancing will take place, but it will definitely not be lap dancing – is happy for a condition to ensure this;
- the windows of the building are single-glazed; there are no windows in the basement;
- the venue will not be a night club;
- staff will be trained not to sell liquor to intoxicated persons, and will make every effort to stop people from getting too drunk;
- the yard is not part of the licence, not licensable, and will not form any part of the plans;
- no further air conditioning is to be added, so there will be no additional noise;
- the smoking area will be to the front of the building, left of the entrance, and be managed by security staff;
- security staff will attempt to stop illegal parking and encourage guests to park legally;
- there will be two security staff for up to the first 100 people, be that 2, 10 or 80 people; for alcohol-related events, there will be three security staff;
- security staff will be hand-picked from the manager's wide network of contacts; they may move on to other, later-opening venues after the club closes;

- the 30 minutes' drinking-up time helps with dispersal, allowing people to move on at different times, deciding how to get home etc; this will also be encouraged by turning down or off the music and increasing the lights, reducing the chance of people loitering outside when they leave;
- the incident log is included on the licence for good practice, out of concern for neighbours – it is better to have it and not need it than not to have it;
- the club will not be promoted as a family-friendly venue, because it is the manager's personal view that under-18s should not be in venues which sell alcohol. In line with the licensing objective, the club will follow the Challenge 25 policy.

In response to a request for further clarification from the Chair, the applicant confirmed that he would be happy to condition the following:

- glass will only be recycled during the day, not late at night;
- no alcohol will be sold before 6.00pm Sunday to Friday;
- all events will be pre-booked, with a system to show all booking details, and detailed risk assessment.

Member Debate

A member said he understood neighbours' concerns, which largely arise from the previous nightclub on the site, but the applicant has made it clear that this will not be that sort of establishment, and there is no reason why it should attract drug users or other anti-social behaviour, or 'masses' of drinkers. The applicant has confirmed he will take steps to make sure customers observe parking restrictions – if they park unlawfully, it is a matter for the relevant enforcement authority – and that he will take responsibility for guests smoking outside. He felt it unfair and wrong to use the history of the building to judge this case – it is a totally different application.

A member thanked the applicant and objectors for their helpful presentations, which highlighted the issues raised in the written objections, and the points which needed to be addressed – all can now be covered, as conditions. He echoed his fellow member's sympathy with neighbours' concerns but, with the additional conditions, his decision must be realistic, fair and based on evidence, not on anecdotal experience and concerns about what might happen. He said the applicant cannot be conditioned to look after the welfare of children in the locale but only on his premises, and pointed out that the Bottle of Sauce used to attract anti-social behaviour when it was the St James Hotel, but under new ownership and management it fits well into the community - the same can happen with the St James Club. In response to concerns about future plans for the building, he said it is impossible to say what will happen in the years to come, and the committee has to determine the application before it.

While acknowledging that this is a residential area, and that no-one wants anti-social behaviour in their neighbourhood, he reminded people that every licensed premise in town may have some level of anti-social and irresponsible behaviour, which cannot be attributed to this application. The applicant has said the expected capacity of the club will be 85 people who will leave gradually, maybe moving on to other venues – but if they do, it is unlikely that they would come back later to get their cars. And finally, he pointed out that if the licence is

granted and issues subsequently arise despite the large number of conditions, the licence can be suspended and/or reviewed. The application must be determined as it stands.

The Chairman also thanked all contributors for their balanced presentations, and wanted to explore two areas – the management of smokers, and the general safety concerns of neighbours. The applicant has stated that events will be pre-booked for up to 85 people, who will hopefully be well-behaved and well-managed, by and large. He hoped that this would be deliverable, saying that the only way to test it is to try it. He noted that although the area around St James is more residential than it used to be, it is still technically a town centre location, and people leaving the club may well get caught up in the wider night-time economy. He felt that the applicant has gone above and beyond in considering ways in which to manage the situation. He still had some reservations about the management of smokers, but felt confident that other concerns could be covered by conditions.

Following further debate, members proposed a number of conditions to address neighbours' concerns. They were advised by the Legal Officer that it is not possible to include a condition withdrawing the owner's right to apply for a temporary SEV licence in the future, noting that the applicant has confirmed that this is not the intention. The Chairman felt that a highly-conditioned approach would be the best route to take.

Applicant's response and summing-up

In response to further questions and the members' debate, the applicant stated that he was happy to include the suggested conditions and confirmed that:

- the area will be thoroughly cleared of cigarette butts and litter at the end of each evening;
- no drinks will be allowed outside;
- 18th and 21st birthday parties are not the sort of events the venue is looking to attract. Tickets will not be sold for any events other than charity events; all other events will be invitation only, circulated by email or post;
- there is no intention to use the premises as a SEV at any time in the future.

He stated that the building has been empty for 15 years, and no-one has been able to find a use for it which will work. This proposal will have minimal impact on residents, and none on the church nor the school, as demonstrated by the conditions. Once the late-night market starts to re-open after the lock-down, operators will be looking for venues and may want longer hours/fewer conditions than what is being proposed with this application. He said he understands neighbours' objections, but it is not in his interest to cause problems, rather to create jobs and boost the local economy without disrupting people's lives.

Vote

The Chair reminded members of their options: to permit, to permit with additional conditions, or to refuse. The Legal Officer re-stated the proposed conditions:

- maximum 30 minutes' drinking-up time
- smoking, litter management and dispersal policy
- no glass recycling after 10pm
- no alcohol sales before 6pm, between Sunday to Friday
- events to be pre-booked only
- no evening events on Christmas Eve or Easter Saturday
- no admission or re-admission after 11pm

Members voted to permit the application with the above conditions.

3 in support

0 in objection

0 abstentions

The Chair reminded those present of their right to appeal to the Magistrates' Court within 21 days of the decision being issued, and that they will be able to appeal to the council for a review of the licence if their concerns are realised.

He thanked everyone present for their input, and closed the meeting at 2.00pm.

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

There were none.

Chairman