

LICENSING SUB COMMITTEE

12 JUNE 2023

Present: Councillor (Chairperson)
Councillors Kaaba, Lancaster and Sattar

1 : DECLARATIONS OF INTEREST

Dan Cook declared that he was a former resident of Bangor Street. No objections were received and the hearing proceeded.

2 : APPLICATION FOR THE VARIATION OF A PREMISES LICENCE - SILURES, WELLFIELD ROAD

Present:

Applicants: John Andrew represented by Matthew Phipps

Interested Others: Councillor Peter Wong
Frances Dredge
Georgie Thompson (remote attendee)
Nic Finch (remote attendee)

The Application

An application to vary a Premises Licence has been received from Vladut Andrei Maxim in respect of Silures, 55 Wellfield Road, Roath, Cardiff.

The applicant has applied for the following:

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

“Our proposed variation is that the rear terrace opening hours are changed from 10am-8pm to 10am-10:30pm. As the incoming business owner and operator, I can confirm that the new concept will be primarily restaurant by definition, meaning there will no longer be groups of drinkers in the rear terrace potentially causing disturbance to our neighbours nearby, instead there will be guests dining whilst enjoying a drink with their meal. Only the head host and management are able to allocate rear terrace tables, this ensures that control and a steady guest count at one time are maintained. We are certain that this will maintain low noise levels and cause zero disturbance to our neighbours nearby.”

The existing licence conditions and a site map were included within the report.

Applicant Representations

Mr Matthew Phipps presented the application on behalf of the applicants. Members were advised that the application to vary to the premises licence was in 3 parts:

variation to the hours for permitted use of the external area; variation to the permitted hours for New Years Eve; and a change of name. Reference was made to the additional documentation presented by the applicant in advance of the Sub Committee in relation to an invitation to ward members and local residents to a meeting, a presentation on the business operation and a written submissions document.

Mr Phipps stated that the application has arisen following a change of ownership at the premises. The applicant has no connection with the previous owners and the operation of the premises had changed to a food-led business with a fine dining menu offering. It was considered that the change in operation was significant as it provided an indication of the customers and their behaviour. Mr Phipps indicated that the external area would provide table service for approximately 30 seated customers. There was no proposal to provide music and the area is covered by a canopy.

Members were advised that following discussions between the applicant and officers from Environmental Health, it had been agreed that the hours applied for in the external area would be curtailed from 2230 hours, as originally applied for, to 2100 hours. The applicant has also agreed to the following 3 additional conditions which were intended to mitigate any potential public nuisance:

1. After 20:00 The use of the external area is restricted to dining customers only.
2. Allocation of customers to external tables must only be carried out by the DPS or duty manager.
3. After 20:00 a member of staff must undertake regular patrols of the external area and perimeter on Bangor Street to monitor noise levels from patrons. These patrols must be recorded and retained for a period of 3 months (either electronically or a physical document) The record should include the time, date of patrol, who it was undertaken by and any comments or resulting action taken.

In addition the Sub Committee was reminded that there was no enforcement history associated with the premises, which was located within a mixed use commercial/residential area. Whilst the applicant accepted the view from Environmental Health that there was some potential for disturbance, it was not accepted that the additional hour applied for would constitute a public nuisance. The concerns of residents were also accepted but the change was modest and policy compliant in terms of the Statement of Licensing Policy.

Mr Phipps addressed the representations received from local residents, a number of which raised concerns that granting the application would set a precedent for future applications. Members were reminded that this is not a legitimate consideration when determining the application. The Statement of Licensing Policy and the Section 182 Guidance state that each application should be determined on its merits. In addition, the application was not intended to create a beer garden or cocktail bar. Table service would be provided to approximately 30 diners for an additional hour each day.

Members were advised that the applicant had engaged and opened a dialogue with local residents and Councillors. Furthermore, the applicant would agree to a condition on the licence requiring that such engagement continue, with an obligation

that residents be invited to meet with the operators of the premises every six months.

Mr Phipps considered that it was significant that no other representations had been received from the responsible authorities.

Reference was made to two incidents that occurred on the weekend before the hearing. It was alleged that late on Friday evening a neighbour was banging on the rear fence complaining that people were causing a disturbance in the rear area. The neighbour was invited in and shown around the rear area which was empty at the time. Mr Phipps suggested that the disturbance had been wrongly attributed to the premises. On Saturday evening a complaint was received regarding the moving of barrels. Mr Phipps stated that the neighbouring premises were responsible for this.

Members were advised that the application intends to be respectful and neighbourly. The Statement of Licensing Policy and the representations received from Environmental Health both indicate that 2100 hours would strike a reasonable balance.

