

LICENSING SUB COMMITTEE

26 JUNE 2020

Present: Councillor (Chairperson)
Councillors Derbyshire, Lancaster and Wood

CHAIRPERSON FOR THE MEETING.

Councillor Derbyshire was appointed as Chairperson for this meeting. This was proposed by Councillor Lancaster and seconded by Councillor Wood.

38 : DECLARATIONS OF INTEREST

None received.

39 : APPLICATION FOR THE GRANT OF A PREMISES LICENCE - BURGER KING, ST MARY STREET

Applicant: Mr Chris Baker, Burger King UK represented by
Mr Tim Jones, Mason La Roche Solicitors.

Responsible Authorities: Tony Bowley– South Wales Police Licensing Officer
Mr Rhys Morgan, Licensing Officer Cardiff Council

Interested Others: Cllr Norma Mackie, Local Ward Member.

The Application

An application for the Grant of a Premises Licence has been received from Unionburger Limited in respect of Burger King, 57-59 St Mary Street, Cardiff, CF10 1FE.

The applicant has applied for the following:

- (1) In respect of the following licensable activities:
 - (i) The provision of late night refreshment (indoors)
- (2) Description of Premises (as stated by applicant):

“This application is to operate a Burger King restaurant from 8am until 5am. The current design will be for 52 covers on the first floor and 12 on the ground floor. At 8-9pm it is our intention to close access to upstairs and remove the seating from the ground floor thus making the restaurant take away only. As we already operate existing late night restaurants throughout Cardiff, we are fully aware of the measures we need to take to take”.

- (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 Saturday: 08:00 to 05:00 hours Sunday: 10:00 to 00:00 hours

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

a) The provision of late night refreshment:

Monday to Saturday: 23:00 to 05:00 hours Sunday: 23:00 to 00:00 hours

At the commencement of the hearing Members were advised that the applicant has accepted the conditions suggested in the written representations received from South Wales Police. The applicant also advised that he wished to reduce the open hours to 03:00 hours Monday to Saturday.

Applicants Representations

Mr Baker explained that the site was the old William Hill site with office space above. He also explained that he had altered the opening times to 3am to prevent the impact on the Cumulative Impact Area, so that it wouldn't be a 24 hour business; he stressed that the 3am closing was a 'just in case' and it was likely that the business would close earlier and open later in practice. He also stated that the premises was currently vacant. He had checked the licences of other premises locally and they were until 3am also. Mr Baker explained that he had met with South Wales Police and had agreed to all conditions; he also considered he had improved on the conditions by requesting a closed counter rather than an open counter as was usual for new Burger King Restaurants. Mr Baker explained that South Wales Police had helped with this by writing to Burger King in support of the closed counter. He added that he had suggested 5 of the conditions himself; he was an experienced operator with 2 other premises operating until 5am for many years. Mr Baker made reference to Clause number 7 relating to persons under 16 years of age, and stated that he had not come across this before, but it was not an issue and the SIA door staff would police it. He added that he had suggested no Wi-Fi to dissuade youngsters from congregating. Mr Baker explained that from 9pm the premises would operate as take away only, the upstairs area would be closed and all furniture removed; adding that South Wales Police had suggested 11pm for this but he preferred 9pm. In relation to CCTV, he had offered to install more than the Police had suggested so 16 in total and that the hard drive would be kept for 31 days; the manager trained in its use; it would also help with coverage outside the premises and he noted that there would be no outside area for consumption. Mr Baker said he would have the relevant logs on the premises, he is familiar with the City Radio system and would ask that SIA door staff are first aid trained. Mr Baker offered that the manager of the premises could be a member of the Licensee Forum.

Mr Jones reiterated that all conditions had been agreed. He made reference to the objection received from Councillor Mackie and stated that the reduction in opening hours should go some way to address some concerns of public safety. With particular reference to cyclist deliveries, Mr Baker explained that they use Deliveroo and Just Eat, who both stop servicing the premises at 10pm. In relation to prevention of public nuisance and increased noise to local residents, Mr Baker explained there would be the appropriate signage asking customers to leave quietly and respect the neighbours, these would be placed on the entrance and exit; there would also be signs relating to Clause no. 7, with SIA door staff there to monitor and to disperse any groups.

Mr Baker stated that he had spent some time observing Caroline Street and noted that there were large amounts of people there and no SIA door staff, he considered that this premises would encourage some of those people away and enable them to be better managed; he considered that this would have a positive impact on the Cumulative Impact area. He added that there has been few incidents at the other 2 premises.

Mr Jones explained that the premises would employ around 30/35 people including the manager and that if the property were to remain empty it could attract Anti-Social behaviour and even squatters. There had been no interest in acquiring the building for the past year.

Members of the Sub Committee discussed the differences between this and the other two premises in the City Centre; closing off areas and toilets earlier and providing take away only after 9pm, also the closed counter and how this also protects staff. Mr Baker explained that these things also work better on this premises as it is a smaller site. In relation to the door staff the Members of the Sub Committee were advised that there would be 1 placed on the door and 1 on the landing area at the suggestion of the Police, the distance between the door and landing was around 2.5 metres and the landing provided a good view of the outside area.

