

LICENSING SUB COMMITTEE

18 DECEMBER 2015

Present: County Councillor Parry(Chairperson)
County Councillors Kelloway and Murphy

31 : DECLARATIONS OF INTEREST

No declarations of interest were received.

32 : APPLICATION FOR THE GRANT OF A PREMISES LICENCE - BANC, ST MARY STREET

Applicants: Represented by Matthew Phipps and
Cerys Furlong, DPS

Responsible Authorities: Tony Bowley, South Wales Police
Ruth Like, Licensing Department, Cardiff Council

The Application

An application for the grant of a Premises Licence was been received from Voltaire (Cardiff) Limited in respect of BANC, 117 St Mary Street, Cardiff.

The applicant applied for the following:

(1) In respect of the following licensable activities:

1. The sale by retail of alcohol for consumption on and off the premises.
2. The provision of regulated entertainment in the form of recorded music.
3. The provision of late night refreshment.

(2) Description of Premises (as stated by applicant):

“Restaurant with ancillary bar”

(3) Unless otherwise indicated the premises may be open to the public during the following hours and for any hours consequential to the non-standard timings:

Sunday to Thursday: 10:00 to 00:30

Friday and Saturday: 10:00 to 01:30

From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

(4) To provide licensable activities during the following hours:

1. The sale by retail of alcohol for consumption on and off the premises:

Sunday to Thursday: 10:00 to 00:00
Friday and Saturday: 10:00 to 01:00
From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

2. The provision of regulated entertainment in the form of recorded music (indoors):

Sunday to Thursday: 10:00 to 00:00
Friday and Saturday: 10:00 to 01:00
From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

3. The provision of late night refreshment (indoors):

Sunday to Thursday: 23:00 to 00:30
Friday and Saturday: 23:00 to 01:30
From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

Responsible Authority Representations

Mr Tony Bowley addressed the Sub Committee and advised the Members that South Wales Police objected to the application under the licensing objective the prevention of crime and disorder. The premises were located with the St Mary Street Cumulative Impact Zone. Mr Bowley requested that if the Members were minded to grant the application then the following conditions should be applied:

1. No less than 80% of the internal public trading area will be given over to tables and chairs laid out for the purposes of taking meals;
2. On major event days all drinks will be service in non-glass vessels. The only exception will be to seated customers partaking of a substantial table meal.

Mr Bowley advised that he had attended the premises whilst they were still under renovation. These were large premises, located primarily on the ground floor and three smaller rooms in the basement. There was also an enclosed external area to the rear of the premises.

Mr Bowley stated that crime statistics indicate that there is a problem with alcohol related crime and disorder in St Mary Street and this was due to the concentration of licensed premises in the area.

Questions were raised as to whether the premises were a restaurant or a bar. Relying on the written application submitted by the applicant, Mr Bowley suggested that the hours applied for were more akin to the hours of a bar, rather than a restaurant. Public entertainment, in the form of recorded music, was also applied for and door staff would be on duty 'when entertainment was taking place'. Again, this would be unusual in a restaurant setting. Mr Bowley stated that South Wales Police would be greatly concerned if the premises were operated as a bar.

Mr Bowley stated that the application states that the premises would 'predominantly' be a restaurant. He questioned what that meant as it seems that the premises would operate as both a restaurant and a bar.

Referring to the external area, Mr Bowley stated that South Wales Police and the applicant had agreed the following conditions be applied, should the Sub Committee be minded to grant the application:

On days designated as major event days (by South Wales Police) the outside area will be permitted for use with the following conditions applying:-

1. All alcohol to be consumed in polycarbonates.
2. Capacity to be in line with fire risk assessment (approved by fire safety team).
3. No less than 2 door staff to be positioned in the outside area throughout the period of occupation by members of the public.
4. No drinks or glasses (polycarbonates) to be permitted to leave the area (through the gates).
5. No alcohol or opened containers to be permitted outside the front of the premises.

Members were advised that South Wales Police and the applicant had not reached agreement on the conditions suggested by South Wales Police in the written representations received. Mr Bowley stated that the condition suggested in the operating schedule submitted with the application place an unacceptable burden on South Wales Police. Photographs of injuries caused by glass were referred to. A condition restricting the use of plastic vessels on major event days was in 91% of all licensed premises in the city centre. As a result there have been no injuries caused by glass on major event days in the city centre since 2005.

Mr Bowley requested that the application be refused.

Ms Ruth Like addressed the Sub Committee. Members were advised that the Licencing Department, Cardiff Council were also objecting to the granting of a premises licence. There were concerns regarding the operation of the premises and the management of the bar areas within the premises.

Members sought clarification of the outstanding disagreement between the conditions offered by the applicant and those sought by South Wales Police. Mr Bowley stated that the outstanding issues related to the onus being put on South Wales Police to advise the applicant of major event days and the continued permitted use of wine glasses and champagne bottles.

