

LICENSING SUB COMMITTEE

27 JULY 2022

Present: Councillor Michael(Chairperson)
Councillors Jenkins and Kaaba

5 : DECLARATIONS OF INTEREST

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

6 : APPLICATION FOR THE VARIATION OF A PREMISES LICENCE - THE BIRCHGROVE INN

Present:

Applicants: Leanne Morrall (Area Manager), Claire Robertson
(Regional Manager) & Carly Booth (DPS) – Marstons PLC
Represented by: Michelle Hazlewood – John Gaunt
Solicitors
Other Persons Mrs Fenella Bowden
Mr Alwyn Meredith

An application to vary a Premises Licence has been received from Marston's PLC in respect of The Birchgrove Inn, Caerphilly Road, Cardiff.

The applicant has applied for the following:

(1) Description of the nature of the variation (as stated by the applicant):

“Application is made to vary the Premises licence. The premises is to have the benefit of a substantial refurbishment which will case work to be undertaken to both the interior and exterior of the premises.
Application is made to amend the Premises Licence in respect of three elements:

1. Application is made to vary the internal and external layout of the premises as described in the drawing 04.22/93114/40, set out in Appendix A of the report
2. Conditions
A review of the conditions has been undertaken and it is noted that some conditions make reference to the former owner and operator of the premises and/or areas which no longer exist, and the conditions in relation to children needed to be updated.

The additional conditions proposed and accepted by South Police can be found at Appendix B to the report and the conditions proposed by South Wales police and agreed by the applicant are attached at Appendix C.

3. Name

On reopening the premises will be known as the Birchgrove Inn. The applicant seeks to amend the name as part of the application.

No changes are proposed with regard to the hours for licensable activities or opening. It is not envisaged that the proposed changes will adversely impact upon the four licencing objectives.

The front external area has been used extensively in the past without issues arising.

The new external area is encompassed by fencing therefore providing control and noise mitigation. As such, the operating schedule save for the amendments set out above has not been amended.

- (2) 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: 10.00 to 00.00 hours

- (3) 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: 10.00 to 23.30 hours

- (ii) The provision of regulated entertainment in the form of indoor sport, live music (indoors), recorded music (indoors):

Monday to Sunday: 10.00 to 23.30 hours

- (iii) The provision of late night refreshment (indoors and outdoors):

Monday to Sunday: 10.00 to 23.30 hours

Application

Michelle Hazelwood of John Gaunt solicitors presented the application.

She provided background information, namely that the application was made on behalf of Marston's PLC who had acquired 140 pubs previously operated by SA Brains, to ensure their longevity. There has been large capital investment in the pub, amounting to £500,000. The pub has been completely renovated and everything replaced.

The Birchgrove Inn as it will be known, as it no longer has rooms, has been completed refurbished to a very high standard. The aim is for it to become a family and female friendly pub. There has already been an increase in food sales and there are more ladies at the premises, certainly at lunch time.

The Sub-Committee noted that the conditions suggested by the applicant and South Wales had been agreed by all the parties. There would be no representations from South Wales Police.

Ms Hazelwood addressed the committee on the basis of the objections raised:

- An extract from the Land Registry and historic conveyances have been provided. It was submitted that there is no issue with ownership and that ownership is not relevant to this legislation; it is not something that is dealt with under the Licensing Act. The same applies to the objection on the basis that there had been no planning application.
- Ms Hazelwood on behalf of the applicant accepted that Caerphilly Road was a busy road, there are double yellow lines on the road, there are a number of commercial premises nearby and there is also a school. Any difficulties would be a matter for the Highways department to deal with.
- With reference to light pollution, there have always been lights in the external areas of the premises, further lights have now been installed. The lights now installed are low wattage, 5 watts or less and are not as bright as the previous halogen lighting. No complaints have been received from residents at the front of the premises; the light is less and down focused and defused.
- Dealing with crime and disorder South Wales Police have confirmed that there have not been any complaints arising from incidents at those premises; no crime and disorder and anti-social behaviour is generated from the premises. There is reference to an incident, which was in relation to a wake; a booking had been received which was then cancelled as a result of concerns had been raised by the local police. Any difficulties thereafter were not caused by the premises.
- No noise complaints have been received; there has been live music at the premises for the last 15 – 20 years, normally that would be at the back of the premises but that has now become a dining area and in due course it is hoped that it can be used for private hire. The bands have now been moved to the front of the premises. The licensing authorities have confirmed that they are happy that the premises are operating in compliance with the conditions.

