

LICENSING AND APPEALS SUB-COMMITTEE

8th June 2021 at 10.00am

PRESENT:-

Members of the Licensing and Appeals Sub-Committee

Councillor Gee (Chairman), Councillor Taylor (Labour Group), and Councillor Watson (Conservative Group).

District Council Representatives

Nigel Marston (Senior Licensing Officer), Elisabeth Page (Principal Legal Officer), Patricia Hill (Democratic Services).

LAS/05 **APOLOGIES**

The Sub-Committee was informed that no apologies had been received.

LAS/06 **DECLARATION OF INTEREST**

The Sub-Committee was informed that no declarations of interest had been received.

MATTERS DELEGATED TO SUB-COMMITTEE

LAS/07 **HEARING FOR AN APPLICATION FOR A PREMISES LICENCE TO BE GRANTED UNDER THE LICENSING ACT 2003 – AMALFI WHITE BAR AND RESTAURANT**

The Chairman introduced himself and other members of the Sub-Committee introduced themselves. The Legal Advisor, Clerk to the Sub-Committee, Licensing Representative and all those present also introduced themselves.

The Chairman outlined the procedure to be followed during the hearing, in accordance with the Council's Licensing Hearings Procedure.

The hearing was held to determine the application for a Premises Licence under the Licensing Act 2003.

The Applicant attended the hearing in person.

The Applicant submitted a Fire Risk Assessment and Noise Management Strategy documentation prior to the hearing.

The Chairman invited the Council's Licensing Representative to present the facts of the matter and an outline of the application.

The Sub-Committee, the Applicant and the Other Persons had opportunity to ask questions of the Council's Licensing Representative.

The Chairman invited the Applicant to make representations to the Sub-Committee

The Sub-Committee asked questions of the Applicant and invited the Licensing Representative and the Other Persons to put questions to them as well.

The Sub-Committee had read all written representations submitted by the Other Persons and the Chairman asked the Other Persons present whether they had anything further to add. Mr Williams, Mrs Smith, Mr Harden and Mrs Devey Smith made representations to the Sub Committee

The Sub-Committee asked questions of the Other Persons and invited the Licensing Representative, and the Applicant to put questions to them as well.

The Chairman invited the Licensing Representative and the Applicant to sum up their representations.

The Sub-Committee retired from the Council Chamber to deliberate.

In making its decision, the Sub-Committee had regard to South Derbyshire District Council's Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 and the Human Rights Act 1998, as well as the evidence presented in writing and given orally at the hearing.

The Sub-Committee also had regard to the four 'Licensing Objectives' namely:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

The Sub-Committee considered in detail the representations of the Council's Licensing Representative, the Applicant and the Other Persons.

RESOLVED:

To grant the application in relation to the standard timings, namely

Activity	Days	Times
Live music & recorded music – Indoors & Outdoors. The above are exempt for the times stated if less than 500 people are in attendance	Monday - Sunday	10:00hrs – 21:00hrs
Sale by retail of alcohol for consumption on and off the premises Electronic Sales	Monday – Sunday Monday – Sunday	10:00hrs – 21:00hrs 24hrs
Opening hours of the premises	Monday – Sunday	08:00hrs – 23:00hrs

To refuse the application in relation to the non-standard timings.

The Licence was subject to the following conditions (in addition to the Operating Schedule and Mandatory Conditions)-

- ***Conditions 1 to 8 and Condition 11 as agreed by the Applicant and Derbyshire Police (annexed)***
- ***The relevant conditions from the Applicant's current Licence LAPRE/0384 (Note – where there is a conflict between the Conditions of this Licence and the conditions imposed as a result of this Sub-Committee decision, the Sub-Committee decision conditions shall take precedence).***
- ***The Applicant complied with the Noise Management Strategy.***
- ***A telephone number was made available and displayed in a prominent location where it can conveniently be read from the exterior of the premises by the public and for local residents to contact in the case of noise-nuisance or anti-social behaviour by persons or activities associated with the premises. The telephone number would be a direct number to the management who are in control during opening hours. A record would be kept by management of all calls received, including the time, date and information of the caller, including action taken following the call. Records will be made available for inspection and copying by an authorised officer of a responsible authority throughout the trading hours of the premises.***
- ***No deliveries (in relation to licensable activities) to the premises shall take place between 18.000 hours and 8.00 hours.***

REASON FOR THE DECISION

Having taken into account the four Licensing Objectives, the guidance issued under Section 182 of the Licensing Act 2003, the Council's Licensing Policy and the Human Rights Act 1998, the Sub-Committee sought to balance the interests of the Applicant and the representations made by the Other Persons.

- The Sub Committee noted that there was no objection from Environmental Health and that the Derbyshire Police objection had been withdrawn upon agreement with the Applicant as to additional conditions.
- The Sub Committee further noted that there was a current planning application in relation to the use of the premises and the Committee was mindful that submissions relating to planning concerns were a matter for the Planning Committee not the Licensing Committee and these included parking concerns.
- The Sub Committee was also mindful that other legislation allowed the performance of amplified live music and recorded music on premises authorised to sell alcohol for consumption on the premises, where the

audience does not exceed 500, which will be the case in relation to these premises.

- The Sub Committee was aware that as this was a new application there were several unknowns, including the likely number of patrons, but noted the maximum capacity of the premises as provide for in the Applicant's Fire Risk Assessment and as revised by the Applicant at the Sub hearing was likely to be 35 inside the premises and 100 in the outside space (excluding the gravel area which the Applicant assured the Sub Committee was to be barriered off)
- The residents' concerns mostly concerned parking, noise nuisance and the holding of events. The Sub Committee concluded that parking issues did not meet a Licensing Objective. The Sub-Committee further concluded that by imposing the following conditions; that the Applicant complied with the submitted Noise Management Strategy, the Point of Contract Condition and condition as to deliveries the noise nuisance concerns should be addressed. Further, by refusing the non- standard timings this satisfied the concerns of the residents regarding events and related parking concerns, as the Applicant, Melbourne Hall or other event organisers would be required to use the TENs procedure to hold events and provide additional information to support the TENs applications. In addition, the Applicant would be limited to 15 TENs per year and therefore less than the 20 non-standard timing events applied for.

The Sub-Committee felt that it was reasonable and proportionate to grant the application for the Premises Licence, subject to the conditions specified, which are imposed to specifically address the concerns raised.

LAS/08 **LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

RESOLVED:-

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

The Meeting terminated at 12:30 hours.

COUNCILLOR GEE

CHAIRMAN