

LICENSING SUB COMMITTEE

1 NOVEMBER 2023

Present: Councillor Michael(Chairperson)
Councillors Ferguson-Thorne and Lancaster

5 : DECLARATIONS OF INTEREST

There were none.

6 : APPLICATION FOR THE GRANT OF A PREMISES LICENCE - BURGER KING, QUEENS STREET

Present:

Applicant: Chris Baker, represented by Bill Parry

Responsible Authorities: Will Tapper (South Wales Police)

Other Persons: Cllr Norma Mackie (Ward Member)

The Application

An application for the Grant of a Premises Licence was received from Unionburger Limited in respect of Burger King, 70 Queen Street, Cardiff, CF10 2GQ.

The applicant applied for the following:

- (1) In respect of the following licensable activities:
 - (i) The provision of late night refreshment (indoors)
- (2) Description of Premises (as stated by applicant):
"Ground floor only Burger King restaurant premises in a city centre location"
- (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: 07:00 to 04:00 hours
- (4) To provide licensable activities during the following hours:
 - (i) The provision of late night refreshment (indoors).
Monday to Sunday: 23:00 to 04:00 hours.

Applicant Representations

Mr Bill Parry addressed the Sub Committee on behalf of the applicants. Members were advised that the applicants were seeking to curtail the hours permitted for late night refreshment to midnight, following an agreement between the applicants and South Wales Police. As a result of this agreement, the police had agreed to withdraw their representation.

Mr Parry explained that the premises currently traded until 11pm and they wanted to extend that to midnight. He emphasised that they had consulted with the police in particular and worked out a regime of conditions that promoted the licensing objectives. It was a well-managed premises run by experienced people and was not a magnet for crime and disorder. They had been trading in Queen Street since May 2023, and previously had been there for many years but had to close and start again due to Covid and lease issues. He felt this was a modest extension which could be granted in the circumstances.

Responding to questions from the Sub Committee, the applicant confirmed that there had been no incidents of crime or disorder at the premises since it opened in May.

Responding to questions from the Sub Committee, the applicant suggested that the change from asking for 3am in their initial application to midnight now was a pragmatic choice, taking into account the planning conditions and the representations made. In particular they had listened to the police, who felt that the most significant issues with crime and disorder tended to occur after midnight.

Responsible Authority Representations

PC Will Tapper confirmed that as a result of the agreement with the applicants, South Wales Police were withdrawing their representation.

Other Persons' Representations

Cllr Norma Mackie addressed the Sub Committee as the Ward Member, highlighting the risk of saturation in an area that already had a lot of takeaway restaurants. She was concerned that street beggars would sit outside the premises, and there had been some major issues and incidents outside takeaways in the past, sometimes before midnight. She suggested that it would be a lot easier to get another extension once this was granted. Finally, she stressed that her objection was based on the quantity of takeaways in the area, and acknowledged that this was a well-run premises.

The applicant responded that it would not be easy to vary the conditions further in the future. The planning conditions only allowed it to be open until midnight so they would have to go back to the Planning Committee in order to be granted a variation.

Decision

The Sub Committee considered the application on its individual merits and considered all the committee papers, the statutory guidance made under section 182 of the Licensing Act 2003, the Council's Statement of Licensing Policy and Cumulative Impact Assessment document.

The Sub Committee noted that the application was amended prior to the hearing to reduce the terminal hour from 04:00 hours to midnight, alongside the agreed conditions with South Wales Police outlined in the report. As a result of the amendment to the terminal hour, South Wales Police withdrew their objection prior to the hearing.

They accepted that many of the incidents of crime and disorder associated with the night-time economy in the city centre generally took place after midnight, and as the application was amended the premises would no longer be open during the times where most incidents occurred.

The Sub Committee carefully considered the representation from the local Ward Member but felt that the reduction in hours offered by the applicant and the agreed conditions with South Wales Police would not negatively impact the licensing objectives or add to the negative cumulative impact in the area.

The Sub Committee therefore resolved to GRANT the application subject to the agreed conditions and reduced terminal hour.

7 : APPLICATION FOR THE GRANT OF A PREMISES LICENCE - BURGER KING, SOUTHGATE HOUSE

Present:

Applicant: Chris Baker, represented by Bill Parry

Responsible Authorities: Will Tapper (South Wales Police)

Other Persons: Cllr Norma Mackie (Ward Member)

The Application

An application for the Grant of a Premises Licence was received from Unionburger Limited in respect of Burger King, Unit 3, Southgate House, Wood Street, Cardiff, CF10 1EW.

The applicant applied for the following:

- (1) In respect of the following licensable activities:
 - (i) The provision of late night refreshment (indoors and outdoors)
- (2) Description of Premises (as stated by applicant):
"Ground floor only Burger King restaurant premises in a city centre location"
- (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: 07:00 to 03:00 hours
- (4) To provide licensable activities during the following hours:
 - (i) The provision of late night refreshment (indoors and outdoors).
Monday to Sunday: 23:00 to 03:00 hours.

