

IS-BWYLLGOR TRWYDDEDU

DYDD MERCHER, 12 EBRILL 2023

Yn Cynghorydd Michael(Cadeirydd)
bressenol: Cynghorwyr Kaaba a/ac Lancaster

10 : DATGAN BUDDIANNAU

None received.

11 : CAIS AM DRWYDDED SAFLE - CHURCHILL ARMS, CHURCHILL WAY

Application for the Grant of a Premises Licence – Churchill Arms

Applicants:

Carl Ryan represented by
Matthew Phipps of TLT Solicitors

Other Persons:

Councillor Chris Weaver
Eithne D'Auria
Christine Turner

Application

An application for the Grant of a Premises Licence has been received from Group LH Ltd in respect of Churchill Arms, 23 Churchill Way, Cardiff CF10 2HE.

The applicant has applied for the following:

(1) In respect of the following licensable activities:

- (i) The sale by retail of alcohol for consumption on and off the premises.
- (ii) Regulated entertainment in the form of live Music (indoors), recorded music (Indoors) and anything of a similar description (indoors)
- (iii) The provision of late night refreshment (indoors).

(2) Description of Premises (as stated by applicant): "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: 11:00 to 23:30 hours

Friday and Saturday: 11:00 to 00:00 hours

Bank Holidays: 11:00 to 00:00 hours

New Year's Eve: 07:00 to 03:30 hours

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

(i) The sale by retail of alcohol for consumption on and off the premises:

Sunday to Thursday: 11:00 to 23:00 hours

Friday and Saturday: 11:00 to 23:30 hours

Bank holidays: 11:00 to 23:30 hours

New Year's Eve: 07:00 to 03:00 hours

(ii) The provision of regulated entertainment in the form of live music (indoors), recorded music (indoors) and anything of a similar description (indoors):

Friday and Saturday: 11:00 to 23:30 hours

Bank holidays: 11:00 to 23:30 hours

New Year's Eve: 07:00 to 03:00 hours

(iii) The provision of late night refreshment (indoors).

Friday and Saturday: 23:00 to 23:30 hours

Bank Holidays: 23:00 to 23:30 hours

New Year's Eve: 23:00 to 03:00 hours

Applicants Representation

The Chairperson invited Mr Phipps to present the application. Mr Phipps provided an outline of the application and considered it to be a modest application akin to that of a suburban pub application. He stated that the operating schedule addresses all matters regarding public houses and had been written in dialogue with all responsible authorities and approved by South Wales Police and the Licensing Authority. Mr Phipps explained that the objections initially received from South Wales Police had been satisfied with the addition of two conditions and the objections initially received from the Licensing Authority had been satisfied by the addition of three conditions. All objections were therefore withdrawn, which he considered to be significant in that the policy had been considered, conditions agreed, and all concerns attended to.

Mr Phipps referred to the comments in the Licensing Authority objection which noted that the hours were significantly reduced compared to others in the area, Mr Phipps stated that therefore the likelihood of adding to the CIP negatively was negligible at best.

Mr Phipps addressed the issues raised in the ward Member objections. He stated that any application for later hours later would be inappropriate for this subcommittee to consider, as that application doesn't exist. He added that the premises has a planning restriction that prohibits passed midnight so it would need a planning application too.

Referring to the Pulse licence, Mr Phipps stated that it was completely different as it is a nightclub with a licence for later hours and just because the applicant runs that, doesn't mean he can't run a pub with reduced hours.

Mr Phipps drew the subcommittee's attention to the brochure for premises, stating that the décor, design, layout and capacity showed it was a clearly a pub.

Mr Phipps referred to the suggestion that there would be a second application to extend hours and explained that this was wrong as the CIP legitimately includes variation applications and any second application would need to go before subcommittee.

Mr Phipps referred to the commentary regarding the Police position and increased pressure on resources. He stated that there was no evidence presented to support this. He added that there was also no evidence to support the reference to the lack of compliance to the premises licences and that this was scaremongering.

Mr Phipps referred to the many TEN's notices that have taken place with no objections at all.

With reference to the regeneration of the Canal Quarter, Mr Phipps stated that this premises would be entirely in keeping with the Council's ambitions for the area and would provide jobs. It is also very close to Queen Street which also needs investment.

Mr Phipps referred to the occupancy for the premises, explaining that the old licence was for 112 people. This application was for 75 seats so was not very big at all.

Mr Phipps noted that the CIP assessment was based on data from 2019 from SWP statistic of late night Crime and Disorder, which recognised this to be a problem area which can be improved by new styles of businesses. He considered this application would do just that and would actually enhance the promotion of the licensing objectives.

Mr Phipps considered that the only issue that possibly had not been addressed or taken on as a condition was that of litter, he said no one had asked for it but they were happy to offer it.

