

LICENSING SUB COMMITTEE

20 SEPTEMBER 2019

Present: Councillor Lancaster(Chairperson)
Councillors Bowen-Thomson and Jacobsen

4 : DECLARATIONS OF INTEREST

No declarations of interest were received.

5 : APPLICATION FOR THE GRANT OF A PREMISES LICENCE - CHICKEN COTTAGE, ST MARY STREET

Applicants: represented by Shafiq Hassan

Responsible Authorities: Claire Dewhurst and Tony Bowley,
South Wales Police
Rhys Morgan, Shared Regulatory Services

Others Persons: Councillor Norma Mackie

The Application

An application for the Grant of a Premises Licence was received from Mohammad Ashraf in respect of Chicken Cottage, 108 St Mary Street, Cardiff.

The applicant has applied for the following:

(1) In respect of the following licensable activities:

The provision of late night refreshment (indoors)

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

“Ground floor shop serving hot food to eat in 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 Sunday: 08:00 to 04:00 hours

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

The provision of late night refreshment:

Monday to Sunday: 23:00 to 04:00 hours

Responsible Authority Representations

PC Claire Dewhurst addressed the Sub Committee on behalf of South Wales Police. Members were advised that the premises was located within the Cumulative Impact Policy area and South Wales Police were objecting to the grant a premises licence on the grounds of the prevention of crime and disorder and the prevention of public nuisance. The applicants were seeking a new premises licence for late night refreshment. The previous licence had lapsed on 19 December 2017.

PC Dewhurst listed the conditions offered by the applicant and those conditions suggested by South Wales Police, should the Sub Committee be minded to grant the application.

Members were asked to view CCTV video footage of a disturbance that had taken place on the premises. The premises were open beyond 2300 hours and were selling hot food without a licence. There were no security staff present at the time. The incident was reported to South Wales Police by a member of the public and not by any member of staff at the premises. The disturbance started in the premises and escalated outside the premises until a night time marshal intervened.

South Wales Police attended the premises. The manager, Mr Ashraf, was unable to download CCTV footage. The premises was also not operated the Radionet system and staff were also unaware of the condition which prevented children from being on the premises beyond 2300 hours. Mr Ashraf was given a verbal warning.

On 17 July 2019 South Wales Police received notification from Cardiff Council that the Company which had held the licence had been dissolved. South Wales Police served a notice on the applicant's solicitor advising them that they must cease any licensable activity and seek a new premises licence. The premises had been operating without a licence for approximately 18 months.

Responding to a question from a member of the Sub Committee, PC Dewhurst advised that the condition barring children from the premises, as recommended in the written representations from South Wales Police, was extended from 2230 hours to 2300 hours which was in line with other premises in the area.

Rhys Morgan of Shared Regulatory Services addressed the Sub Committee. Members were advised that as the premises was located within the Cumulative Impact Policy area sections 7.5 and 8.0 of the Statement of Licensing Policy apply, insofar as there was a rebuttable presumption that any new applications would be refused unless the applicants were able to demonstrate that there would be no detrimental impact upon the licensing objectives as a result of the operation of the premises. It was the view of Cardiff Council Licensing that the applicants had failed to demonstrate this.

The premises offered take away food and fell within the high risk 'red' category in the Statement of Licensing Policy. There was little or no reference made to how the applicants would promote the licensing objectives in the application. It was necessary for the applicants to demonstrate evidence of this in order to override the rebuttable presumption.

Rhys Morgan also asked Members to consider the growing number of residences in the City Centre and the impact the premises would have on them. The Cumulative

Impact Policy was implemented to ensure the holistic impact of licenced premises is not lost. The Policy covers the entire City Centre not just this premises, which as a take-away would be a focal point for crime and disorder and public nuisance. Rhys Morgan questioned whether the applicant has sufficiently demonstrated that there would be no adverse impact.

A Member asked whether the business had been trading by using Temporary Event Notices. Rhys Morgan advised that 5 Temporary Event Notice (TEN) applications were received – 3 were returned as they contained insufficient information. Therefore the premises had been carrying out licensable activities for a significant period without a licence or relevant authorisation. The TENs application were submitted following the verbal warning from South Wales Police.

The applicants representative stated that he did not receive notification that TEN applications were refused. Officers stated that notice would have been sent to the email address provided.

Other Persons

Councillor Norma Mackie addressed the Sub Committee as Ward Member for the Cathays Ward. Councillor Mackie was concerned that granting a new licence would increase the amount of crime and disorder within the Cumulative Impact Police area. She was particularly disappointed that the applicant was unable to attend the hearing.

Councillor Mackie stated that the lower end of St Mary Street experienced high levels of crime and disorder and public nuisance. Referring to the CCTV footage, Councillor Mackie considered that the staff in the premises did not deal with the incident well and moved the disturbance onto St Mary Street where other people would be put at risk. There was also not report made to South Wales Police.

Councillor Mackie requested that the application be refused as the premises were not well-managed and they had not complied with previous conditions of licence.

Applicants Representations

Mr Hassan presented the application. Members were advised that the applicants would accept the conditions set out in the written representations received from South Wales Police, other than the condition requiring a body camera to be worn by SIA approved door staff.

Mr Hassan stated that the hours of operation applied for were 0800 hours to 0400 hours. This was curtailed by 1 hour when compared to the previous licence that was on the premises prior to the company being dissolved. There were no complaints regarding noise from the premises and no incidents reported regard children being on the premises beyond 2230 hours.

Staff were instructed not to get involved in incidents involving customers. The premises has a CCTV system in place and a commitment was given to comply with any police requests.

Responding to a question, Mr Hassan stated that the licencing objectives would be upheld through staff training, the provision of SIA door staff and CCTV inside and outside the premises. Rhys Morgan raised concerns that the applicants that the applicant had not sufficiently demonstrated how they would overcome and not contribute to existing problems.

Mr Hassan stated that he had not read the Statement of Licensing Policy.

PC Dewhurst advised that body cameras are used in many premises and are very effective. They provide vital video and audio evidence. Every PC has a body worn camera.

Members of the Sub Committee considered that it was essential South Wales Police had immediate access to CCTV footage as it was important there were no delays in the investigation of crimes. Mr Hassan stated that the CCTV system was in a locked office and the applicants would be able to provide CCTV within 1 hour of any request being made.

Summing Up

PC Dewhurst stated that since 19 December 2017 when the premises licence lapsed the applicant had continued to flout the law. CCTV evidence of a disturbance at the premises was provided but the applicants did not notify South Wales Police of the incident. The applicant was unaware of the Cumulative Impact Policy and conditions of licence.

Rhys Morgan stated that the applicants were unable to demonstrate compliance and urged the Sub Committee to refuse the application as there was insufficient evidence that the licensing objectives would be promoted. The applicant were relying on the South Wales Police conditions. Rhys Morgan advised that he did not have confidence in the management of the premises.

Councillor Mackie stated that she had some initial concerns but she was now more concerned after hearing the representations from the applications representative. The applicants are unaware of their responsibilities and were not present at the meeting.

Mr Hassan stated that he advised his client not to attend the hearing. All Police conditions were accepted, other than that requiring a body camera. There has been no nuisance reported at the premises in the 25 years it has been operating.

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, REFUSED the application. 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 Sub Committee considered that the applicant had failed to successfully demonstrate this.

6 : URGENT ITEMS (IF ANY)

No urgent items were received.

The meeting terminated at 11.30 am