

Licensing Sub-Committee

Thursday, 3rd October, 2013
10.00 - 11.20 am

Attendees	
Councillors:	Andrew Chard, Pat Thornton and Jon Walklett
Also in attendance:	Phil Cooper, Licensing Officer and Vikki Fennell, Solicitor

Minutes

1. ELECTION OF CHAIRMAN

Upon a vote, Councillor Walklett was duly elected as Chairman.

2. APOLOGIES

None

3. DECLARATIONS OF INTEREST

None

4. PREMISES LICENCE APPLICATION

Phil Cooper, Licensing Officer introduced the report as circulated with the agenda. An application for determination for a Premises Licence had been received from Mr Miah in respect of the Ball Room, Bayshill Lodge, Cheltenham. Appendix A of the report showed a copy of the application form.

The applicant has applied for a premises licence for the following licensable activities:

Sale/supply of alcohol, every day from 08.00 to 01.00

Provision of late night refreshment, every day from 23.00 to 01.00

Point 2.3 of the report detailed how Mr Miah would take steps to promote the four licensing objectives.

Representations had not been received from the eight responsible authorities but 3 residents had made representations against the application. The residents objected on the grounds of potential noise disturbance and disorder. Copies of the representations were attached to Appendix B of the report.

The location of the residents properties and that of the premises, are show on the location plan attached to Appendix C of the report.

An internal layout plan of the premises is attached at Appendix D of the report.

Phil Cooper advised the Committee that they must have regard to all of the representations made and the evidence it hears. The Committee must take

such of the following steps as it considers appropriate for the promotion of the licensing objectives with can include:

- Granting the application as requested;
- Modifying the conditions attached to the licence; or
- Rejecting all or part of the application.

Members were referred to point 7.3 of the report and reminded that the Council has a statutory duty to promote the licensing objectives and therefore Members can only give consideration to representations that relate to the likely effect the grant of this licence will have on the promotion of those objectives, these being:

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

Members asked the following Officer questions:

- When asked, Phil Cooper confirmed the eight responsible authorities who were consulted about this application were: Gloucestershire Police, Fire Service, Environmental Health Officer, Planning, Child Protection, Trading Standards, Local Health Authority and Health & Safety Enforcement.

Mr Miah attended the Committee with a colleague and spoke in support of his application. He advised Members that he had been trading since he was 15 years old in this line of business. He felt he was being judged before he had even started trading and wanted people to make a decision after the business had started. Montpellier was now a different culture and he wanted to add something fantastic to the social culture in this area. He confirmed his main priority was not to cause any problems to local residents.

Ms Mitchell attended the Sub Committee to speak on behalf of Ms Willmetts who had submitted a representation against this application. A copy of the representations were attached to Appendix B of the report. Mr Lyons also attended the Sub Committee and had submitted a representation on the grounds of potential noise disturbance.

Mr Lyons said he was worried about the balcony at the top of the premises and that noise disturbance would be caused. In the summer Mr Lyons stated that he had regularly had to close his windows due to noise of talking or smashing glass and felt that 1.00am was too late for this premises to stay open. Mr Lyons said he had lived in his home for 20 years and needed sleep. He felt that closing at 11pm would be more appropriate.

Ms Mitchell asked where customers would smoke outside of the premises and was it intended for customers to use the flat roof balcony.

Mr Miah confirmed customers will smoke outside of the premises like they do at the Montpellier Wine Bar and that the flat roof balcony had been built for use.

The Chairman reminded Ms Mitchell that she must only refer to points made in Mrs Willmetts's representation.

Ms Mitchell stated in agreement with Mrs Wilmett and Mr Lyons that the premises should close at 11pm and felt this was late enough.

