

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel meeting held on Tuesday 24 March 2015, at the Town Hall, Royal Leamington Spa at 10.00 am.

Present: Councillors Doody, Mrs Grainger & Mrs Knight

Also Present: Caroline Gutteridge (Council's Solicitor), Amy Carnall (Committee Services Officer) and Emma Dudgeon (Licensing Officer).

1. **Appointment of Chairman**

Resolved that Councillor Mrs Grainger be appointed as Chairman for the hearing.

2. **Declarations of Interest**

Councillor Mrs Knight thought that the premise was located in her Ward.

During the course of the meeting, Councillor Doody also advised that he was a Member of the Planning Committee, when it was mentioned in relation to the premises planning permission.

3. **Application for a premises licence under the Licensing Act 2003 for Cote, Regent Court, Royal Leamington Spa**

The Panel considered a report from Community Protection which sought a decision on an application from Cote Restaurant (Limited) for a premises licence.

The Chair, members of the Panel and officers introduced themselves. The other parties then introduced themselves as Mr Roy Light, advocate for the applicant, and Mr Steve Seagers, Property Director for Cote Restaurant (Limited).

Prior to the hearing commencing, Councillor Mrs Grainger sought clarification on the precise location of the unit from the maps provided.

The Council's Solicitor explained the procedure that the hearing would follow.

The Licensing Officer outlined the report and asked the Panel to consider all the information contained within it, and the representations made to the meeting, and to determine if the application for a premises licence should be approved and, if so, whether the licence should be subject to any conditions.

The original application had been for the licence to permit the licensable activities as per the table below:

	Sale of Alcohol for Consumption on and off the premises	Late night refreshment	Opening hours
Monday to Sunday	10:00 to 23:30	23:00 to 23:30	08:00 to 23:30

The Licensing Officer advised that representations had been received from Warwickshire Police and a Ward Councillor, however, following the agreement of a condition with the Police and amendments made after discussions with Environmental Health, these representations were withdrawn. Included in the application were a number of conditions which would be added to any premises licence if granted and these were detailed at 3.2 of the report. The list included the condition previously agreed with the Police.

A representation had been received from Royal Leamington Spa Town Council which was detailed on pages 3/6 to 3/9 of the report. Its objection was based on the grounds that the current timings and conditions for the supply of late night refreshment and alcohol to the outside seating area, would create a public nuisance to local residents. The Town Council was unable to attend the meeting but had submitted a written representation to be considered during the hearing.

The report advised that there had been no representations from any of the other public bodies or authorities and as there were no licensable activities currently taking place at the premises, there was no evidence in relation to licensing which could be considered at the hearing.

The premise was located in the Council's Cumulative Impact Zone and the onus was on the applicant to prove that the application would not impact significantly on the Licensing Objectives.

Mr Light, the advocate for the applicant, outlined the application and gave some background as to the style, customer base and ethos of the restaurant chain. He distributed some colour brochures to the Panel and officers which detailed the management structure, testimonials, customer feedback and sample menus.

In relation to the premise being located in the Cumulative Impact Zone, Mr Light highlighted that there were no objections from the Police or local residents to suggest that the Licensing Objectives would be impacted on. In addition, because the restaurant had not opened yet, there was no evidence that disturbances would be caused and all parties appeared to be happy.

In response to the written submission from the Town Council, Mr Light advised that the applicant was happy to include most of the conditions proposed by the Town Council apart from the ones relating to opening hours and closure of doors and windows.

The Town Council had requested the opening hours be reduced from 08:00 to 10:00 but had not given a reason for this request. Mr Light explained that the restaurant wanted to open at 08:00 to provide a breakfast service and the Panel were content that no licensable activities would be taking place until 10:00.

The Town Council had requested that all doors and windows be kept closed after 19:30 hours except for access and egress. In response, Mr Light explained that the restaurant would be erecting bi-fold doors to the front of the restaurant which would be opened fully in good weather. In response to questions from the Panel he advised that this was to add to the ambience of the restaurant and to enhance the 'café culture' experience for customers, who could enjoy the outdoors whilst still seated inside the restaurant.

The Panel were advised that the applicant had agreed to clear the outside seating area by 19:30 but on the understanding that the bi-fold doors would

remain open until 21:00. The applicant advised that they were happy to amend the original condition number 9 to read:
"Doors and windows must be kept shut after **21:00** hours except for entry or egress".

