

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held at the Town Hall, Royal Leamington Spa, on Tuesday 24 October 2023, at 10.00am.

Present: Councillors C Gifford, Gorman, and Redford.

Also Present: Patricia Tuckwell (Civic and Committee Services Manager), Sue Mullins (Council's Solicitor), and Emma Morgan (Licensing Enforcement Officer).

1. Appointment of Chairman

Resolved that Councillor Gorman be appointed as Chairman for the hearing.

2. Substitutes

Councillor Redford substituted for Councillor King.

3. Declarations of Interest

There were no declarations of interest made.

4. Application for a new Premises Licence under the Licensing Act 2003 for Albion Street Kitchen, 83 Albion Steet, Kenilworth

The Panel considered a report from Safer Communities, Leisure and Environment for a new premises licence application at Albion Street Kitchen, 83 Albion Steet, Kenilworth, CV8 2FY. A representation had been received in relation to this application for the consideration of the Panel in the determination of the application.

Mr Rayappan applied for a new premises license for Albion Street Kitchen, 83 Albion Street, Kenilworth on 4 September 2023. The premises was described by the applicant as a restaurant and takeaway.

The application was for the sale of alcohol on and off the premises. A copy of the relevant part of the application form was attached as Appendix 1 to the report.

The Licensing Department initially received comments on the application from Warwickshire County Council Trading Standards and Warwick District Council Environmental Health. Following the agreement of conditions with Trading Standards and Environmental Health, these representations had been withdrawn. The agreed conditions, which would form part of any licence if granted, were attached as Appendix 2 to the report.

The Licensing Department also received one objection from a local resident. This was attached as Appendix 3 to the report.

No representations had been received from:

- Warwickshire Police
- Fire Authority
- The Licensing Authority

- Enforcement Agency for Health and Safety
- Authority Responsible for Planning
- National Health Service/Public Health

A plan showing the location of the premises was attached as Appendix 4 to the report, along with the current plan of the internal layout. Photographs of the premises were attached as Appendix 5 to the report.

An addendum circulated prior to the meeting advised of confirmation from Warwickshire Police that conditions had been agreed in relation to the application for a premises licence. These conditions would form part of any licence granted and were attached as Appendix A to the report. On 18 October 2023, the applicant sent additional information to the Licensing Department and requested this be shared with the Panel. These were attached as Appendix B to this report.

The Chairman asked Members of the Panel and Officers to introduce themselves. The applicant then introduced himself as Mr Rayappan.

The Council's Solicitor announced the procedure for the meeting. At the Chairman's request, the Licensing Enforcement Officer introduced the report.

In response to questions from Members, the Licensing Enforcement Officer stated that if a licence were granted, alcohol consumption would only be permitted within the venue. Therefore, the terrace could not be used if consuming alcohol.

In his opening statement, Mr Rayappan advised that:

- he had 25 years of experience in this industry and had previously worked for a high street branch;
- Albion Street Kitchen was the first business he had opened, and it provided Pan-Asian cuisine to Kenilworth residents, which was not served in the area;
- he had invested £100,000 to open the business;
- he would like the opportunity to sell alcohol to allow customers a pleasant experience and to enjoy one or two drinks with a meal. He did not plan on creating the atmosphere of a pub, there would be no live entertainment or opportunity to get drunk;
- he aimed to be a good licence holder and would keep to the code of practice;
- he did not get planning permission to move the kitchen extractor because he was not aware this was required. As soon as he was made aware, he applied for permission;
- if a licence was granted, an alcohol policy would be implemented. A challenge 25 poster would be displayed; and
- he would also ensure that staff were trained in various sale of alcohol policies.