Astro turf has been put down at the back external area, this helps with the noise when the barrels are delivered. There are now

benches and umbrellas, probably enough room for about 16 people. Since completion of the refurbishment and use of the external area there have been no complaints.

- In relation to the smoke pollution, the objective is for the external back area to become more family friendly. Ash trays will not be put in that area and smokers will be signposted to the separate smoking shelter, however, it is not possible to physically stop people smoking in that area.
- It is accepted that there were difficulties with congestion on the pavement outside the premises when all the new glassware and equipment was delivered; there was a large amount of cardboard which had to be disposed of. As the premises is now into normal trading that will not be repeated.

The pavement is wide outside of the premises, unfortunately it is not possible for the applicant to stop mums parking on the pavement to take their children to school; the postman and the bin men. The applicant does not have enforcement powers.

The dray operation has not really changed, people can still walk in front of it on the pavement.

As a result of questions from the Sub-Committee and other parties the following information was provided:

- Members were advised that in relation to the cancelled wake a telephone book had been received for 100 people, food had been made in accordance with the instructions; however in light of a conversation the local PSO and the regional manager it was decided to cancel the booking. The pub was just closed and the deposit was returned the following day.
- Since completion of the refurbishment the bin area is now functioning normally, the bins are locked down and brought out on the relevant collection date. A member of the relevant team came to check the position recently and was content with the arrangements.

The bins remain in the locked area until such times as they are pulled out for collection; twice a week.

- The objectors were advised that the outside seating area was not unlicensed at any stage as there was an off sales licence.
- Ms Hazelwood advised that there had been consultation before the refurbishment was undertaken, particularly regarding some of the heritage items; the open fire, and the dragons. The local community wanted those items kept. Further, that the frontage to the public house is certainly shown on a 1929 conveyance, the

current footprint is almost identical to that described in that conveyance.

- Mr Meredith expressed concern that the notices had been displayed incorrectly, and not on the window as they were supposed to be. The Licensing Officer had advised that the positioning of the notices had been checked, as is the norm, by a member of the team and they were displayed correctly.

Objectors Representations:

Fenella Bowden addressed the Sub-Committee. She accepted that the land ownership and lack of planning were not matters for this sub-committee. She expressed concern about the lack for formal consultation, particularly bearing in mind the impact of the changes on the local area. Whilst she notes the comments made in relation to the lighting she is concerned about how close it is to number 5 Birchgrove Road.

She referred to the photographs provided in the papers, and submitted that there are ashtrays on the tables; she believes that it is too close to residential properties and no considerations have been made in that regard.

There are concerns about parking outside the premises and the deliveries. The deliveries are creating highway congestion. Previously there had been moveable bollards on the pavement outside of the pub, and that one bollard could be removed for the managers car to be parked there when space was needed whilst the dray was delivered. It is something that should be brought back into use. It would avoid people parking on the pavement.

Mr Meredith submitted that he brought the house for his son, his son cannot use the garden because of the noise and the smoke. It is his wall against which the tables and umbrellas are. The wall was blown and cracked. There are bins on the road all the time, the delivery vehicle blocks the pavement; it won't be long before someone is injured or killed. He stated that the old yard should be put back the way it was before the refurbishment which provided extra space for the dray.

The applicant advised that there had been a meeting about the boundary wall with Mr Meredith. When the work was undertaken a lot of painting was proposed the render on the wall was in such a state that it would need to be sealed before it was painted. All this was communicated to Mr Meredith who proposed that the whole wall be re-rendered at Marston's expense. However, they felt the cost was excessive and therefore proposed sealing the wall before painting. That offer was declined.

Summing Up

In summing up Mr Meredith said that the new external areas were too noisy and also led to issues with traffic.

Ms Hazelwood summed up by saying that the premises have sat next to each other for 100 years; there have been no complaints. Officers from South Wales Police and Environmental Health have all been to the site and are have voiced no concerns.

The suite of conditions that have been agreed between the parties are appropriate and proportionate. The pub does have the benefit of off sales, the external areas can be and have been used. The application is made to ensure transparency and accountability to those involved and the public.

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 heard from the applicant and listened to all the evidence and submissions and considered the written material. Members also considered the Licensing Act 2003, the Section 182 Guidance and Statement of Licensing Policy.

The Sub-Committee heard from the applicant and heard representations made by members of the public and also considered all written representations made. It was also noted that, prior to the meeting, the applicants accepted the proposed conditions from South Wales Police at Appendix C of the report.

