

LICENSING SUB COMMITTEE

7 JUNE 2019

Present: Councillor (Chairperson)
Councillors Derbyshire, Goddard and Jacobsen

60 : DECLARATIONS OF INTEREST

No declarations were received in accordance with the Members Code of Conduct.

61 : APPLICATION FOR THE VARIATION OF A PREMISES LICENCE - PARK LANE FISH AND CHIPS

Applicants: Matthew Phipps, TLT Solicitors on behalf of Park Lane Fish & Chips

Responsible Authorities: Rob Gunstone and Justin Hardwick, South Wales Police
Rhys Morgan, Licensing Officer
Gillian Jones, Noise Pollution, Neighbourhood Services

Other Persons: Councillor Norma Mackie, Ward Councillor

Christopher Hopkins, on behalf of 'Jurys Inns'

The Application:

An application for the grant of a premises licence has been received from Park Lane Traditional Fish & Chips in respect of Park lane Traditional Fish & Chips, 105-107 Queen Street, Cardiff, CF10 2BG.

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) The provision of late night refreshment (indoors and outdoors)
- (2) Description of Premises (as stated by applicant):
'Fish & Chips restaurant and takeaway'
- (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:
Monday to Friday: 09:00 to 04:00 hours

Saturday and Sunday 09:00 to 07:00 hours

Non Standard timings:

On Christmas Eve, Boxing Day, New Year's Eve, New Year's Day and on Sunday preceding bank holiday until 07:00 hours the following morning.

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

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

Monday to Friday: 11:00 to 23:00 hours

(ii) Late Night Refreshment (indoors and outdoors)

Monday to Friday: 23:00 to 04:00

Saturday & Sunday: 23:00 to 05:00

Non Standard timings:

On Christmas Eve, Boxing Day, New Year's Eve, New Year's Day and on Sunday preceding bank holiday until 07:00 hours the following morning.

The Chairperson advised that in respect of the additional information which had been provided by South Wales Police, it had been decided that the information was not relevant to the original representations and therefore would not be considered. The Legal Advisor confirmed that the basis upon which that decision had been taken was that the evidence provided by South Wales Police was not relevant to the application, it was only evidence in support of a Cumulative Impact area; which is something which is already approved and exists.

Responsible Authority Representations

South Wales Police:

Rob Gunstone, on behalf of South Wales Police, submitted that they felt that the evidence was relevant and in support of their general representation of cumulative impact.

Licensing Authority:

Rhys Morgan submitted their objection was on the basis of the Cumulative Impact policy; it was the applicants duty to demonstrate that there will not be a negative impact on any of the licensing objectives, and that this application does not wholly show this. Well run premises are the minimum standard expected from all applicants, in Cumulative Impact area they have to be exceptional.

People leaving late-night licensed premises do not tend to leave the area straight away, they visit takeaways or fast food outlets, they often attract intoxicated individuals. The presence of fast food outlet slows down their dispersal.

Neighbourhood Services – Pollution Control:

Gillian Jones submitted that the application outlines a significant increase in operating hours during a period that people are trying to sleep. Customers at the premises are likely to remain in the area to eat and drink the food they have purchased. There is also seating opposite which would be used.

The premises are directly below a hotel, it is submitted that during the week there is less ambient noise and those using the hotel during the course of the week where people are more likely to be staying there for business rather than leisure. As it is likely customers at the premises will have consumed alcohol they will be speaking louder than they would normally.

Mr Phipps queried whether there had been any contact with the applicant premises following the meeting with the hotel, and was advised that there had been no response although an email had been sent to them.

Other Persons:

Councillor Norma Mackie, Ward Councillor for Cathays submitted that by extending the opening hours there was bound to be an increase in numbers in the area, which in turn would cause more noise and disruption at that time of the night, as a result how can the applicant argue that the licencing objectives would be promoted. There are no similar fast food outlets at that end of Queens Street, it will therefore attract customers from the other areas after the clubs have closed.

It was submitted that whilst information had been provided that staff would pick up litter and empty bins, they could not be responsible for the litter picking all the way down the street. Litter would not be thrown until such times as food is consumed.

There is evidence of complaints being made because of the Fish & Chip Shop, it is submitted that it is therefore difficult to see how the Cumulative Impact Policy and Licensing Objectives can be promoted when the opening hours are extended.

