

Licensing Sub-Committee

Tuesday, 6th October, 2020

PRESENT: Councillor A Hutchison in the Chair

Councillors B Garner and C Knight

1 Election of the Chair

RESOLVED – That Councillor A Hutchison be elected as Chair for the duration of the meeting.

2 Appeals Against Refusal of Inspection of Documents

There were no appeals.

3 Exempt Information - Possible Exclusion of the Press and Public

The agenda contained no exempt information.

4 Late Items

There were no formal late items of business. However, supplementary information had been circulated to all parties prior to the meeting in relation to Agenda Item 6 (Minute No 12 6 refers)

5 Declarations of Disclosable Pecuniary Interests

There were no declarations of disclosable pecuniary interests.

6 Application for the grant of a premises licence for Deliziosa 138 Harrogate Road, Leeds, LS7 4NZ

The Chief Officer (Elections and Regulatory) submitted a report that advised Members of an application made by Deliziosa Limited under Section 17 of the Licensing Act 2003 for a new premises licence for Deliziosa, 138 Harrogate Road, Leeds, LS7 4NZ.

The Legal Adviser to the Sub Committee set out the procedure to be followed and the Senior Licensing Officer outlined the application.

In summary, the application was for:

Sale by retail of alcohol

Every Day 07:00 – 23:00

Non-standard timings

On Christmas and New Year's Eve licensable activities to be extended until 01:00 hours

The application had received a total of 30 representations from members of the public and local ward councillors, all opposing the application on the grounds of public nuisance. No representations to the application had been received from the responsible authorities.

Supplementary information had been distributed to all parties prior to the hearing, including a food and wine list.

The following were in attendance:

- Paddy Whur, Applicant's Representative
- Antonino Salaris, Director of Deliziosa Limited
- Dee Marshall, Objector
- Joanne Gill, Objector

Mr Whur addressed the Sub-Committee on behalf of the applicant stating that the premises would solely be an Italian delicatessen takeaway and a seated area, in a 17th century building in Chapel Allerton. The premises would be family run, and will offer quality food.

Mr Whur explained that the applicant had carried out a public meeting prior to the planning application, and there had been feelings of nervousness identified regarding public nuisance. It was confirmed there would be a robust operating schedule, and it was noted that no responsible authorities had objected to the application. Additionally, it was confirmed:

- There would be no use of external areas after 9 p.m.;
- A minimum of 26 tables inside the premises;
- No access from Regent Street after 9 p.m.;
- No intention for alcohol being a primary reason for attending the establishment;
- Collection of waste only between the hours of 8:00 a.m. and 8 p.m. was suggested.
- No draught beers would be served, and it would be strictly wine and gin.

In response to Members questions, the following was confirmed:

- The sale of alcohol from 07:00 a.m. was intended for somebody coming back from work or shopping on the way to work. It was agreed that this could be amended to be in line with other establishments in the area.
- Planning permission that had been granted allowed an A1/3 food led establishment to serve alcohol. A bar would require A4. It was confirmed a planning variation application had been submitted to extend the hours to match those that are being asked for on the premises licence.
- In terms of the building works, the conservatory and upstairs balcony had been completed, with the downstairs being landscaped. It was confirmed that a staged opening would be ongoing due to covid-19 restrictions. The premises would initially operate on a takeaway basis only, with food that has been pre-prepared and people would not be permitted to sit inside the establishment until the applicant feels it is safe to do so.
- 10 – 11 tables would be situated externally.
- Food would be sold until 9 p.m. throughout the year and 10:30 a.m. – 11 p.m. on Christmas eve and New Year's eve.
- The applicant confirmed he had applied for an alcohol licence and the planning variation due to renegotiations with his business plan, whilst accommodating and being respectful of the surrounding community.

The Sub-Committee then heard from the objectors. The first objector explained that her property was adjacent to the establishment and her main concerns included public nuisance and protection of children with 8 young children living nearby. Further to the mention of the public meeting with residents, the objector explained that the residents opposing the application had been originally supportive, and that residents were provided with assurances an alcohol licence would not form part of the application.

Regarding noise, the resident raised concern that noise would be permitted from the rear of the premises as customers spilled out into a residential area. The objector asked the Sub-Committee to limit the hours of the alcohol licence to midday until 7 p.m. and the external areas not be used after 7 p.m. Further to this, the resident was concerned that amplified music from speakers would be played to the rear of the premises.