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. It was noted that this premises already has a premises licence that includes off-sales, so they have been permitted to use the outside space. There were also a number of issues relating to parking and the ownership of the land that falls outside of the remit of this committee.

The Sub-Committee gave regard to the representations from other persons 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 the grant the application. If there is evidence that a licensed premises is undermining the licensing objectives, the Licensing Act 2003 allows any person to apply for a Review of the Premises Licence. They therefore resolved to grant the application, subject to the agreed conditions with South Wales Police.

7 : APPLICATION FOR THE GRANT OF A PREMISES LICENCE - TIGER YARD, PORTH TEIGR

Present:

Applicants: Nicholas Saunders (Depot Warehouse Limited)
Peter Cro (Depot Warehouse Limited)
Represented by: Martin Jones (Hugh James, Solicitors)

An application for the Grant of a Premises Licence has been received from Depot Warehouse Limited in respect of Tiger Yard, Plat A, Heol Porth Teigr, Cardiff, CF10 4GA.

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 regulated entertainment in the form of plays, (indoors and outdoors), films (indoors and outdoors), indoor sports, live music (indoors and outdoors), recorded music (indoors and outdoors), performance of dance (indoors and outdoors) and entertainment of a similar description to music and dance (indoors and outdoors).
 - (iii) The provision of late night refreshment (indoors and outdoors).
- (2) Description of the nature of the variation (as stated by the applicant):
- ‘A market with regulated entertainment showing sports events and hosting a range of events in various areas of the premises, including but not limited to temporary buildings and structures’.
- (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: 10.00 to 00.00 hours
New Year’s Eve: 10.00 to start of permitted hours on New Year’s Day
- (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: 10.00 to 23.30 hours
New Years Eve: 10.00 to start of permitted hours on New Years Day
 - (ii) The provision of regulated entertainment in the form of plays, (indoors and outdoors), films (indoors and outdoors), indoor sports, live music (indoors and outdoors), recorded music (indoors and outdoors), performance of dance (indoors and outdoors) and entertainment of a similar description to music and dance (indoors and outdoors).

Monday to Sunday: 10.00 to 23.30 hours
New Years Eve: 10.00 to start of permitted hours on New Years Day
 - (iii) The provision of late night refreshment (indoors and outdoors):

New Years Eve: 23.00 to 05.00

Application

Martin Jones of Hugh James Solicitors presented the application.

The applicants have a trusted relationship with the responsible authorities and have a familiarity with operating events, for example at the Castle and Bute Park. Depot Warehouse Limited are appropriately resources, an on operation of this nature does require financial resource and technical knowhow.

The conditions proposed are those in force at other venues operated by Depot Warehouse Limited which are closer to the city and residential properties than the application site.

The Sub-Committee noted that the conditions suggested by the applicant and South Wales had been agreed by all the parties. There would be no representations from South Wales Police.

Mr Jones addressed the committee on the basis of the objection raised:

- The objector has been contacted on a number of occasions with no response being received.
- He lives at Adventurers Quay, which is quite a sizable residential block; no other objections have been received. Tiger Yard is not close to any residential property.
- Concerns have been raised in relation to the traffic and footfall causing problems to shops and services in the area, no concerns have been expressed at all and is not a matter for the Sub-Committee.
- Whilst noise is an issue for consideration by the Sub-Committee, the concerns of the objector do not take into account the conditions proposed and accepted. The Applicants have tried to address the concerns raised with the objector informally.

The Sub-Committee did not have any questions and Mr Jones advised that he had nothing further to add by way of summing up.

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 heard from the applicant and listened to all the evidence and submissions and considered the written material. Members also considered the Licensing Act 2003, the Section 182 Guidance and Statement of Licensing Policy.

We have heard from the applicant and listened to all the evidence and submissions and considered the written material. We have also considered the Licensing Act 2003, the Section 182 Guidance, our own Statement of Licensing Policy and considered all written representations made to us.

We note that, prior to the meeting, you submitted a number of additional conditions to meet the licensing objectives at Appendix B of the report. You also agreed to the proposed conditions from South Wales Police and Environmental Health Pollution Control.

We have given regard to the representation from a member of the public 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 the grant the application.

We therefore resolve to grant the application, subject to the agreed conditions with South Wales Police and Environmental Health Pollution Control, and the additional conditions that you proposed at Appendix B of the report.

8 : URGENT ITEMS (IF ANY)

No urgent items were received

The meeting terminated at 4.00 pm