

Licensing Sub Committee

Tuesday 4 September 2012

PRESENT:

Councillor Gordon, in the Chair.
Councillor John Smith, Vice-Chair.
Councillors Churchill, Gordon and John Smith

Also in attendance: Sharon Day (Lawyer), Pete Clemens (Licensing Officer), Katey Johns (Democratic Support Officer), Mr Shamel (Applicant), Mr Phipps (Applicant's Lawyer), and Mr Clark (Applicant's Property Agent).

The meeting started at 10 am and finished at 2.10 pm.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

30. APPOINTMENT OF CHAIR AND VICE-CHAIR

Agreed that Councillor Gordon is appointed Chair and Councillor John Smith is appointed Vice-Chair for this meeting.

31. DECLARATIONS OF INTEREST

There were no declarations of interest made by councillors in accordance with the code of conduct.

32. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

33. GRANT OF PREMISES LICENCE - LAS IGUANAS, UNITS 3, 4 & 5 BREWHOUSE, ROYAL WILLIAM YARD, PLYMOUTH

The Committee –

- (a) considered the report from the Director for Place;
- (b) heard from the applicant and also considered their written representations (which included a presentation in relation to Las Iguanas as a business and set out menus and reviews) that:
 - the alcohol application was in line with that in place at River Cottage (the committee noted however that River Cottage's alcohol licence is limited to 11pm on Sundays);

- live music was to be restricted by its volume and period in line with other licences;
- the application sought to control the use of the outside area and also by way of conditions agreed with Environmental Health;
- the premises would not have a capacity anywhere near 500 people, but was more likely to have covers both inside and out totalling 374;
- the premises would be laid out to table and chairs and standing would be discouraged, customers would be shown to their tables. It was unlikely that every cover would be filled every day;
- access to and around Royal William Yard would not be impeded. Clear up time and use period would be the same as other restaurant units and full cleaning of the unit would be undertaken in the mornings. Deliveries would be limited to occur between 9am and 11am;
- CCTV cameras would be located internally to view all parts of the restaurant and also located on the entrance doors at high level to capture people coming through;
- an acoustic ceiling would be installed as recommended and approved by the landlord's acoustic consultants. The use and noise levels were restricted by legislation;
- restaurant windows would not be open. There may be noise break out from doors but this is as per other venues;
- the venue would not be a live music venue and live music would be limited to no more than two performers, would be restricted to being between 7pm and 10pm on any day and there would be no more than one live music event in any 7 day period (other than in December). There would be external noise monitoring to check for any disturbance;
- a ventilation extraction route had been designed by the landlord's consultant and would comply with the landlords tenant guide;
- royal William Yard was a mixed use development and was not an exclusively residential development;
- the request for additional permission for Bank Holiday Sundays was withdrawn.
- there would be a bar area but vertical drinking was discouraged;

(c) had been informed that Environmental Health withdrew their representation

as the following conditions had been agreed and would form part of the applicant's operating schedule:

Public Nuisance

- substantial food would be available at all times (subject to a permitted wind-down period before the terminal hour of service);
- Management would control levels of noise in the outside area and advise customers of the need to respect local residents where appropriate;
- any patrons continuing to cause any disturbance or disorder would be asked to leave the premises;
- the external seating area would be restricted to a capacity of 126 covers (as per plan);
- waiter/waitress service to be available in the external areas whenever they are open to customers;
- patrons consuming alcohol in the external seating area must be seated at the chairs provided;
- no tables to be allocated to customers after 21.00hrs in the outside area and the outside area must be cleared by 22.30hrs.

They had further agreed alterations to the applicant's proposed conditions as follows:

Public Nuisance

- a refuse store of sufficient size and capacity with suitable fitting lid shall be provided;
- the chairs and tables disclosed on the licensing plans that are immediately outside or adjacent to the premises would not be used for smoking;
- a senior member of staff would monitor the external locality during regulated entertainment and would take action if noise levels were found to be clearly audible outside the premises. A written log would be kept of all monitoring;

(d) considered written representations and oral representations from other parties under the licensing objectives as follows:

Prevention of Public Nuisance –

(i) there were concerns from local residents (which were made up of young families and retired persons) that the existing problems experienced from other premises in the area would be made worse if the licence was granted. It was suggested that to stop these problems the licensing hours should be the same as other premises in the area. The existing problems experienced were as follows:

- raised voices and rowdiness from patrons who have been

- consuming alcohol;
- late night traffic noise from taxis with engines running and banging doors;

this was considered to be relevant. However the committee considered that the conditions put forward by the applicant would address any issues with taxi noise. With regard to noise from patrons the following special condition would be imposed:

- I. Suitable signage will be positioned at the exits to request the cooperation of patrons in particular to make as little noise as possible when leaving the premises and also to ask them to leave the vicinity quickly and quietly.
- (ii) the premises were adjacent to the Brewhouse courtyard where noise echoes, was amplified and would affect local residents. A previous occupier of unit 4 had played recorded and live music which led to noise disturbance for residents, interfering with the use and enjoyment of their premises. This may recur if the licence was granted. It was suggested that to prevent the problem occurring live and recorded music licensing hours should be the same as other premises in the area. Additionally there was concern that the proposed conditions put forward by the applicant were unachievable. There was also concern from residents about the level of noise which was said to exist in other outlets for this franchise in places like Milton Keynes.

