

## LICENSING SUB COMMITTEE

8 JANUARY 2021

Present: County Councillor Mackie(Chairperson)  
County Councillors Ford and Goddard

### 4 : DECLARATIONS OF INTEREST

None received.

### 5 : APPLICATION FOR THE GRANT OF A PREMISES LICENCE - CHILLI FLAMES, ST MARY STREET

Applicants: Mr Tahir Nadeem (TN Ventures Ltd) represented by  
Professor Roy Light (St Johns Chambers)

Responsible Authorities: Tony Bowley, Licensing Officer, South Wales Police  
Jay Sampson, Licensing Officer, Shared Regulatory  
Services

An application for the Grant of a Premises Licence has been received from TN Ventures Limited in respect of Chilli Flames, 95 St Mary Street, Cardiff, CF10 1DX.

The applicant has applied for the following:

(1) In respect of licensable activities:

(i) The provision of late night refreshment (indoors)

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

“A hot food take away and dine in establishment”

(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: 11:30 to 04:00 hours

Sunday: 12:00 to 04:00 hours

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

a) The provision of late night refreshment indoors:

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

### Applicants Representations

Prof. Light explained that the application was for late night refreshments for the hours 23:00 to 04:00. He noted that there had been representations from South Wales Police and the Licensing Authority, but no representations from residents, business or other responsible authorities. The two representations that had been received had been based on the premises being in the Cumulative Impact Area. He added that the premises had previously held a licence for other licensable activities from 2006-2016. He added that the applicant was the director and manager of the premises,

with experience in the retail fashion business. The applicant had experience with this premises since February 2018.

Prof. Light referred to the premises plan and noted that the ground floor was the restaurant area with 50 seats and toilets and the basement was for storage. There had been no complaints or incidents at the premises, but as it was in the Cumulative Impact Area there was a rebuttable presumption to refuse the application and the applicant has to prove the application is exceptional. He added that the Cumulative Impact Policy was not absolute and that each application should be considered on its own merit; it was up to the applicant to persuade the sub-committee that it's unlikely to add to any negative impact in the CIA.

Prof. Light explained that when the premises was taken over in February 2018, the applicant did not realise he needed a licence to sell hot food after 11pm; he traded for 18 months until 3 or 4am without a licence, but with no issues at the premises. The police had visited the premises in November 2019 to ask to see CCTV footage to assist with an incident elsewhere and it became apparent that there was no licence in place.

Prof. Light also explained that the applicant had also applied for 8 Temporary Event Notices until 4am over the last 2 years, with no issues and without undermining the licensing objectives.

Prof. Light considered that areas can be improved by the introduction of premises that are different to vertical drinking establishments, this applicant was not a restaurant but it was a cut above the usual fast food take away in that the customer orders food and it is freshly prepared, with healthy options available.

Prof. Light explained that the business had moved into what was the Fantasy Lounge, which did sell alcohol, so this premises has effectively reduced the alcohol sales in the Cumulative Impact area.

Prof. Light added that the Cumulative Impact Policy was primarily aimed at larger venues that all close at the same time so there are large volumes of people on the street at the same time; there were staggered closing times for late night refreshment premises. There are already food premises in the area so having an additional one would offer people more choice and would assist in dispersing people between them.

The applicant had agreed the conditions put forward by South Wales Police with regards to CCTV, door staff with body cameras, there would be no external dining area, they would have an incident book; there would be no under 16's after 23:00; there would be a sign at the till detailing this.

Mr Bowley asked what makes the application exceptional and Prof. Light stated that there had been a lull of a year between licences at the premises and in fact the licence could have been transferred which would have enabled alcohol sales; this application was asking for less than that and for lesser hours than the previous licence.

#### Responsible Authority Representations

Mr Bowley stated that South Wales Police were objecting on licensing objectives Crime and Disorder, Public Safety and Protection of Children from Harm; he noted

that the previous application had been refused and he could not see many differences with this application. He did note that the conditions offered were very similar to those that South Wales Police had offered previously.

Mr Bowley was under the impression that the Fantasy Lounge had surrendered the previous licence on the understanding they would be granted the same licence at a premises a few doors away.

Mr Bowley noted that the documents served were much the same as served on the previous application, but drew Members attention to the crime statistics of which there were 130 recorded incidents/crimes on St Mary Street alone, mainly common assault and battery, thefts, drunk and disorderly and sexual assaults; with only 13 shoplifting incidents recorded during the day time. He added that during the pandemic when premises were allowed to open until 10pm, most incidents recorded occurred outside late night refreshment premises, police had had to be deployed to St Mary Street and Caroline Street and the local authority had had to close premises.

In relation to TEN's Mr Bowley explained that the Police had never been successful in objecting to these in relation to the Cumulative Impact Policy.

Members asked in relation to body worn cameras, whether the Police would want one on each member of door staff or just one camera; Mr Bowley stated they would be happy with one camera.

Prof. Light referred to 'reported crimes' and noted that not all of these would have been witnessed by the Police as many are reported after the event. He added that all these incidents would have been presumed to be alcohol related due to the time of night they occurred, Mr Bowley agreed with these statements.

Prof. Light noted that the papers for the meeting did not include the Licensing Policy and while committee members would be aware of it, it puts the applicant at a disadvantage. The Chair agreed that they would look at including it in the papers going forward.

Prof. Light referred to an email received from the licensing authority stating that the Fantasy Lounge licence had been removed by variation and that the upstairs was still licensed. A discussion took place around where the Fantasy Lounge is currently based and officers confirmed that it is still operating above Chilli Flames and was licensed. Prof. Light stated this was important to the application as the application was asking for less than the previous licence.

Mr Sampson 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.

### Summing Up

Mr Bowley stated the application was for a fast food take away in the Cumulative Impact Area; the policy aims to limit the number of these. He considered that the application was not exceptional. He considered that late night refreshment premises cause people to stay in the city centre longer and evidence shows that more

premises there are the more people stay, rather than the people being dispersed between more premises. Mr Bowley stated that this application was the same as the last application which was refused on solid grounds.

Mr Sampson reiterated 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.

Prof. Light reiterated that each application should be looked at on its own merits and that this application included the use of body worn cameras. He added that the application was exceptional in that the premises had operated for 18 months with no issues and was therefore unlikely to add negatively to the cumulative impact in the area.

Prof. Light added that there had been 8 TEN's events until 4am with no issues; the premises was a quality premises with higher class fast food, and with no alcohol licence on the ground floor it would be a net gain for the area. The conditions had been welcomed by the applicant and he asked that the sub-committee consider the exceptional application as it would be unlikely to add to the negative cumulative impact and to grant the application with the conditions suggested by South Wales Police.

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, GRANTED the application.

6 : URGENT ITEMS (IF ANY)

None received.

The meeting terminated at 11.30 am