Applicant Representations

Mr Bill Parry addressed the Sub Committee on behalf of the applicants. Members were advised that the applicants were seeking to curtail the hours permitted for late night refreshment to midnight, following an agreement between the applicants and

South Wales Police. As a result of this agreement South Wales Police had agreed to withdraw their representation.

It was noted that the application was very similar to the previous item, with the addition of a hatch for the collection of orders for delivery by couriers. This would be used by approved food aggregators (i.e. delivery drivers from companies like Deliveroo) to collect food, and would not be open to members of the public. The premises were already open until 11pm, and had been since April 2023. He acknowledged the need to consider the saturation policy but felt this application would not impact on that or lead to an increase in crime and disorder. He suggested that if anything, it would take pressure off other premises. It was a low volume unit that would not lead to there being any more food delivery drivers on the streets. The police had withdrawn their objections a week or so ago and were happy with the conditions agreed.

Responding to questions from the Sub Committee, the applicant confirmed that there had been no incidents of crime or disorder at the premises since it opened in April.

Responsible Authority Representations

PC Will Tapper confirmed that as a result of the agreement with the applicants, South Wales Police were withdrawing their representation.

Other Persons' Representations

Cllr Norma Mackie addressed the Sub Committee as the Ward Member, suggesting that more takeaway premises would bring more people to the area late at night, and that it was a growing area that was not heavily policed. She added that she had been under the impression they were applying to be open to members of the public until 3am.

The applicant clarified that the hatch for delivery drivers would be open until 3am, but the closing time for the public would be midnight.

Decision

The Sub Committee considered the application on its individual merits and considered all the committee papers, the statutory guidance made under section 182 of the Licensing Act 2003, the Council's Statement of Licensing Policy and Cumulative Impact Assessment document.

The Sub Committee noted that the applicant agreed conditions with South Wales Police prior to the hearing and as a result their objection was withdrawn. This included a condition that the serving hatch would only be used for home delivery aggregators, and that the premises would not allow public access beyond 00:00 hours.

The Sub Committee accepted that many incidents of crime and disorder associated with Cardiff city centre's night-time economy generally occurred after midnight. As the proposal did not allow customers to purchase hot food or drink after midnight, and only allowed recognised food delivery aggregators, this mitigated their concerns.

Therefore, the Sub Committee considered the representation from the local Ward Member but felt that the restrictions agreed with South Wales Police successfully overcame the rebuttable presumption in the Cumulative Impact Assessment document, and the application would not negatively impact the licensing objectives or add to the negative cumulative impact in the area.

The Sub Committee therefore resolved to GRANT the application subject to the agreed conditions.

8 : APPLICATION FOR THE GRANT OF A PREMISES LICENCE - STATE OF LOVE & TRUST

Present:

Applicant: Nathaniel Williams

Responsible Authorities:

Other Persons:

Application

An application for the Grant of a Premises Licence had been received from SOLAT Wine Beer Spirits Ltd in respect of State of Love & Trust, Commercial Unit 5, Amber Vista, Clearwater Way, Cyncoed, Cardiff, CF23 6DZ.

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

"The premises will be a hybrid wine, beer and spirits shop and bar.

The business will have two service points; one with a retail focus for off-sales, the other a draught beer, wines by the glass area that will service the on-trade element of the business. Indoor and outdoor seating will be provided by the business so that there will be no standing consumption to take place.

Customer toilets, suitable fire exits and ventilation will be provided by the business. These facilities have been assessed and approved by building control (Clark Banks)".

- (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: 09:00 to 23:00 hours
- (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: 09:00 to 23:00 hours.

Applicant Representations

The applicant explained that he intended to start up a small family business at the new precinct in Cyncoed. It would be a hybrid venue where customers could try the things they stocked. He acknowledged the valid frustrations of the resident who had objected, noting that there was a lot of change occurring in that area, but suggested they may have mistakenly believed that the business would be selling large amounts of wine, beer and spirits, when in reality they would be selling speciality alcohol at a premium price.

The applicant added that they intended to operate with limited hours, and had applied for wider parameters than they would ever actually be open for. For example, at Christmas time they would open at 10am, but not during the rest of the year. He had not been aware of the restrictions on residential areas around 11pm, and had agreed with every recommendation the police had made. He had no intention of creating a space that impacted negatively on the community.

Responding to questions from the Sub Committee, the applicant explained that he had started running a licensed premise on Westgate Street in 2014 and been there for two years before becoming operations manager for the Bottle Shop, which had locations in Penarth, Roath and Pontcanna. Both he and his business partner were experienced in this sort of hybrid environment, having managed premises licenses before and complied with licensing conditions. Now he wanted to create his own version of things in this small precinct with a focus on retail, with up to 800 items on the shelves.

Responding to questions from the Sub Committee, the applicant outlined standard opening hours of 11am-8pm on Tuesday and Wednesday, 11am-10pm from Thursday to Saturday, midday-7pm on Sunday and closed on Monday, in line with other trading residences there.