Responding to questions from the Sub Committee Mr Andrews stated that there was no smoking area on the premises. There was also no public access to the rear of the premises. No persons will be in the rear area beyond 2100 hours for any reason, other than staff usage. The area would be managed by the DPS and duty manager. Customers will be advised that the rear area will be closing at 2100 hours from 2000 hours onwards, as they currently are from 1900 hours. Customers will be escorted inside. Mr Andrews stated that the position would be explained to all customers using the rear area and considered that it was not good customer service to do otherwise.

Interested Other Representations

Councillor Peter Wong addressed the Sub Committee. Councillor Wong stated that when the premises applied for its planning conditions to be changed from A1 to A3 the use of the external area was restricted to 2000 hours in order to protect local amenity. Councillor Wong considered that any extension would represent a significant change and it would set a precedent. Concerns were also raised regarding cumulative impact.

Councillor Wong agreed that a balance needed to be struck between the business operation and the impact on local residents and he considered that 2000 hours was appropriate. Any variation to the hours would alter the balance and the Sub Committee would be effectively overturning a planning decision.

The Councillor stated that he had met with the applicants and they were respectful and considerate. However, concerns were raised that the current management may not be managing the premises in the future.

Councillor Wong requested that the application be refused in order to protect local residents from public nuisance.

Councillor Wong confirmed that he has received complaints from local residents regarding the premises for a number of years.

The Council's Legal Officer clarified the position regarding the current planning conditions. An application to vary the conditions to permit use of the outside area until 2100 hours was made and granted in 2016.

Frances Dredge addressed the Sub Committee on behalf of a number of local residents. Ms Dredge stated that she has first hand experience of the impact of the operation of the premises having lived in the area for several years. Ms Dredge considered that the key argument around public nuisance was that the extension of hours would have a significant impact on local residents who are already contending with disturbance.

It was alleged that people using the rear area do not go inside at the required times. The previous weekend people were heard in the area at 2220 hours. Residents need to close their windows during warm weather in order to reduce the impact from noise and cooking smells.

When determining previous applications the Licensing Sub Committee had considered 2000 hours to be appropriate. Ms Dredge considered that 30 people dining would potentially make a considerable amount of noise and that the volume would increase as alcohol is consumed. Therefore later in the evening customers were likely to cause even more disturbance. The addition of a canopy has also resulted in more noise as customers were now able to use the area in all weathers. It was also considered that the canopy does not mitigate the impact of any resultant noise disturbance.

Concerns were also raised regarding the effectiveness of staff patrolling the area to assess any noise nuisance, deliveries and bin collections. Ms Dredge alleged that crime and anti-social behaviour was increasing although this could not be attributed solely to the premises.

Further concerns were raised regarding the impact the use of the rear area would have on children living in the area, particularly in relation to bedtimes.

Summing Up

All parties were invited to sum up.

Ms Dredge stated that the premises were purchased with the current licensing conditions and the operators would be able to make a profit without extending the permitted use in the rear area.

Mr Phipps, responding to points raised, reminded Members that the Local Councillor suggested that the Sub Committee should take the lead from the planning decision to restrict use of the external area to 2000 hours in order to protect local amenity. It was telling, therefore, that planning permission had been granted until 2100 hours.

Mr Phipps also considered that points raised about setting a precedent here were illegitimate and the application stands on its merits. Mr Phipps referred to the plan of

the premises and the representations received from Environmental Health which indicate that there are no residents living adjacent to or near the premises and that it has been suggested that the proximity of local residents is closer than it actually is.

It was accepted that there may be some potential for noise but that would not allow for an immediate refusal of the application. Conditions have been applied and measures would be taken to mitigate the impact of any noise. These were reasonable and balanced.

It was not accepted that people were currently using the rear area beyond permitted hours as suggested by a local resident. This would represent a breach of the licensing conditions.

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 subject to the following conditions:

1. After 20:00 The use of the external area is restricted to dining customers only.
 2. Allocation of customers to external tables must only be carried out by the DPS or duty manager.
 3. After 20:00 a member of staff must undertake regular patrols of the external area and perimeter on Bangor Street to monitor noise levels from patrons. These patrols must be recorded and retained for a period of 3 months (either electronically or a physical document) The record should include the time, date of patrol, who it was undertaken by and any comments or resulting action taken. The premises is under an obligation to inform Cardiff Council if the noise levels are excessive on a regular basis.
 4. No speakers or music will be used after 20:00 in the external area.
- The premises licence holder shall invite residents to a meeting every 6 months.

3 : URGENT ITEMS (IF ANY)

No urgent items.

The meeting terminated at 12.30 pm