In response to questions from the Panel, the applicant explained that:

- the emergency exits were situated to the front and rear of the property;
- two tables had been removed to make more space for takeaway pickup;
- the opening hours of the business were 10.30am - 9.00pm Monday to Thursday, 10.30am-10.00pm Friday and Saturday, 10.30am-8.00pm on Sunday;

- the application hours were based on previous experience in a high street branch. The pubs and off licence on the same street were permitted to sell alcohol during the hours applied for;
- following the submission of the application, he had now adjusted the opening hours. Once the business had opened, he realised that the customer base did not require the business to be open as late as 11.00pm;
- having received a complaints letter from residents, he was now happy to close at 9pm during the week, and until 10pm on Friday and Saturday evenings;
- the location of the premises was in a residential area;
- alcohol sales taken through the online order system would be verified by third parties such as JustEat or UberEats, which had their own system to ensure customers were over the age of 18. If the driver had any concerns regarding the order, it would be brought back to the restaurant and logged as a refusal;
- whilst the third-party websites were used for collecting the online orders, the applicant employed his own delivery drivers;
- collection was not yet available as an online order option;
- when fulfilling the delivery, the drivers would follow Challenge 25 and check for ID at the point of dropping the order off, should they feel this was needed. If the customer refused to provide ID or the ID provided was not satisfactory, the drivers were trained to bring the order back to the restaurant and log it;
- he looked at opening a restaurant for around three years and had worked in Kenilworth from 2008- 2010 so had an understanding of the local community and had implemented his previous experience of working within the sector;
- he had previously held a personal licence and had used this knowledge to apply for a premises licence;
- Albion Street Kitchen opened at 10.30am for breakfast and the all-day menu was available from 11.30am. A customer was only able to order online from 11.30am onwards. Sales at 10.30-11.30am would be restaurant only and the staff would be able to implement challenge 25 directly;
- there were only three or four tables coming in for breakfast, and out of those, very few wanted alcohol, and this was only to be served with food;
- a notice stating "*this is a residential area, please be considerate*" had been placed in the restaurant's window and the applicant was considerate to the flat above and had had conversations to ensure there was no noise nuisance;
- there had been limited customers dining in the restaurant, but he would tell customers if required to ensure noise levels were kept to a minimum; and
- if the closing time was 9.00pm, last orders would be in by 8.45pm. The expectation would be for customers to leave the premises by 9.30pm.

In his closing statement, Mr Rayappan stated that he had been awarded 'general manager of the year' twice and he would strive to look after the local area and community. He also stated the code of conduct would be followed and staff would be diligently trained.

At 10:38am the Chairman asked all parties other than the Panel, the Council's Legal Advisor and the Civic and Committee Services Manager to leave the meeting, in order to enable the Panel to deliberate in private and reach its decision. The decision would be communicated in writing via email to the applicant

and interested parties later on the same day, followed by a written notice with a full decision within seven days.

Resolved that the application be granted subject to conditions.

In making their decision, the Panel considered all the information provided in advance of, and at, the Hearing and the statutory guidance and the Council's Statement of Licensing Policy.

The Panel considered the potential impact on the licensing objectives and in particular public nuisance and the protection of children from harm. The Panel noted that the Applicant had agreed conditions with Warwickshire Trading Standards, Environmental Health and Warwickshire Police and that there were no remaining objections from responsible authorities.

The Panel therefore determined that it was appropriate for the promotion of the licensing objectives to grant the application for a premises licence at Albion Street Kitchen, 83 Albion Street, Kenilworth as set out below:

Sale of Alcohol for Consumption On and Off the Premises
Sunday to Thursday 10:00 to 21:00
Friday and Saturday – 10:00 to 22:00

As part of the decision to grant the application, the Panel determined that the following conditions should be applied to the premises licence to promote the licensing objectives:

1. The conditions set out in the operating schedule at Appendix 1 of the Report;
2. The conditions agreed between the Applicant, Warwickshire County Council Trading Standards, Environmental Health and Warwickshire Police as follows:

Conditions agreed with Environmental Health and Trading Standards

1. Prominent, clear, and legible notices must be displayed at all exits requesting that customers respect the needs of local residents and to leave the premises and area quietly.
2. All tables and chairs shall be removed from the outside area by 23:00 each day.
3. The premises licence holder (or his/her nominees) shall ensure that any patrons drinking, eating and/or smoking outside the premises do so in an orderly manner and are supervised by staff to ensure that there is no public nuisance or obstruction of the public highway.
4. Where the premises provide food to the public for consumption off the premises, there shall be provided at or near the exits, one waste bin to enable the disposal of waste food, food containers, wrappings etc.