Summing Up

The applicant suggested that although this was a new business, so there was no precedent in how they operated, their objective was to be part of the community, and the reason their previous premises succeeded was because they integrated themselves into it. He hoped that if he had been able to speak to the objector directly then they would understand what they were trying to do. He and his wife also owned the Penylan Pantry, which had faced objections from residents in the beginning but which had become a real part of the community.

Decision

The Sub Committee considered the application on its individual merits and considered all the committee papers, the statutory guidance made under section 182 of the Licensing Act 2003, and the Council's Statement of Licensing Policy.

The Sub Committee accepted the applicant's description that the premises was intended as a hybrid venue that was not solely intended to push on-premises drinking. They also accepted that the premises was intended to have a community focus.

The Sub Committee carefully considered the objection from a local resident, however, they did not feel that the application would undermine the licensing objectives. They also noted that objections related to parking or the potential impact on nearby property values were not a consideration for this committee.

The Sub Committee therefore resolved to the GRANT the application subject to the agreed conditions with the responsible authorities outlined in the report.

9 : APPLICATION FOR THE GRANT OF A PERSONAL LICENCE

Present:

Applicant: Jarryd Clifford

Responsible Authorities:

Other Persons:

Application:

An application for the grant of a Personal Licence was received from Mr Jarryd Anthony Clifford.

The applicant had advised that he did not hold, nor had he applied to any other authority for, a Personal Licence. He had produced all the documents required by the Licensing Act 2003. The criminal record check produced by the applicant disclosed information regarding a conviction history.

South Wales Police were consulted on the application and advised that in view of the conviction history they objected to a Personal Licence being granted.

Applicant Representations:

The applicant emphasised that he greatly regretted drinking and driving back in 2021, and that there was no excuse for what he did. At the time he was struggling with the isolation of lockdown in a small village, but he had now got his life back in order and didn't want something stupid he did a few years ago to affect his future opportunities. He was currently a team leader with Stonegate and having a personal licence would help to enable him to progress further in the organisation. He added that in order to make amends and support the community he loved, he had been key to implementing programs and measures to support vulnerable people, mental health and the LGBT community.

Responding to questions from the Sub Committee, the applicant clarified that the further offences since 2021 mentioned in the paperwork referred to how he had attended court because he missed a day of community service. He explained that in the time period when he was meant to complete his hours, his workplace had very few staff and he was doing a lot of extra shifts, so he could not find time for it. He was in constant communication with his probation officer throughout.

Responding to questions from the Sub Committee, the applicant reiterated that his application was about career progression, which would be greatly enhanced by having a personal licence.

Responsible Authority Representations:

Speaking on behalf of South Wales Police, Tony Bowley explained the reasons for the police's objection to granting this licence. The applicant had an unspent criminal conviction for driving a vehicle under the influence in April 2021, compounded by failing to comply with the full community service order in May 2022, for which he was fined. The order then remained in place but he still didn't complete it and was brought back to court in December 2022 and April 2023 as a result. The police representative added that holding a personal licence was a privilege and not a right, and one that only the most responsible people should have.

The police representative queried the circumstances of the drink driving offence, noting that he had received a two year disqualification from driving in addition to the 200 hours of community service, whereas ordinarily the ban would be 12 months. The applicant clarified that there had not been any aggravating circumstances with his offence, and that nobody else had been involved. He explained that he had been injured falling out of a window while living in a remote village and needed medical help, so he drove to the local police station where he was breathalysed. The longer ban may have been because the offence took place in Scotland, but he was not sure.

Summing Up

In summing up, the applicant reiterated that he had done a stupid thing in 2021 and did not intend to ever do anything like that again. The barriers he faced as a result were a constant reminder of what he did, but he also wanted to progress in his career, be a good member of the community and make his parents proud.

Decision

The Sub Committee considered the personal licence application in accordance with the Licensing Act 2003 and its associated guidance.

The Sub Committee carefully considered the representation put forward by Mr Clifford that he was living in a remote part of Scotland at the time of the offence, and this was around the period of lockdown during the Covid-19 pandemic. They also considered that Mr Clifford was currently a team leader and required a personal licence in order to progress to a more managerial position within the organisation.

The Sub Committee noted that the conviction was a relevant offence for the purposes of the Licensing Act 2003, and that the conviction was not yet spent. Furthermore, they noted that alongside the original conviction there were multiple occurrences of failing to comply with the community order.

The Sub Committee felt that the conviction, plus a failure to comply with the order on multiple occasions, showed a lack of regard for the seriousness of the conviction. They noted that running a licensed premises carried a significant responsibility and

were not satisfied that Mr Clifford showed the granting of this application would promote the crime prevention objective.

The Sub Committee therefore resolved to REFUSE the application for the promotion of the crime prevention objective.

10 : URGENT ITEMS (IF ANY)

There were none.

The meeting terminated at 11.50 am