Members asked the following questions:

- When asked, Mr Miah stated that he had not applied for the balcony to be used yet but he may do so in the future.
- When asked, Mr Miah confirmed he would place a cigarette bin on the wall of the premises to ensure the pavement did not become littered with cigarettes.
- A Member asked for clarification of where the balcony was on page 39 of the report.
- Mr Miah advised Members that the middle diagram on the plan detailed the balcony and this area would not be for customers' use.
- Sarah Farooqi, Solicitor reminded Members that this area is incorporated with the plan and if the premises licence is granted this area would be authorised for use for the sale of alcohol and late night refreshment. Members should consider this in their deliberations.
- A Member asked for clarification again about where the balcony was and referred to the void section in the first floor plan on page 39 of the report.
- Members felt confused about the plan and after some discussion Mr Miah confirmed the balcony is internal on the first floor and there is an external flat roof space on top of the premises, as shown in the attic floor plan at appendix D of the report. Mr Miah stated that he was not intending to use the internal balcony area (shown as void on the plan) for serving food or alcohol for customer use.
- When asked, Mr Miah stated he was not intending to open seven days a week until 01.00 but wanted the flexibility for customers to have a late meal.
- When asked, Mr Miah said he was unsure if he would be renting out the Ball Room for functions. He stated he wanted to trade like the Montpellier Wine bar and had been in this business for the last 40 years.
- When asked, Phil Cooper confirmed the Montpellier Wine Bar is authorised to sell alcohol from 10.00 to 00.00 every day and the Soho Bar from 10.00 to 00.00 on Monday to Wednesdays, 10.00 to 01.00 on Thursday to Saturdays and 10.00 to 23.00 on Sundays.
- Mr Lyons said that music from these premises woke him up especially during the summer when he had his windows open. Mr Lyons said he was worried about the future.
- The Chairman advised Mr Lyons that these issues must be addressed to Environmental Health and the Licensing Department. This application should be determined on its own merits and other premises should not be discussed today.
- When asked, Ms Mitchell said when the Soho was trading as the Salisbury several complaints were made to Environmental Health but since the change in premises they have reached a compromise with the new owner.
- The Chairman advised the Committee that residents felt that 11.00pm was an appropriate closing time and the applicant had requested until

1.00am. The Chairman asked the Applicant and Interested Parties whether a compromise could be reached with regard to these times.

- Mr Miah said he was happy to trade at the same time as other premises in the area and wanted the opportunity to start trading and then reach a compromise. He asked why his hours of trading should be restricted out of line with other premises in the area.
- When asked, Mr Miah said once he is trading the bins would be stored behind the premises.
- When asked, Mr Miah said he would empty glass into the bins in the morning to reduce noise in the evening. Mr Miah confirmed the bins would be emptied commercially.

In summing up, Mr Miah stated he had been trading in Gloucester in this business for 25 years without any problems. He felt he was being judged before he had started trading. Mr Miah said he wanted the extra hours to enable customers to have a late meal and a drink. He said he would make sure there were no problems to the residents and this was his priority.

When asked, Mr Miah confirmed that air conditioning would be fitted if needed and the builders were currently working on the premises.

Ms Mitchell confirmed Mrs Willmett had suggested a compromise in her representation of the premises opening until 00.00 all week and closing at 11pm on Sundays.

Members retired from the Chamber at 10.45am

Members returned to the Chamber at 11.15am

RESOLVED that;

In respect of the application by Mr Miah for the The Ball Room, Bayshill Lodge, Cheltenham the Sub Committee had read the material presented to it and has listened to all of the evidence and submissions. The Sub Committee in coming to its decision also considered the four licensing objectives, the National Guidance and the Statement of Policy and the decision of the Sub Committee is as follows: -

the application for a premises licence is granted as requested by the applicant in their application subject to the mandatory conditions and conditions consistent with the steps outlined by the Applicant as detailed in the operating schedule which includes CCTV, challenge 21 etc. and to the following conditions:

1. Licensable activities will be restricted as follows: -

Sale/supply of alcohol -
Sunday 08.00 – 23.00
Mon – Weds 08.00 - 00.00
Thursday – Sat – 08.00 – 01.00

Late Night Refreshment –
Mon – Weds 23.00-00.00

Thurs – Sat – 23.00- 01.00

2. That there will be no licensable activities on the balcony and flat roof area

The Sub Committee placed these conditions on the licence for the purpose of promoting the licensing objective of the prevention of public nuisance and the potential for noise disturbance on local residents.

In all other respects the Sub Committee found that the licensing objectives are satisfied and that the conditions imposed on the licence will ensure the licence meets these objectives.

The Interested Parties were reminded that should the Applicant fail to meet the licensing objectives that they could report matters to the Licensing Authority and the Applicant and that the licence could be the subject of a review.

Chairman