

LICENSING SUB COMMITTEE

26 MARCH 2021

Present: Councillor Mackie(Chairperson)
Councillors Lancaster and Derbyshire

1 : DECLARATIONS OF INTEREST

No declarations of interest were received.

2 : APPLICATION FOR THE GRANT OF A PREMISES LICENCE- TERRA NOVA, ROATH PARK

Present:

Applicants:

Nickolas Lukaris
Represented by Iain Wright

Other persons - objectors

Cllr Bablin Molik
Cllr Robert Hopkins (representing J & M Booth-Martin)
Faaizaa Nahar
Haydn Morgan
Dorian Brunt
Iain Wright
Andrew Watts
Klaus Ueber

Other persons – supporters

Simon Field
James Ganderton

The Application

An application for the Grant of a Premises Licence has been received from Nickolas Paul Lukaris in respect of Terra Nova Café, Roath Park, Lake Road West, Cardiff.

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 the premises
- (2) Description of Premises (as stated by applicant):

“Café restaurant on the water’s edge at Roath Park”

- (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 23:00

- (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 Sunday: 12:00 to 23:00

A site map showing the premises and a plan of that premises can be found in Appendix A.

Applicants Representations

Mr Iain Wright presented the application on behalf of the applicant. Members were advised that Mr Wright was a professional trainer for the British Institute of Innkeeping. He was approached by the applicant to put policies and practices in place that would demonstrate due diligence in the application and the management of the premises.

Mr Wright was familiar with the premises and he was aware of the concerns of the local community. Mr Wright accepted the park had been negatively impacted upon as a result of the coronavirus pandemic. However, this negative impact cannot be levied at the Terra Nova café. Mr Wright considered that the granting of the application would not negatively impact upon the licensing objectives due to the operating schedule and steps taken by the applicant to promote the licensing objectives. Members were asked to note that no representations were received from South Wales Police and the representation received from Environmental Health was withdrawn as the applicant had agreed to accept the conditions set out in the representation received.

Mr Wright stated that there was already a Personal Licence holder employed at the premises and Mr Lukaris and another member of staff will apply to become Personal Licence holders also.

Mr Wright stated that he has taken time to read the representations received from local residents and they are understandable. However, concerns were raised that the residents did not fully understand the Licensing Objectives. The operating schedule has been amended with a view to addressing issues set out in the letters of objections received. Mr Wright provided a summary the amendments, including to reduce the hours for the sale of alcohol from 23:00 to 21:00, no alcohol to be taken out of the premises and the provision of litter bins.

Members were asked to note that Cafes with premises licences can be found around the country. Hyde Park for example has several licensed premises. Victoria Park in Cardiff also has a licensed cafe. Police records show that there have not been recorded instances of crime, disorder or public nuisance associated with that facility.

Terra Nova is located completely within the gated section of Roath Park. Numerous Temporary Events have been held at the premises without any issues. South Wales Police have confirmed that there is no evidence of crime and disorder or nuisance as a result of the TENs applied for since 2011.

Mr Wright stated that this application does not resemble a public house in any way, shape or form. There will be no bar, no jukebox and no sports facilities. Alcohol will only be sold and served to seated customers partaking in meals. No alcohol will be taken off the premises. All staff will be comprehensively trained in the policies relating to the sale of alcohol. Records of training will be available for inspection.

Mr Wright considered that the premises – it is fully enclosed which makes it a very easy premises to manage. He could not see how the premises being open until 21:00 would cause an issue for the community.

Responding to questions from the Sub Committee regarding off sales, Mr Wright confirmed that no alcohol will be consumed in any external areas and no alcohol will be permitted to leave the premises under any circumstances.

The applicant confirmed alcohol will only be served with a meal. Members asked whether it would be possible for a customer to have a meal and then continue drinking alcohol throughout the day. Mr Wright stated that it wouldn't be in the businesses interests to allow customers to do this.

Questions were then permitted from local ward Councillors and residents. With reference to security Mr Wright advised that alcohol will be strictly controlled on the premises. The applicant does not want to cause any negative impact on the surrounding areas. The premises will be well managed and with the policies that they have in place to deal with issues. A ward Councillor sought to clarify whether alcohol only be served inside, as the current lease allows consumption off the premises. Mr Wright responded that alcohol will not be allowed to be taken off the premises. The Licensing Officer confirmed that that this would form a condition of licence and any breach of the condition would be an offence.

Local residents also sought clarification of the rationale for granting permission for sale of alcohol until 9.00pm. The Chairperson indicated that the licensing function is separate to planning. The opening and closing times of the park were also not a consideration for the Sub Committee.

Other Person's Representation

Councillor Robert Hopkins addressed the Sub Committee. Councillor Hopkins raised concerns regarding the potential for an increase in crime as a result of the application. Members were asked to consider that selling alcohol will add to the issues nearby residents face. There were also public safety considerations and an increased risk of accidents due to proximity to lake and boats. The area is also poorly lit.

Local residents has raised concerns regarding increased noise, litter, alcohol and drug use in the park. Councillor Hopkins considered that this may affect the park's Green Flag status and it will fundamentally alter the character of the venue.

Councillor Hopkins acknowledged that this the premises licence application does not relate to the operation of the park. However, he considered that they were linked.

Councillor Molik stated that her colleague had covered much of what the points she wished to raise. Members were asked to note that the area is not well lit intentionally in order to support wildlife.