Councillor Doody asked the applicant if they would be able to add any protection to the front of the restaurant to mitigate against noise travelling upwards and disturbing the residents. Councillor Mrs Knight also enquired as to whether the applicant had undertaken any research on sound movement in the vicinity of the premise.

However, the Panel were reminded by the Council's Solicitor that the Environmental Health officer had not objected to the application on the grounds of noise disturbance, nor had any residents. In addition, if noise disturbances were experienced once the restaurant had opened, these would need to be dealt with in the usual manner via the Environmental Health department.

Councillor Mrs Grainger sought clarification on the type of music being provided and the location of audio speakers, which was also noted as a concern of the Town Council. Mr Light advised that the restaurant would be supplying background music only and none of the audio speakers would be located pointed outwards from the front of the premises.

The Panel also enquired whether there would be any provision made for customers wishing to smoke. Mr Light advised that there would be no designated area provided for smokers and staff actively discouraged customers from smoking in the outside seating area because of the open fronted design of the restaurant. Although this was a practice that staff would actively try to prevent, he reminded Members that staff had no right to stop anyone from smoking if they were on the public highway.

At 10:40 am the Chair asked all parties other than the Panel, the Council's Solicitor and the Committee Services Officer, to leave the room, in order to enable the Panel to deliberate in private and reach its decision.

At 11:00 am all parties were invited back into the room, at which time the Chairman advised that the Panel had

Resolved to Grant the application, subject to

- (1) conditions 1 to 8 and 10 to 18 as listed in section 3.2 of the report;
- (2) an amendment to condition 9 to read "Doors and windows must be kept shut after 21:00 hours except for entry or egress"; and
- (3) the following additional conditions from Royal Leamington Spa Town Council, as follows:
 - No display of advertisements outside the premises advertising drinking promotions.
 - External dining furniture will remain secured outside overnight.
 - No regulated entertainment shall be held at the premises.

The Council's Solicitor advised the applicant that a full written decision would be published in due course.

The Panel had considered the representations made by the applicant at the hearing and in writing along with the representations made by the Town Council and the Licensing Officer's report. The Panel had also taken into account the Warwick District Council Licensing Policy and the Licensing Act Statutory Guidance.

The Panel considered the Warwick District Council's cumulative impact policy. It was noted that the Police had not objected to the application. The Panel concluded that the Applicant had demonstrated that the premises would not add to the cumulative impact.

The Panel noted that the conditions set out at paragraph 3.2 of the Licensing Officer's Report ("the Report") had been agreed by the Applicant, the Police and the responsible authorities. The Town Council had proposed additional conditions in their representation dated 11 March 2015 and subsequent addendum. The Panel noted that conditions 2, 3, 4, and 6 of the addendum were already included in the list of conditions at paragraph 3.2 of the Report (see conditions 18, 15, 17 and 2). The Applicant had further agreed to accept the following addendum conditions as proposed by the Town Council:

- (4) No display of advertisements outside the premises advertising drinking promotions.
- (5) External dining furniture will remain secured outside overnight.
- (6) No regulated entertainment shall be held at the premises.

The Panel agreed that these additional conditions were necessary to prevent public nuisance and they would be added to the licence.

The Applicant did not agree to the two further conditions proposed by the Town Council; namely:

- All doors and windows will be kept closed after 19:30 except for access and egress
- Normal Opening Hours – Monday to Sunday from 10:00 to 23:30.

The Applicant proposed that doors and windows would be kept closed from 21:00 instead of 19:30. Whilst the Panel noted that other premises in the vicinity may be subject to this condition from 19:30 they were obliged to consider each case on its individual merits with reference to the Licensing Objectives. The Panel, having heard evidence about the premises and how they would operate, concluded that it was proportionate for this condition to take effect from 21:00 hours. Condition 9 in the Report would therefore be amended to read "Doors and windows must be kept shut after 21:00 hours except for entry or egress".

The Panel noted that the Applicant would wish to open from 8am to provide a breakfast service. The Panel had no objection to this. There would be no licensable activities taking place between 08:00 hours and 10:00 hours and no reason with reference to the Licensing Objectives, to limit the opening hours.

(The meeting ended at 11:02am)