

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held on Tuesday 17 May 2016, at the Town Hall, Royal Leamington Spa at 10.00am.

Present: Councillors Mrs Falp, Miss Grainger and Weed

Also Present: Mr Howarth (Council's Solicitor), Miss Carnall (Senior Committee Services Officer) and Mrs Dudgeon (Licensing Enforcement Officer).

1. **Substitutes**

Councillor Weed substituted for Councillor Ashford.

2. **Appointment of Chairman**

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

The Chairman, Members of the Panel and officers introduced themselves.

The Chairman then invited the applicant and interested parties to introduce themselves. They were:

- Ms Noone, the applicant;
- Alex, applicant's potential future business partner and owner of Tasca Dali in Warwick;
- Mr Sharira, applicant's solicitor;
- Mr Tapia, a local resident objecting to the application; and
- Councillor Mrs Knight, on behalf of Mr Mohammed, a local resident.

3. **Declarations of Interest**

There were no declarations of interest.

4. **Application for a premise licence under the Licensing Act 2003 for Bread and Butter, 53 Regent Street, Royal Leamington Spa**

The Panel received a report from Health and Community Protection which asked Members to consider an application from Ms Noone for a premise licence for Bread and Butter, 53 Regent Street, Royal Leamington Spa.

The Licensing Enforcement Officer outlined the report and asked the Panel to consider all the information contained within it.

Representations had been received in relation to the application and Members were asked to consider if the licence should be approved, and if so, should the licence be subject to any conditions.

The applicant submitted the application in March 2016 for the following licensable activities:

	Sale of alcohol for consumption on and off the premises	Opening Hours
Everyday	12:00 to 22:00	08:00 to 22:00

An operating schedule submitted by the applicant which would form part of any licence issued was set out in section 3.3 of the report. This gave a brief outline of how the four licensing objectives would be managed by the staff and included restricting entry to high risk individuals or groups, first aid and fire risk issues, restricting the sale of alcohol to diners on the premises and ensuring that any person under the age of 18 was supervised by a responsible adult.

Representations had been received from ten people who either resided or worked within the vicinity of the premises and these were attached at Appendices 1 to 10 to the report.

Representations had also been received from Warwickshire Police, Environmental Health and two further residents. However, conditions had been agreed with the applicant and these representations were subsequently withdrawn. The following agreed conditions would be added to any premises licence issued:

1. Alcohol to be tabled served by waiter/waitress service at all times.
2. Alcohol only to be supplied to those persons partaking of a table meal.
3. No Open vessels to be taken outside the premises at any time.
4. Refusals book / registered to be maintained and made available for inspection on reasonable request from responsible authority.
5. No persons under the age of 18 years will be allowed on the premises unless accompanied by a responsible adult of 18 years or above and with the express permission and knowledge of the DPS or someone acting under their authority
6. All staff to be trained in age verification policies and procedures.
7. All staff training records will be maintained and made available for inspection on reasonable request from responsible authority.
8. Staff to be trained in drunk and drugs awareness.
9. No public bar area.

There were no licensable activities taking place at the premises at the time of the application and therefore there was no evidence in relation to licensing detailed in the report.

Mr Sharira outlined the application and explained that 'Bread & Butter' was currently being run as a coffee shop during daytime hours. The proposal was to serve Mediterranean style food and good quality wine. It was hoped that the clientele would be older professional people and staff would provide table service, closing by 23:00. The applicant did not feel that this would be a noisy premise which would cause any difficulties and it would be run in a similar style to Tasca Dali in Warwick.

The solicitor described the location of the premises and advised that there was an existing planning permission in place to allow the premise to run as a restaurant. He felt that the cumulative effect was negligible because the application would only be adding the sale of alcohol to their itinerary.

With regard to the prevention of crime and disorder, Mr Sharira advised that following the agreement of conditions with the Police, they had no objection. In

addition, he explained that there had been no issues relating to public safety and the Designated Premises Supervisor would be responsible for ensuring the prevention of harm to children. Mr Sharira suggested that there was a bigger issue with a neighbouring takeaway business that operated a taxi business until 04:00 hours.

In response, the Licensing Enforcement Officer stated that there was no taxi base operating out of the neighbouring takeaway business and clarified their opening hours.

Mr Sharira addressed each objection individually and felt that there was no evidence to support the claims being made, and that the concerns could not be substantiated. He disagreed that the selling of alcohol would increase noise or public nuisance and assured the Panel that the DPS would be responsible for ensuring that customers did not make a noise when leaving the premises.

Finally, in response to an objection that had been made about smokers outside the premises, Mr Sharira felt that this could not be prevented and may even be caused by the existing residents themselves. He also felt that the individuals in question may not even be customers of the restaurant.

In response to questions from Panel Members, Mr Sharira stated that:

- The applicant knew all of the neighbours and no difficulties or complaints had been raised;
- the garden area had been used for the length of summer last year and no objections or complaints had been received, only compliments;
- the applicant would be using the ground floor and garden area to serve customers; and
- the applicant had trialled private events in the evening without any problems – these had usually ended at 18:00.