The second objector in attendance explained the surrounding residential area was home to families with young children and babies, and that a 7 p.m. restriction on use of external areas would be considered acceptable. Additionally, the objector stated that nearby residential homes looked directly onto the roof terrace and garden and use of the terrace would cause nuisance particularly in the summer months, making it unbearable to live nearby. The objector stated that whilst the building works had been ongoing, there had been considerable amounts of noise, and developers had not been considerate to residents.

In response to Members' questions, the objectors in attendance confirmed the following:

- Residents were invited to attend a public meeting with the applicant, and were presented with proposals for a coffee shop / deli without an alcohol licence. The objector stated that planning officers had originally restricted the hours on the planning application due to the premises being in a residential area.
- A communal piece of land situated to the rear of the proposed premises and it was confirmed the land had become a community asset for a playing space and a library. The objector was of the opinion that following discussions with the developer and applicant, the land would be used to facilitate parking and concerns were raised that the applicant would be adopting the land in the future. Mr Whur confirmed that the applicant had no intention of using the land, and would be supportive in any community asset towards the garden.
- Patrons entering and exiting from the rear of the premises, should be disallowed from 7 p.m. and it was considered that the space to the rear of the premises would be used for patrons congregating and waiting for taxis.

In responding to a Members' question, Mr Whur explained that due to current covid-19 restrictions, a risk assessment had been undertaken and a one way system had been considered to ensure social distancing takes place. Mr Whur was of the opinion that the ability to use the rear gate until 9 p.m. provided a balanced position in opening the takeaway business, and it was confirmed that subject to a licence being granted, the premises would be running on a takeaway basis until restrictions provided further clarity.

In conclusion, Mr Whur explained that Mr Salaris had been a long standing local resident, and would be committed to promoting the licensing objectives. It was confirmed that the applicant was agreeable to extending the opening hours for sale of retail by alcohol, and it was the opinion of the applicant that the 9 p.m. cut off point for use of external areas was reasonable. Additionally, the applicant had access to the rear of the property and would not be seeking to adopt council-owned land, with reassurances that the rear of the premises would be gated off past 9 p.m. The applicant would continue to work with residents, and it was felt that the business would be an addition to Chapel Allerton.

The Sub-Committee went into private session to make deliberations. Following a short adjournment, the applicant and objectors were brought back for further questions. The following was confirmed:

- The applicant felt that use of the external areas should be permitted until 9 p.m. every night of the week, and in the summer months patrons to utilise the external areas without having to order food.
- The applicant agreed the hours for consumption of alcohol off the premises 10 a.m. until 11 p.m. and consumption of alcohol on the premises 12 p.m. until 11 p.m. was acceptable.
- The applicant agreed that the closure of the rear gate from the premises was acceptable from 7 p.m., and requested that disabled customers still be permitted to use the gate past 7 p.m. Further to a Member's suggestion regarding an intercom system on the gate for disabled customers, the applicant agreed this would be considered.
- The objectors said that a closure of external areas from 7 p.m. Sunday – Thursday was a good starting point, and ensured that residents' views were being taken into consideration.
- The objectors raised concerns regarding the use of the gate for disabled customers, and queried whether access would be easier from the front of the premises, but Mr Whur said there are steps into the premises on the Harrogate Road side.

The Licensing Sub-Committee carefully considered the report of the Chief Officer (Elections and Regulatory), the Statement of Licensing Policy and the representations submitted and made at the hearing on behalf of the applicant and those from the objectors.

RESOLVED - To grant the premises licence with the variation and addition of the following conditions:

- The use of external areas will be restricted Sunday – Thursday until 7 p.m. and Friday – Saturday until 9 p.m.
- Alcohol is only to be consumed with food in the external areas.
- Alcohol for consumption off the premises shall commence 10 a.m. until 11 p.m.
- Alcohol for consumption on the premises shall commence 12 p.m. until 11 p.m.
- Bottles and refuse will not be placed in any external receptacle between 8 p.m. and 8 a.m.

- The use of the rear door and gate to the premises will not be permitted for patrons beyond 7 p.m., save for disabled access.
- Loud speakers shall not be located in any external areas of the premises.