

LICENSING PANEL HEARING

A record of a Licensing Panel hearing held on Tuesday 7 June 2011, at the Town Hall, Royal Leamington Spa at 10.00 am.

PANEL MEMBERS: Councillors Mrs Bromley, Gill and Pratt.

ALSO PRESENT: Max Howarth (Council's Solicitor), David Davies (Licensing Manager) and Amy Jobling (Committee Services Officer).

1. APPOINTMENT OF CHAIRMAN

RESOLVED that Councillor Pratt be appointed as Chairman for the hearing.

2. DECLARATIONS OF INTEREST

Councillors Mrs Bromley, Gill & Pratt declared personal interests because one of the objectors, Councillor Gifford, was known to them.

3. APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR GALLUS, 31 AUGUSTA PLACE, ROYAL LEAMINGTON SPA

A report from Community Protection was submitted which sought a decision on a premises licence application in respect of Gallus, 31 Augusta Place, Royal Leamington Spa.

The Chairman introduced the members of the Panel and the officers present and then asked all other parties to introduce themselves.

Mr Andrew Potts attended to represent the applicant, Mr Jose Leandro Fernandes Teixeira who was also present.

Mr Chris Davies represented Environmental Health, the responsible authority objecting to the application and Councillor Bill Gifford was present as an objector and local resident.

The Council's Solicitor read out the procedure that would be followed at the meeting.

The Licensing Manager, Mr David Davies, outlined the report and asked the Panel to consider all the information contained within the report and determine if the application for a premises licence should be approved. He also stated that one of the objectors, Ms Ann Tye, could not be sent an agenda because she had not supplied her home address. She had, however, been contacted via email to advise her of the time and place of the hearing.

The report referred to those matters to which the Panel had to give consideration, the statutory guidance issued by the Secretary of State, the Council's Licensing Policy Statement and the Licensing objectives.

LICENSING PANEL HEARING MINUTES (Continued)

The report from Community Protection which was submitted to the Panel presented an application to permit the following:

- ***Recorded music (indoors only)***

*08:00 to 00:30 Monday to Saturday
08:00 to 24:00 Sunday*

- ***Late Night Refreshment (indoors only)***

*23:00 to 00:30 Monday to Saturday
23:00 to 24:00 Sunday*

- ***The sale of alcohol (On the premises)***

*08:00 to 00:30 Monday to Saturday
08:00 to 24:00 Sunday*

Extended from New Year's Eve until the end of permitted hours New Year's Day

- ***The sale of alcohol (Off the premises)***

*08:00 to 23:00 Monday to Saturday
08:00 to 23:00 Sunday*

- ***The opening hours are shown as:***

*08:00 to 01:00 Monday to Saturday
08:00 to 00:30 Sunday*

Extended from New Year's Eve until the end of permitted hours New Year's Day

The Council's Licensing Policy Statement provided that the authority would take an objective view on all applications and would seek to attach appropriate and proportionate conditions to licences, where necessary, in order to ensure compliance with the four licensing objectives. Each application would be judged on its individual merits.

Included in the report were conditions previously agreed with the Police, set out in paragraph 3.4.

Representation had been received from Environmental Health, who had agreed that if certain conditions were included in the licence, they would be happy to withdraw their representation. These conditions were detailed on pages 6 and 7 of the report.

Mr Potts made a presentation to the Panel on behalf of the applicant, detailing some history of the premises and informing members of Mr Teixeira's background which was made up of 15/16 years in the licensing trade, including a number of different premises in the District. Mr Potts stated that the premises would be run as a Mediterranean restaurant and the applicant would aim to open within the next two to three weeks. In

LICENSING PANEL HEARING MINUTES (Continued)

addition, an extra condition had been agreed prior to the hearing to ensure that regular monitoring of noise would be undertaken by the DPS or manager and records of the monitoring kept.

Mr Potts was keen to highlight that no objection had been received from the Police who were content with the hours being applied for.

The applicant, Mr Teixeira, then addressed the panel and confirmed his commitment to working with local residents, to ensure that noise disruption was kept to a minimum and gave examples of how he had managed these issues at previous premises.

In response to questions from the panel he confirmed that there would not be any outside speakers, outside areas would be cleared by 9.00 pm and an awning was in place which would fit over the outside terrace to reduce noise.