This was considered to be relevant. Members acknowledged the residents' concerns on this point and accepted that the applicant's conditions went some way to address these however they were not considered to be sufficient alone. Therefore in addition to the conditions put forward by the applicant the committee agreed that the following special condition would be applied to the licence:

2. On a Friday and Saturday night recorded music is only permitted until 11pm.
- (iii) there was concern at the hour to which live and recorded music would be played to on Fridays and Saturdays and Bank Holiday Sundays. Due to the nature of the environment sound would echo around the stone walls and off the water causing disturbance to local residents. Resident's leases forbid loud music after 11pm and that that should be the cut off for commercial premises to prevent disturbance. Also it was suggested that doors and windows should be kept closed when entertainment was taking place to limit the amount of noise nuisance outside.

This was considered to be relevant and these concerns had been addressed by the conditions put forward by the applicant, special condition 2 above and the removal of extended hours for Bank

Holiday Sunday;

- (iv) the hours for the sale of alcohol and opening hours was too late as it would mean late night drinkers disturbing residents in the early hours and staff clearing up well after midnight.

This was considered relevant however members considered that this had been addressed by the conditions outlined above;

- (v) as this was a large establishment there would be an equally large outside smoking area, leading to significant cigarette end littering, smoke nuisance and also noise. Residents may have to keep their windows closed to reduce noise levels.

This was considered to be relevant however members considered that the conditions put forward by the applicant and those agreed with Environmental Health would address any potential problems;

- (vi) the provision of late night entertainment was also likely to lead to extensive littering.

This was considered to be relevant and in order to address any potential problems the committee agreed the following special condition should be attached to the licence:

3. The outside area is to be kept clean, tidy and free of litter.

- (v) there was no sound proofing which may cause problems for residents above. Additionally the glass doors to the property did not seal when closed and were likely to be kept open much of the time to facilitate the serving of the outside tables;

This was considered to be relevant however members considered that the acoustic ceiling would address any potential concerns along with the conditions put forward by the applicant.

- (vi) there was a possible problem with noise breakout due to the fact there was no entrance lobby and internal noise would penetrate and affect apartments over the premises.

This was considered to be relevant however committee did not consider that there was sufficient evidence to suggest this was going to be a potential problem.

- (vii) odour may escape into the residential premises above. This was considered to be relevant however any potential problem would be addressed by the ventilation extraction system which was to be installed at the premises.

Prevention of Crime and Disorder –

- (i) lack of parking in the vicinity was likely to lead to parking rage. This was not considered to be relevant under the licensing objectives as the issue of parking with regard to this application was a planning issue;
- (ii) drinks promotions would cause anti-social behaviour. This was considered to be relevant however having listened to the applicant's representation the committee did not consider that this would a potential problem;
- (iii) the grant of the licence would lead to an increase in crime and disorder. There was no protected boundary directly outside ground floor apartment windows which may be easily accessed. This was considered relevant however the committee did not consider that granting the application would automatically increase crime and disorder;

Protection of Children from Harm –

- (i) children should not be exposed to possible rowdiness or anti-social behaviour that could be associated with late night revellers. This was considered to be relevant but the committee had confidence that the applicant would successfully manage the premises;
- (ii) there was a potential danger to children from delivery vehicles as there are no pedestrian only areas and vehicle delivering will have to turn around in what is already an overcrowded area. This was considered to be relevant however it was noted by committee that the delivery period is only for a two hours between 9am and 11am;
- (iii) children may have their sleep disturbed from late night noise. This was considered to be relevant however committee considered that the conditions put forward by the applicant, Environmental Health and the special conditions listed above would address any potential problem;

Public Safety –

- (i) late night drinking where the establishment's main entrance fronts onto a steep drop into a tidal basin was likely to be a danger to the public. This was considered to be relevant however the premises was intended for predominantly restaurant use and was not a late night drinking establishment;
- (ii) there were secluded and poorly lit parking areas this could threaten the safety of residents. This was not considered to be relevant under the licensing objectives;
- (iii) there was inadequate parking on the site and as this was limited there will be high volume of traffic movements during the evening due to the

bar and restaurant visitors and this increased flow with more pedestrian activity would be a hazard. This was not considered to be relevant under the licensing objectives;

Other representations which did not relate to any of the licensing objectives and were therefore not considered –

- (i) the application was premature as the premises were currently applying for a change of use under planning legislation;
- (ii) health data had shown a 71% increase in alcohol related admissions to Derriford hospital in less than a decade. This would increase if the licence was granted;
- (iii) granting the licence would have a detrimental affect on the residential amenity of the area.

Agreed that having taken into account all of the above relevant representations the application is GRANTED and it is considered proportionate and appropriate to attach to the licence the conditions put forward in the applicant's operating schedule, the conditions agreed with Environmental Health, the special conditions detailed above and the mandatory conditions under the Licensing Act 2003.

34. **EXEMPT BUSINESS**

Whilst parts of the documentation presented to Committee were confidential, it was not necessary for the Committee to move to Part II during their discussions on this application.