5. Where the premises provide food for the consumption off the premises, the licence holder (or his/her nominees) shall ensure sufficient measures are in place to remove and prevent litter or waste food, food containers, wrappings arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business each day.
6. No waste or recyclable materials, including bottles, shall be moved, removed from, or placed in outside areas between 21:00 hours and 07:30 hours on the following day.
7. No deliveries to the premises shall take place between 21:30 and 07:30 on the following day.
8. A 'Challenge 25' age verification policy requiring proof of age by passport, photo driving licence or PASS accredited card.
9. Keep a 'challenge log' (refusals book) recording all challenges - where both sales and refusals result (example downloadable refusals book
<https://www.businesscompanion.info/sites/default/files/Underage-sales-refusals-log-Nov-2021.docx>)
10. A prompt or reminder to staff, at the point of sale, to consider whether a sale or challenge ought to be made (for example an EPOS - Electronic Point of Sale - system till prompt or if not then written notices/stickers at the till point showing age limits) (examples of posters that could be used can be found here: <https://noidnosale.com/>)

Conditions agreed with Warwickshire Police

1. All staff to be trained in the prevention of underage sales to a level commensurate with their duties.
2. All such training to be updated as necessary for instance when legislation changes and should include training on how to deal with difficult customers.
3. The training should be clearly documented and shall be available for inspection on request by an authorised officer of the Licensing Authority or an officer of the Police.
4. A Challenge 25 scheme shall be adopted and implemented.
5. Photographic identification shall be requested before any alcohol is sold to any person who appears to be under 25 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.
6. All staff training records to be maintained on site and made available for inspection by a responsible authority on reasonable request.
7. Premises DPS or management must attend any invited training sessions held by responsible authorities on reasonable request.

8. The Premises Licence holder shall implement and maintain an up-to-date register of incidents occurring on the premises. This register shall be made available to the Police or Authorised Officers on request.
9. An incident log must be kept at the premises, and made immediately available on request to an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or the Police, which must record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received (d) any incidents of disorder (e) seizures of drugs or offensive weapons (f) any faults in the CCTV system or searching equipment or scanning equipment (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
10. No open vessels of alcohol to leave the venue at any time.
11. Refusals register to be maintained and made available for inspection by a responsible authority on reasonable request.
12. The Applicant shall ensure that CCTV is installed and maintained to the satisfaction of the Police and Licensing Officers and shall ensure:
 - i. All equipment shall have constant time/date generation.
 - ii. This shall include a system to ensure automatic update in relation to the beginning and end of British Summer Time etc.
 - iii. If the system is not capable of achieving this requirement the Licence holder or nominated person must ensure that a manual facility is available to carry out this update as an alternative.
 - iv. Recordings must be kept for a minimum of 31 days.
 - v. Recordings of incidents at the premises must be made secure for inspection by the Police and or Licensing Officers.
 - vi. Copies of recordings will be made available to officers of the responsible authorities on reasonable request.
 - vii. Unauthorised persons should not be allowed access to the system or view personal data as it could contravene the Data Protection Act or jeopardise any criminal investigation.
 - viii. Arrangements for its repair must be made without delay.

The Panel also wished to highlight to the Applicant Condition 10 agreed with the Police that no open vessels of alcohol should leave the premises at any time and stressed that no alcohol should be allowed to be consumed in the seating area outside the Premises.

The Applicant or any person who has made representations may appeal against the decision of the Panel to the Magistrate's Court within 21 days of issue of formal notification of the decision.

(The meeting ended at 10.38am)

CHAIRMAN
11 March 2024