Referring to the premises being in the Red category due to its location, Mr Phipps considered the core hours should be considered Amber as they are before 1am.

Mr Phipps considered that the letter from the Local Ward Member to residents read as an invitation to support an objection, but only 11 objections had been received from 280 properties.

Mr Phipps concluded that the CIP doesn't ask subcommittee to reject applications like this one.

The Chairperson invited questions from Members who sought clarification that the application was for the inside area only. Mr Phipps clarified that it was.

Members asked for more information regarding door staff. Mr Phipps explained that SWP had put a condition for door staff from open to close on event days, with bodycams to be worn. Mr Phipps added that it is standard not to have door staff if you do not open past midnight, but there would always be risk assessments undertaken. Members considered it would be good practice to have door staff on weekends, Mr Phipps explained that SWP had not asked for this, but risk assessments would be undertaken, and they will have staff, CCTV etc.

The Chairperson invited questions from the Ward Member who asked if door staff had been offered when the original application was made. Mr Phipps explained that it had not, it had been suggested by SWP and then taken as a condition. Cllr Weaver considered it would have been more reasonable to have offered it before being asked.

Cllr Weaver asked if the applicant had measured the distance from the premises to the residential properties. Mr Phipps said they had not, but the premises was in the immediate vicinity of residential properties as were many others in the city centre.

The Chairperson invited questions from the residents present who asked what measures had been taken to address people hanging around after the premises close. Mr Phipps stated that alcohol sales would stop, there would be drinking up time and then staff would be there to operate the dispersal of customers.

Ms D'Auria asked if access to the footpath would still be allowed. Mr Phipps said yes there would be free and proper access to the pavement at all times.

Ms Turner sought clarification on the licence being alcohol sales on the premises only. Mr Phipps explained that the current licence had been transferred to Mr Ryan.

Ms Turner asked if the applicant was aware that there was a gate that attaches the resident's properties to number 23 Churchill Way and it is an exit for residents. Mr Phipps said that yes, Mr Ryan was aware.

Ms Turner asked if any consideration had been given to the proximity of the bedroom windows and how noise would travel. Mr Phipps reiterated that there had been a restaurant there previously and that this application was for the inside only.

Other Persons Representation

Councillor Chris Weaver, Ward Member referred to the Cumulative Impact Policy presumption that a variation would not have a negative impact on licensing objectives and that the onus was on the application to prove this. He referred to the legal implications in the report and the promotion of the licensing objectives and that there was an obligation on the applicant to demonstrate how the application would not have a negative impact on the licensing objectives and how they would be promoted. He added that the subcommittee should consider the changes to the current licence, and that they are a material change, making it a different offer. He noted that other licensed premises in the vicinity are further away from the residential properties, and that they are primarily restaurants which are licensed differently for a reason.

Councillor Weaver wished to explain his objections in relation to each Licensing Objective.

Prevention of Crime and Disorder – Cllr Weaver considered that restaurants are considered a lower risk and have a different policy in relation to door staff. He stated that the original application only suggested a risk assessment regarding door staff and he considered this was remiss of the applicant to believe they wouldn't need this and asked how this promotes the Prevention of Crime and Disorder licensing objective.

Public Safety – Cllr Weaver considered that the lack of door staff increases this risk.

Prevention of Public Nuisance – this was the main objection and Cllr Weaver considered this showed a massive flaw in the application in relation to noise disturbance. He stated that there will be a presence of people outside smoking, talking etc until midnight and he could not see how this would be addressed in the application. He noted that the application stated there would be provision for smoking, there would be a dispersal policy and notices to leave the premises quietly would be displayed, however the fact that there would be an area provided for smokers outside, with no door staff to operate the dispersal policy and refer to the notices, did not give him any confidence. He stated there was no reference to how noise and live and recorded music impacts on the residents bedroom windows that are just feet away. Cllr Weaver noted that Rhys Morgan from the authority had asked that all doors are closed for live music but that Mr Phipps had replied saying inside doors would be closed, Cllr Weaver was concerned about this as in the summer windows would be open and there are families with children living very close indeed. He considered that the applicant had not demonstrated there would be no negative impact in relation to noise and how this would impact on people being disturbed late at night when they have school/work the following day.

Cllr Weaver concluded by saying that this was a significant variation, not moderate. The premises was extremely close to a large number of residential properties and there was no mitigation for noise disturbance. There was also no mitigation with regards to door staff.

The Chairperson invited questions from Members who asked if the ward Members had had any interaction with applicant in relation to his other premises. Cllr Weaver advised that ward Members and residents had made complaints about Pulse and The Kings in relation to noise and access and that these premises were further away than the proposed application.