Responsible Authorities

Mr Bowley outlined the objections from the South Wales Police. In respect of Protecting Children from Harm; he explained that late night refreshment premises attract predatory men who target youngsters and there has been incidents of young people being robbed, this was why this clause was included in the conditions.

In relation to incidents at the other premises, Mr Bowley referred to case currently in Crown Court where a young man had been stabbed to death. There was no evidence of any incidents at this premises but the other 2 Burger King premises had recorded 20 incidents in 2019, which Mr Bowley considered significant, especially as they are not close to any nightclubs, whereas this premises is.

Mr Bowley was not reassured by the reduction in opening hours and amended plans and the objections remained the same.

Members of the Sub Committee were asked to refuse to the application, but if they were minded to grant, that all the conditions should be included. Mr Bowley considered that if granted there would be an impact on the crime and disorder in the area.

Mr Rhys Morgan addressed the Sub Committee. Mr Morgan referred to Chapter 8 of the policy and that the premises was in the Red category; he explained that there was a rebuttable presumption that the application would be refused unless the applicant can convince the Sub-Committee that he can overcome the rebuttable presumption and promote the licensing objectives.

Other Persons Representations

Councillor Norma Mackie addressed the Sub Committee. Councillor Mackie explained that she was pleased about the reduction in opening hours proposed and the information in relation to delivery cyclists but that it was not enough to address her concerns. She considered that the location of the premises would encourage more people to that area late at night and that would mean another area for the Police to cover and they are already very stretched. Councillor Mackie noted the SIA door staff but stressed that they are not Police. She noted that the clubs don't close until 4am but stressed that many people leave before then and would be attracted to the premises.

Councillor Mackie referred to the rebuttable presumption and considered the applicant had not shown that there would not be an impact on the Cumulative Impact area. Councillor Mackie asked for consideration of Clause no.7 with Cardiff being a Child Friendly City, she would not want to see young people left outside the restaurant alone. Members of the Sub Committee were asked to refuse the application.

Summing Up

Mr Baker reiterated his point that the premises would disperse people from Caroline Street and they would be better managed with SIA door staff. He did not agree that the premises would increase footfall to the area as he considered that the people were already there. He found the comments around under 18's interesting and agreed there were issues with County Lines and predatory men in Cardiff which needed to be looked at. Mr Jones added that Mr Baker was a very experienced professional operator with 23 years' experience and 2 other City Centre premises. The safety and security of customers and the public was paramount. Mr Jones considered that the application was exceptional when looking at all the elements such as experience, CCTV, signage, nature of staff, first aid trained door staff etc. and that the combination of these would enhance rather than add to the negative cumulative impact. He asked that the refusal be rebutted.

Mr Bowley reiterated that the reduction in hours doesn't placate the Police's objections at all; he has explained some of the serious incidents that have happened at the other 2 sites and he had no reason to think that the same wouldn't happen here. The incidents have been severe and a disproportionate amount of people had been hospitalised and one death. He explained that the Police have to deal with the cumulative impact if granted, he noted the information about the counter and the SIA door staff but considered he had heard little about how the premises would not impact. Mr Bowley stressed that he had no issue with the business operating for 18 hours but not for late night refreshment as he found it impossible to see how it would not have a detrimental effect and he asked the Sub Committee to refuse the application.

Mr Morgan explained that the Licensing Authority should consider its Licensing Policy. He added that the rebuttable presumption is there and the Committee needed to decide if the application had done enough to overcome the presumption and promote the licensing objectives. The application needs to be exceptional and he did not consider this application to be of this standard. He added that the area is

densely populated with takeaways, they encourage people to stay in the area and slow down their dispersal. Information from the Health Board supports that the higher number of people on the street, the higher the number of incidents.

Councillor Mackie addressed the Sub Committee and reiterated her previous concern with particular reference to the increase in people on the street and the evidence of the issues this causes and asked the Sub Committee to refuse the application.

RESOLVED: 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.

40 : APPLICATION FOR THE GRANT OF A PREMISES LICENCE - GRANNY
MAC'S, CITY ROAD

Application withdrawn.

41 : PERSONAL LICENCE APPLICATION

Applicant: Applicant A

Responsible Authority: John Crowther– South Wales Police Licensing Officer

The Application

An application for the grant of a Personal Licence has been received from Mr Griffiths.

The report and appendices relating to this item are exempt from publication as they contain exempt information of the description contained in paragraph 12 and 13 of Part 4 and Part 5 of Schedule 12A of the Local Government Act 1972. The public may be excluded from the meeting by resolution of the Committee pursuant to Section 100A(4) of the Local Government Act 1972 during discussion of this item.

RESOLVED: That this item be considered in closed session. 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 Personal Licence.

42 : URGENT ITEMS (IF ANY)

None received.

The meeting terminated at 1.32 pm