The Sub Committee asked whether Councillor Molik and her constituent's concerns would be allayed by the amended application and knowing that the premises opening will still be dependent on the park being open. Councillor Molik considered that granting the application could impact on future decisions, e.g. an application to revise planning consent.

Faaizaa Naher raised concerns about using examples like Hyde Park. Ms Nahar considered that it was not a fair comparison as the two parks were not the same. Furthermore, there was not much public transport nearby and the provision of taxis was unlikely to be sufficient.

Mr Dorian Blunt considered that consideration of the application should be adjourned as the original application applied for sale of alcohol until 2300 hours. The Legal Officer clarified that the application can be amended at any time. The applicant was entitled to consider the representations received from local residents and to amend the application accordingly.

Mr Blunt also considered that the application should be rejected as Council's green flag award would be put at risk. Personal security, litter and waste management are part of the criteria and an alcohol licence in an unlit park was likely to result in additional littering and debris. A Member of the Sub Committee asked why Mr Blunt considered that littering would become problematic as no alcohol would be permitted to leave the premises. Mr Blunt stated that if more people were to use the park there will be more litter.

Mr Andrew Watts raised concerns regarding public nuisance and the increased noise from parked cars. The café was formerly closed before sunset. Mr Watts quoted from statements made by Councillors at the time of a previous planning application. Members were asked to refuse the application. The premises were located within a conservation area; a residential area with a park in the middle. Residents properties are only 40m from the café and noise travels across water and more so after dark. Mr Watts stated that he has been woken up at night and he has had to call the police due to noise from the park.

Members noted that the application seeks to serve alcohol inside the premises. Mr Watts was asked whether this would allay your noise concerns. Mr Watts stated that noise nuisance is occurring regularly due to the park not being locked. He was concerned that people come out of the café and congregate before leaving and therefore the licence shouldn't be granted until the planning issues are resolved.

Mr Klaus Ueber stated that he lives 35m from the café. Mr Ueber understood the licensing objectives and that the Sub Committee remit is limited to consideration of those objectives. Mr Ueber considered that it was naïve to restrict this to the

confines of the building and not the wider park. Mr Ueber's main objection related to the affect granting the application would have on the amenity of local residents. The premises Operating Schedule only relates to the premises. Mr Ueber suggested that extra lighting will be required as residents have safety concerns. There were also concerns raised regarding extra noise from increased traffic and parking.

Mr Simon Field advised that this family has lived on the lake for 20 years. He was grateful that gates are being left open and he is able to use the park outside peak hours. Mr Field considered that as long as the café is well managed then the premises would add to the amenity of the area. After hearing the applicant's submissions Mr Field was confident that the premises would be well managed. Mr Field also stated that he received a letter through saying that the café would become a nighttime pub and therefore many those making objections may not understand what the application is seeking to achieve.

James Ganderton stated that he could see no correlation whatsoever between the application and the issues of litter and drugs in the park.

Summing Up

Councillor Hopkins requested that Sub Committee give full weight to the objections received, especially from those living in close proximity. Councillor Hopkins felt that the considerations raised previously were still relevant. There was some scepticism that conditions will be abided by.

Councillor Molik stated that the issues she had raised were the issues raised by local residents and not those living further afield.

Faaizaa Naher considered that the sale of alcohol could not be controlled. There was a risk of drink driving from lack of public transport and the enclosed area would increase health risks during a pandemic.

Haydn Morgan stated that the proposal will cause chaos for residents as there was no bus service.

Andrew Watts stated that residents did not object to the sale of alcohol. There are concerns regarding the extended hours.

Klaus Ueber objected to the commercialisation of this facility in the night time

Simon field considered that there has been a negligible increase in crime and disorder in the park during the extended opening hours.

James Ganderton felt that the issues around the opening of the park and the premises application are separate.

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, APPROVED the application.

The Sub Committee noted that the applicant accepted the conditions from Environmental Health (Noise Pollution) prior to the hearing. These amendments are as follows:

- The retail sale of alcohol will be amended to 08:00 to 21:00 (was 23:00)
- Alcohol will only be sold and served with meals to seated customers and will not be allowed to be taken off the premises
- Each member of staff if not a Personal Licence Holder will be authorised to sell or serve alcohol only after being issued with an Essential of Alcohol Workbook and face to face training which will be documented, signed for, entered in the training file which will be available for inspection.
- A Designated Premises Supervisors Due Diligence File will be kept on the premises and available for inspection.
- A checklist containing in excess of 40 points which if addressed minimises the risk of the premises causing problems and safeguards the local community.

The Sub Committee recognised the concerns of the objectors. However, in determining this application, the Licensing Sub Committee can only consider issues that impact the licensing objectives as a result of the licensable activity.

The Sub Committee gave regard to the representations from local residents and local ward Councillors, but felt that no evidence was presented that the granting of this application would undermine the licensing objectives. Where there is no evidence that a Premises Licence will undermine the licensing objectives, there is a presumption to grant the application. If there is evidence that a licensed premises is undermining the licensing objectives, the Licensing Act 2003 allows residents to apply for a Review of the Premises Licence.

In light of the above, the Sub Committee considered that the applicants had successfully demonstrated that this application would not negatively impact on the licensing objectives. Members therefore resolved to grant the application, subject to the additional conditions outlined above.

3 : URGENT ITEMS (IF ANY)

No urgent items were received.

The meeting terminated at 12.30 pm