Applicants Representations

Mr Matthew Phipps presented that application on behalf of the applicant. Members were advised that the premises were located on the junction of St Mary Street and High Street and were currently vacant. The hours of operation were legitimate and reasonable and the Sub Committee was asked to consider the application on its merits. Mr Phipps considered that the restaurant would be a fabulous addition to the Cardiff restaurant and bar scene.

Mr Phipps referred to the plan of the premises and described how the premises would operate. The premises were a restaurant but there would also be an ancillary bar area and functions rooms in the basement area. It was not proposed that the sale of alcohol would be tied to the sale of food and the premises would be managed professionally and in line with the applicants other operations in the city.

Mr Phipps stated that the applicants were an award-winning team with a 'stellar' reputation. Members were asked to recall an earlier premises licence application by the Potted Pig to which South Wales Police raised objections, and which following the granting of a premises licence, has provided an excellent facility which promoted the licensing objectives and has helped to develop a food culture in High Street.

Members were reminded the 80% of the premises would be tabled and chairs for dining. The function rooms in the basement were small and can accommodate limit numbers of covers only. The bar facility was critical to the business plan as the premises would not be commercially viable without it. Mr Phipps considered that the premises and the application as it stood reflected a modern hospitality offering.

It was emphasised that the application was for a premises which was seeking to improve the food and drink offering in the city centre by allowing high quality to flourish.

Mr Phipps acknowledged that the conditions suggested by South Wales Police were not agreed by the applicant. The conditions offered by the applicant in the operating schedule were intended to be open and transparent and it was not right to assume that these conditions would undermine the licensing objectives. Mr Phipps challenged the photographs of injuries from glass produced by South Wales Police. Mr Phipps considered that these injuries were not relevant to the application. Only one of the injuries occurred on a major events day, in a licenced premises in Mackintosh Place. The evidence offered was unrelated to major events.

Referring to the application for regulated entertainment, Mr Phipps stated that if Members considered that there was a risk to the promotion of the licencing objectives by offering recorded music, then they should not grant it.

The external area conditions have been agreed if Members were minded to grant. Other than on major event days, there would be a maximum of 5 tables and 20 chairs permitted in this area, limiting the volume of customers. The area would be used as a smoking area.

Mr Phipps agreed to remove that part of the condition offered by the applicant which put the onus on South Wales Police to advise the applicant of major event days. The revised condition would therefore read:

'On days classified as major event days by South Wales Police, all drinks will be dispensed into plastic vessels, with the exception of hot drinks and those drinks service with a substantial table meal to seated persons, wine champagne and/or cocktails.'

Mr Phipps stated that the statistic of reported crime presented by South Wales Police indicate that there is a marked difference between St Mary Street and High Street. In St Mary Street there was on average over 1 incident per day, however on High Street

there was one incident per week. Mr Phipps suggested that the premises would promote the licensing objectives and, therefore, improve crime statistics in the area.

Members were reminded that the majority of recorded crimes occurred between 2100 hours and 0600 hours, with a peak between 0200 and 0400 hours. The application was seeking sale of alcohol until midnight and 0100 on Saturday and Sunday.

Mr Phipps reiterated that the applicant did not accept the conditions suggested by South Wales Police. Mr Phipps questioned the meaning of condition (3) and asked whether South Wales Police considered this condition to be enforceable. Mr Bowley agreed to withdraw that condition.

Mr Phipps referred to the Statement of Licensing Policy. He accepted that the premises were located within a cumulative impact zone and acknowledged the reasons for having that policy in place. However, the policy does allow for an operator to demonstrate that they will be able to promote the licensing objectives and not contribute to any crime and disorder. Furthermore, the cumulative impact zone policy refers to the high concentration of premises in the area, but it was telling that the policy did not include restaurants.

Mrs Cerys Furlong addressed the Sub Committee. Mrs Furlong emphasised that the business was about increasing the quality of food culture in the city. The applicants had worked with a developer who specialised in restoring and preserving older buildings in the city. The applicants were offering an independent, high-quality venue which would increase variety in the City Centre. They were also committed to employing and developing the potential in their staff.

Mr Phipps was asked to clarify the hour at which food would cease to be offered. Members were advised that the minimum hour would be 2300 hours but food may still be offered after that in some circumstances. The Sub Committee also discussed access arrangement for the external area on major event days. Mr Phipps stated that access and egress would only be possible via Quay Street. There would be an estimated capacity of between 150 to 200 people.

Summing Up

Mr Bowley suggested that if minded to grant, the Sub Committee should consider the licence conditions sought by South Wales Police and placed on similar premises in the city centre.

Mr Phipps stated that the premises was looking to provide a high-quality offering and asked with Members considered the conditions requested by South Wales Police were needed. Members were invited to grant the application.

RESOLVED – That the Sub-Committee having considered all the information and in accordance with the requirements of the Licensing Act 2003, the Section 182 Guidance and the Licensing Authority's own Statement of Licensing Policy the Sub Committee granted the application.

The meeting terminated at 12.15 pm