The Chairperson invited questions from the Applicant. Mr Phipps explained that the applicant had written to all ward Members on 3 April 2023, to engage with them in relation to conditions, but no one had been in touch. Cllr Weaver explained that he didn't think any conditions would address the concerns they have regarding proximity to residential properties.

The Chairperson invited representation from the residents present. Ms D'Auria noted that their homes were built prior to the granting of any licences on Churchill Way and asked the subcommittee to please consider the local residents. She stated that there are children living in the block who would be disturbed by late night noise and would find it difficult to settle when they have school the next day. She added that there were also professional/shift/care workers living in the block. Ms D'Auria added that the residents had made many representations over the years and only last week she had been prevented access passed Pulse due to works being undertaken.

Ms D'Auria stated that the Council is investing in the area to make a place for families to enjoy and she considered that more pubs in the area is not conducive to this. She added that there had been two fatalities in the area, and she assumed these people had been clients of licensed premises. She asked how more pubs in the area could mean it is a safe place for women and girls. She accepted that there would be CCTV

and body worn cameras if required but considered that the focus should be on prevention and keeping the area safe for residents and she asked the subcommittee to consider this.

The Chairperson invited questions from Members who sought clarity on whether there were residents on all floors. Members were advised that there were some commercial premises on the first floor.

The Chairperson invited representations from Ms Christine Turner wished to note the mixed culture and demographic of the residents. She said she feared for the safety of the young women coming home late at night from work or university.

Ms Turner explained that she had also been prevented from walking passed Pulse and had had reason to contact her ward Councillor about this.

Ms Turner considered that an application for outside seating would soon follow and there would be room outside for people to stand and drink. She added that restaurants take bookings and can control numbers, but pubs do not do this, so she didn't think the numbers and seating plan in the papers provided any reassurance.

Ms Turner considered that Pulse and The Kings had been a blight on the area and the applicant also had a licence for The Dock Feeder which had been granted during Covid and is opposite Landmark Place but yet to open. These premises are in addition to this application which is underneath residential properties. She asked that the subcommittee consider residents who live, work and study and want to live in a pleasant place and not have to put up with yet another drinking establishment.

Summing up

The Ward Member wished to stress that their objections were made in relation to all four licensing objectives, and he felt that the application fell short of these, regarding the prevention of Crime and Disorder and the absence of any reference to prevention of Public Nuisance, especially noise.

The public objectors concurred with this statement and considered that public safety would be a big issue.

The applicant stated that they would be happy to remove the application for live and recorded music even though there was no evidence of noise nuisance and that there had been no Local Authority objection.

The applicant explained that all pre-application consultation as required had been undertaken and that the applicant had attempted to engage with the ward members but this had not been acknowledged.

The applicant considered that the objections seemed to have pivoted to location/proximity rather than the original objections. He added that there were many pubs in Cardiff that were surrounded by residential properties and that there were worse case scenarios being presented to the subcommittee.

The applicant stressed that any application for outside seating space would be a separate application.

The applicant explained in relation to the building works outside Pulse, that there had been the appropriate consultation with the Local Authority Highways Department.

The applicant emphasised that from the 280 properties there had been only 11 objections, therefore the majority of people had not objected.

The applicant concluded that this was not an improper application, it was just what the City needs.

RESOLVED:

The subcommittee heard from the applicant and listened to all the evidence and submissions and considered the written material. The subcommittee also considered the Licensing Act 2003 the Section 182 Guidance, its own Statement of Licensing Policy and Cumulative Impact Assessment document.

The subcommittee also heard the representations made by the local ward member and local residents and have considered all written representations made to us.

The premises is located in an area covered by a Cumulative Impact Policy that creates the rebuttable presumption that any new or full variation applications for Premises Licences will be refused or limited unless the applicant can successfully demonstrate that granting the application will not add to the cumulative impact in the area. The subcommittee note that this policy would apply to this application as it is within the area covered by the policy.

The subcommittee note that the applicant has accepted the conditions of both South Wales Police and the Licensing Authority at Appendix C and D of the report and as a result they have withdrawn their objection to this application.

The subcommittee note the concerns from the local ward members that once this application is granted, it may lead to an application to extend the hours at which alcohol can be sold. Any future application to extend the hours at which alcohol can be sold will be subject to the relevant scrutiny of the statutory licensing process and would still be subject to the cumulative impact policy.

After carefully considering the representations made today and the written material, the subcommittee do not feel that the granting of this licence will add to the negative cumulative impact in the area, and there is no evidence that the granting of this application will have a negative impact on the licensing objectives.

The subcommittee therefore resolve to grant the application.

12 : MATERION BRYD (OS O GWBL)

None received.

Daeth y cyfarfod i ben am 12.40 pm