Mr Chris Hopkins, on behalf of Jurys Hotel submitted that he echoed those objections already heard. In relation to the public nuisance objected, the application centres around food being served until 4.00 am during the week. There is a change in the clientele of the hotel during the week. At the weekend it is about enjoying the night life, not so during the course of the week. There has been an increase in the number of complaints about noise levels since the premises license was granted. A further increase in opening hours will only serve to increase the noise and disruption in the area as it is likely that additional people will be attracted to the area.

Mr Phipps, on behalf of the applicant queried whether the applicant premises have been contacted in relation to the complaints about noise. There has been no contact with the Fish & Chip Show but have been in contact with Pulse previously.

Applicants Representations:

Mr Phipps presented the application and submitted that each application has to be judged on its merits. He reiterated that there was no change in relation the sale of

alcohol, the application relates to provision of light night refreshment until 4.00 am on Monday to Friday.

The owners of the premises are experienced operators who operate a number of licensed premises in Cardiff, particularly along Churchill Way. They make contributions to Cardiff's BID; the CCTV at the premises have helped in respect of significant crimes, including the murder outside Matalan; and water is provided to the Street Pastors free of charge. It was a successful business serving a good quality product. There is a seated facility which trades until 5.00 am on the weekend. There have been no incidents at the premises on those days.

There are 29 conditions proposed in this application which cover all issues contained in the policy. It is also proposed, after a conversation with the Police, that the doorman will wear a body worn camera throughout the time they are on duty. Further no glass vessels will be used after 11.00 pm, this is not currently on the licence, it will be done across the board.

Mr Phipps submitted that, as the Licensing Officer had pointed out, reliance on operating without incident alone would ignore the purpose of the cumulative impact policies. There has been complete compliance in respect of these premises, not even any administrative matters.

Statistics have been provided in relation to other light night refreshment premises, a number of which remain open until 5.00 am which show that there have been a large number of incidents at the premises. There have been a large number of incidents at those premises. Mr Phipps expressed concern that there has been a request to refuse the application because of the policy and questioned whether that would be fair and just bearing in mind that there are premises, within the area that have had over 200 incident in a 2 year period.

In addressing issues raised by the parties Mr Phipps submitted the following:

- Any allegations in relation to odour problems was disputed. There was significant investment in the system which is tested and regularly serviced. No concerns raised by the hotel and no dialogue with the applicant premises;
- In relation to ambient noise levels the council's own policy states that a recent taxi demand survey indicated that the highest demand for taxis is between 2.00 am and 3.00 am and this is every night of the week;
- CCTV footage has been provided which shows an external speaker playing music outside the front of the hotel, the footage is from midnight the weekend before last, the purpose of which is either to entertain people in the street, entertain the smokers or to allow customers to see that premises open and have an attractive music based offer inside to tempt people in; and
- A number of conditions have been provided to deal with any litter issues.

Councillor Mackie queried the extent of the area to be covered by staff in a litter pick and were advised that whilst there had been no specific requested, it could be down

to bottom of queen street, to Churchill Way by the Taxi Rank, but not past Burger King.

The Sub Committee were advised that it was not accepted that the CCTV footage that had been provided showing the external speaker outside of the hotel was from a Saturday night at midnight.

In summing up the following points were raised:

- On behalf of Jurys Hotel, complaints had increased over the last 18 months and the grant will only lead to further negative impact which no amount of conditions can address;
- On behalf of Pollution Control, an intensification of use will create more noise will have an effect;
- Councillor Mackie reiterated that footfall in the area will be increased and will serve to cater for people leaving Pulse in the early hours;
- On behalf of the Licensing Authority, consideration has to be given as to whether the application overcomes the rebuttable presumption of the policy;
- On behalf of South Wales Police expressed concern about the dispersal of persons in the area and whilst the premises appear to have a good record, that is what is expected of all premises; and
- Mr Phipps submitted that this application should be not be considered on the basis of concerns, assumptions and general anxiety and that this is an exceptional application because they are exceptional premises.

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 REFUSED the application.

62 : URGENT ITEMS (IF ANY)

No urgent items were tabled at this meeting.

The meeting terminated at 11.55 am