

LICENSING SUB COMMITTEE

23 NOVEMBER 2022

Present: Councillor Michael(Chairperson)
Councillors Driscoll and Gunter

1 : DECLARATIONS OF INTEREST

No declarations of interest.

2 : APPLICATION FOR THE GRANT OF A PREMISES LICENCE - FLAMING DRAGON, ST MARY STREET

Applicants: Ashish Aravindakshan represented by Bill Freeman

Responsible Authorities: Will Tapper and Jason Jones, South Wales Police
Rhys Morgan, Shared Regulatory Services Licensing

The Application

An application for the Grant of a Premises Licence was received from in respect of Flaming Dragon, 30 St Mary Street, Cardiff.

The applicant 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 late night refreshment (indoors and outdoors).

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

“Restaurant, takeaway and delivery serving Indian and Chinese food and kebabs. Serving alcohol on the premises and off the premises with takeaway/delivery food and at outside tables. Food will be displayed and selected at display counters along the side of the premises. Food is paid for and collected at the end of the display counters. Alcohol can be ordered within set times at the payment point. Customers can choose to eat inside the premises, outside the premises or take away”.

(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: 11:00 to 05:00

(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: 11:00 to 22:30

(ii) The provision of late night refreshment (indoors and outdoors).

Monday to Sunday: 23:00 to 05:00

At the commencement of the meeting the applicant sought to amend the application by offering the following additional measures:

1. Installation of CCTV in accordance with police requirements and training of staff to operate the equipment.
2. Challenge 25 policy for sale of alcohol and staff trained to implement the policy.
3. Implement and maintain appropriate record keeping for incidents, refusals and staff training.
4. Alcohol will only be supplied from 11.00 hours to 22.30 hours daily and only as ancillary to food. It will be locked away and concealed after 22.30 hours. Cans and bottles will be opened and poured into glasses. All glassware will be recyclable plastic. No alcohol will be included in a delivery (Food only). The application for the off sale of alcohol was withdrawn during the application.
5. Food will include Indian dishes, Chinese dishes and Kebabs (made in house)
6. Pricing will be high. Minimum £12
7. Intention is to employ 15 staff.
8. Two registered door staff will be on duty from 21.00 hours to closing time. During event days the hours of door staff would increase dependent upon starting and finishing times of the individual events.
9. Food deliveries would be made finishing at closing time. No deliveries of alcohol with or without food. His own drivers would be used and vehicles parked in the car park. No vehicles for delivery would be parked outside the shop area.
10. The dining area inside the premises would be available for dining until closing time.
11. The outside area would be used for dining until 22.30 hours when tables and chairs would be removed and placed inside the premises.
12. Litter bins would be provided, and regular inspections carried out to place litter in the bins.
13. Notices would be displayed such as CCTV in operation, times of closing and sale of alcohol timings.
14. The application was for a closing time of 05.00 the applicant would amend this to 03.00 hours

Applicant Representations

The Chairperson invited Mr Bill Freeman to present the application. Mr Freeman stated that, although the premises was located within the Cumulative Impact Policy area, the measures that were put forward outlined above were intended to mitigate any impact the operation of the premises might have upon the licensing objectives.

The premises was a former coffee shop. It was small and there was limited internal seating. CCTV would be provided throughout the premises in accordance with the requirements of South Wales Police.

The Sub Committee sought clarification on a number of issues, including off sales from the premises. Members were advised that alcohol would only be provided when accompanied with food. All drinks will be decanted into plastic containers. Off sales would not be provided with the delivery services and all off sales would cease at 2230 hours. Customers would be permitted to buy food and alcoholic beverages and then leave the premises.

The premises would operate the Challenge 25 scheme and age would be determined by photographic I.D.

Responsible Authority Representations

Jason Jones addressed the Sub Committee on behalf of South Wales Police (SWP). Members were advised that SWP held an outright objection to the application based on the prevention of crime and disorder and the prevention of public nuisance licensing objectives. SWP had serious concerns that the licensing objectives would not be supported based on the application put before the Sub Committee.

The Cumulative Impact Policy area was established because it was recognised that a disproportionate assaults and other criminality was occurring in the area due to the high numbers of intoxicated persons frequenting the area. The authority's Statement of Licensing identifies take-away premises in the red category and applications of this type will normally be refused unless the applicants can demonstrate that there will be no negative impact upon the licensing objectives. SWP considered that the applicant had failed to do this.

Reference was made to the number of recorded crimes that had taken place in the area and the times at which those crimes had occurred. Members were also invited to video footage from various locations in the vicinity showing a disorder, assaults and persons armed with knives. Members were advised that confrontations often happen at take-away type premises and therefore this premises would have a negative impact upon the licensing objectives.

Jason Jones stated that, whilst SWP seeks to support local businesses, it was not possible to support this application given that the business would present a high risk. An outright objection to the application was proportionate and required to uphold the licensing objectives.

Licensing Authority Representations

Rhys Morgan of the Shared Regulatory Service addressed the Sub Committee. Members would advised that the Licensing Authority was objecting to the application based upon the prevention of public nuisance and the prevention of crime and disorder licensing objectives.

Rhys Morgan stated that whilst all applications are considered on their merits, under the Statement of Licensing Policy there was a rebuttable presumption that applications of this sort will be refused unless it can be demonstrated that the premises will not add to incidents already taking place. The Cumulative Impact

Policy is targeted and the primary concerns are premises selling alcohol and take-aways and therefore this application would be contrary to policy.

Members were advised that Licensing Officers undertook consultation with the applicant. However, the applicant is unable to adopt measures for a restaurant business under their current business model. Therefore the premises would remain in the red category.

Rhys Morgan considered that the additional measures offered by the applicant were insufficient and failed to mitigate against the likely adverse impact upon the licensing objectives.

Following questions from the Sub Committee, including questions regarding the provision of SIA approved door staff, all parties were invited to sum 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, REFUSED the application.

The Sub Committee heard from the applicant and listened to all the evidence and submissions and considered the written material. The Sub Committee also considered the Licensing Act 2003 the Section 182 Guidance, the Statement of Licensing Policy and Cumulative Impact Assessment policy.

Members also heard the representations made by South Wales Police and the Licensing Authority and considered all written representations made.

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 noted that this policy would apply to this application as it is within the area covered by the policy and proposal would be within the red category of the policy.

The Sub Committee accepted that the applicant offered to amend your application to add additional measures and to remove off-sales. In determining its decision, the Sub Committee considered these amendments and note that the application would still remain in the red category of the cumulative impact policy. The additional measures that offered prior to the meeting today are as follows:

1. Installation of CCTV in accordance with police requirements and training of staff to operate the equipment.
2. Challenge 25 policy for sale of alcohol and staff trained to implement the policy.
3. Implement and maintain appropriate record keeping for incidents, refusals and staff training.
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Members gave consideration to the Police representations and the video and crime statistic evidence of crime and disorder and other anti-social behaviour within the area. The Sub Committee considered that the granting of this licence would cause additional crime and disorder.

It was not considered that the application had successfully shown that it would not undermine the Licensing Objectives and did not rebut the presumption within the cumulative impact policy. The Applicant did not show that they would not effectively deal with the issues associated with the sale of alcohol.

The Sub Committee therefore resolved to refuse the application.

3 : URGENT ITEMS (IF ANY)

No urgent items.

The meeting terminated at 11.00 am