The Environmental Health officer asked a question regarding the dimensions of the canopy, which Mr Teixeira confirmed as well as reiterating that there would be no music outside, but the area would be for public use.

Mr Teixeira advised that he had a good relationship with the existing tenants living above the premises which he hoped would continue. With relation to the recorded music permission, the applicant explained that this would be for relaxing, background music which diners would still be able to talk over.

Councillor Gifford, present as an objector and local resident, queried the difference between background music and any statutory noise nuisance which was clarified by the Environmental Health officer.

At this point, the Licensing Manager asked the applicant to consider his request for the Recorded Music element of the licence because his previous statement regarding how he intended to use music on the premises, did not need this permission.

The Chairman agreed to a brief adjournment whilst the applicant discussed this with his representative who left the room along with the officer and objectors.

Once returned, the applicant confirmed that he wanted to remove the Recorded Music permission from his application and would be applying for Temporary Event Notices (TEN's) to cover any instances when he may wish to hold larger events.

This in turn, would result in a number of the conditions put forward by Environmental Health becoming irrelevant and Mr Chris Davies was asked to confirm which ones he would still require on the licence. It was agreed that the last four conditions detailed in the report would remain, in addition to the one regarding regular monitoring by an authorized person.

Councillor Gifford then addressed the Panel and raised his concerns regarding the opening hours which he felt should be in line with other

LICENSING PANEL HEARING MINUTES (Continued)

restaurants in the vicinity. He made a request that the closing time be brought forward by half an hour, and that the applicant use the facility of Temporary Event Notices if he wanted to open later for specific occasions.

Mr Potts summed up the application and stated that Mr Teixeira would prefer the opening hours as detailed in the report because he felt that not only were TEN's costly and cumbersome but the Police had not raised any objections to the hours.

The applicant, his representative, the Licensing Services Manager, the Environmental Health Officer and Councillor Gifford then left the room whilst the Panel deliberated their decision.

Having heard the representations by the applicant, Environmental Health and Councillor Gifford, the Panel were of the opinion that the application should be granted as set out in the report, with the exception of recorded music which the applicant had agreed to withdraw from the application, subject to the conditions which had been agreed with the Police and Environmental Health.

The Panel did take into consideration Councillor Gifford's comments regarding reducing the hours by thirty minutes each night. The Panel felt, however, that as the Police and Environmental Health had not objected to the hours applied for, there was no evidence to suggest that this would impact on the licensing objectives.

RESOLVED that

- (1) the premises licence be granted for the following licensable activities and hours:

- ***Late Night Refreshment (indoors only)***

23:00 to 00:30 Monday to Saturday

23:00 to 24:00 Sunday

- ***The sale of alcohol (On the premises)***

08:00 to 00:30 Monday to Saturday

08:00 to 24:00 Sunday

Extended from New Year's Eve until the end of permitted hours New Year's Day

- ***The sale of alcohol (Off the premises)***

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LICENSING PANEL HEARING MINUTES (Continued)

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- (2) the following conditions be included on the licence;
- All staff members shall be trained in respect of premises licence conditions and policies and training records shall be kept on the premises and made available to authorised officers.
 - An incident/refusal book shall be kept on the premises and made available to authorised officers.
 - No open vessels to be removed from the premises at any time.
 - The cooking odours generated from kitchen activities have the potential of causing odour complaint to the nearby health and fitness business. Complaints have been received in relation to previous tenants of the premises in question. The extraction system therefore needs to be wholly suitable for purpose and designed by a competent individual. There shall be regular maintenance intervals and deep cleansing of the extraction system to prevent nuisance occurring.
 - Any kitchen extraction units / system must be designed to minimise noise escape / nuisance. The system must be installed by a competent engineer in line with the manufacturers guidelines.
 - The external frontage / patio area shall be cleared by 23:00 each and every day to avoid smokers congregating in an area directly adjacent noise sensitive dwellings.
 - Any external lighting shall use lower wattage lamps and be angled in such a manner as not to cause nuisance to neighbouring premises.
 - The applicant will regularly monitor the noise arising from patrons occupying the external terrace area and will maintain records of such monitoring. The records will be made available for inspection by Environmental Health if requested.

LICENSING PANEL HEARING MINUTES (Continued)

At 11:00 am all parties were invited back into the meeting, informed of the decision and were reminded that they had 21 days from the date of publication of this decision to appeal to the Magistrates Court.

(The meeting finished at 11.05 am)