The Chairman then asked the interested parties to outline their representations.

Councillor Mrs Knight addressed Members on behalf of a local resident, Mr Mohammed. She explained that this area of Leamington was well known to her and could be described as a fairly residential area. Many of the residences were located above the shops and commercial units along the road, with overlooking windows and adjoining walls. She reminded the Panel that this premise had not had an alcohol licence before and the established drinking establishments tended to be more isolated than this premise. Mr Mohammed had concerns about passive smoking, disorderly behaviour and any music which could cause additional noise. He felt that the granting of this licence would add to existing issues and make things even worse.

Councillor Mrs Knight highlighted the number of conditions agreed with the applicant but did not feel that these addressed the concerns being raised by residents.

Mr Tapia addressed Members and assured them that he had never been a smoker and as a local resident, his property adjoined both Regent Street and John Street, with the sleeping quarters to the rear of the building. He felt that the use of the garden would impact on these rooms. He noted that the applicant did not tend to attract a noisy clientele but felt that alcohol often changed people's behaviour and resulted in increased noise. He had noted that the

premise had been open until 18:00 on occasion last year, but advised that the coffee shop had not been open recently and felt that there was a huge difference between daytime and night time hours.

Mr Tapia made reference to the neighbouring takeaway business but explained that all of the activity took place at the front of the building and not the rear. In addition, he accepted that there was a larger drinking premises nearby but advised that they had enough insulation so as not to affect his family. He felt it was important that the quiet characteristics of the rear of the buildings should be maintained. Mr Tapia stated that he was currently studying to be a doctor and worked night shifts, and the use of the garden during the daytime had disturbed him previously.

In addition, Mr Tapia had concerns that he would suffer from a loss of privacy because his bedroom window overlooked the garden of the premise. This also raised passive smoking concerns because he would not always want his windows and curtains to remain closed. He reminded the Panel that residents should be able to maintain the quiet enjoyment of their homes and explained that there was no commercial activity on John Street, which he described as a residential oasis.

In response to questions from the Panel, Mr Tapia stated that he had encountered noise issues in the past year. These had been caused by the use of the garden area by young children, but whilst it was an annoyance, he had not complained because it had been during the day. He felt that if this use extended into the evening, it would make a huge difference.

In summation, the applicant's solicitor advised that steps had been taken by the applicant to address the licensing objectives and were laid out in the operating schedule. He reminded Members that it would not be in the applicant's interest to encourage public nuisance and described the high end wines and food that the applicant hoped to serve. He described the premise as having a family-orientated atmosphere, and alcohol would only be served to diners at the tables. In addition, the DPS would be there to prevent any nuisance issues.

At 11.30 am, the Chairman 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.

Resolved that the licence be **granted**, for the following reasons, and subject to:

- (1) the operating schedule provided;
- (2) the conditions agreed with the Police;
- (3) the conditions agreed with Environmental Health;
and
- (4) an additional condition preventing patrons from using the garden after 21:00 hours, to read "All outside areas to be cleared and vacated by 21:00 hours and no patrons shall be permitted to use the outside areas after this time".

The Panel has heard the representations from the applicant in support of the application and from Councillor Mrs Knight and Mr Tapia.

The Panel is satisfied that the applicant has demonstrated on the balance of probabilities that the grant of the licence, with the exception of the use of the garden area, would not impact on the licensing objectives. The Panel notes that both the Police and Environmental Health have withdrawn their objections in relation to the application and have agreed conditions with the applicant.

It is clear from the application and the conditions agreed with the Police and Environmental Health that the premises will be used as a restaurant where alcohol will only be served with a meal and service will be by table service only. The applicant stated that they were looking to cater for older, professional people and would serve high end quality products. It is clear, given the nature of the premises, that this would not be a vertical drinking establishment. It is the Panel's view that, given the nature of the premises, the grant of an alcohol licence would not add to the cumulative impact in the Cumulative Impact Zone.

The Panel does, however, have concerns about the use of the garden. The Panel heard from Mr Tapia that he had experienced noise emanating from the premises during the day. The Panel notes that the garden area backs onto John Street and is in close proximity to a number of residential properties. The Panel is concerned, given the quiet nature of John Street and the fact that noise emanating from the garden is likely to be more prominent in the evening, that noise emanating from the garden will cause disturbance to the occupiers of the residential properties located within close proximity to the garden.

It is the Panel's view that it is appropriate to impose a condition controlling the use of the garden area in the evening, in order to ensure that there is no impact upon residents.

At 12.22pm, the applicant, the interested parties and the Licensing Enforcement Officer were asked to re-enter the room. The Chairman invited the Council's Solicitor to read out the Panel's decision.

The Council's Solicitor advised that any party had the right to appeal the decision within 21 days to the magistrates' court.

(The meeting ended at 12.26 pm)