

**LICENSING SUBCOMMITTEE
(2003 ACT)**8 January 2007
10.30am to 1.15pm**Present:** Councillor Boyce (Chair), Blencowe, Dixon**07/lic/01 Apologies**

All members were present.

07/lic/02 Procedure to be Followed

The procedure for hearings of the subcommittee set out on the agenda was noted.

07/lic/03 Application for a New Premises Licence Kings News, Kings Street,**Declarations of Interest by Subcommittee**

No declarations of interest were made.

Present: Mr Deepak Barot (Applicant), Miss Azreen Mussa (Counsel for applicant)**The hearing:** The Licensing Officer presented her report and outlined the application being made. Two representations attached at Appendix B had been received from interested parties, businesses in the area. A petition containing 21 signatures of local traders and residents had also been submitted.

One person making a representation had said that they would attend the meeting and wished to speak in accordance with the procedure, however, he was not in attendance, and in his absence, the Subcommittee agreed to proceed with consideration of the application.

Miss Mussa put the case for the applicant, referring to

- The extension of the renewal and extension of the S.30 Dispersal Order covering among other areas, the adjacent Christ's Pieces Open Space, which would deal with some of the concerns expressed by residents.
- The objections made by applicants which were outside the terms of the Licensing Act, for example, anti-social behaviour occurring outside the premises. These were subject to control under other legislation
- None of the Responsible Authorities had commented on the application.
- The number of other premises selling alcohol in the proximity of the applicant premises was not relevant as there was no cumulative impact policy in place.
- The petition had been signed in some cases by competing businesses; possible loss of business was not a reason which the Subcommittee could take into account in determining the application.
- The petitioners had failed to state any other objection which could be taken into account under the Licensing Objectives.
- Limiting the hours of sale would be contrary to the spirit of the Act.

Members asked

- Why the applicant wished to alcohol sales at 7.00am

Ms Mussa explained that this was the time at which other retail sales started and it would be difficult to separate alcohol sales. However if it was made a condition of the licence then the applicant would be willing to consider how to achieve the different time required.

- Was the applicant confident that his staff were sufficiently trained and capable of dealing with people who might already have had a quantity of drink.

Mr Barot confirmed that he was confident that his staff would be able to deal with this type of incident.

Councillors adjourned to discuss the application in the light of the concerns raised by interested parties and the submission by the applicant and his representative.

The Decision: In reaching the decision on the application the Subcommittee considered the material presented, the written representations made, the Council's Statement of Licensing Policy and the Statutory Guidance under the Licensing Act 2003.

In this case, the Sub-Committee had to balance the interests of the applicant with those of the wider community. The decision was reached on its individual merits noting that the premises is in a residential area.

It was decided to grant the application, as applied for.

Details of application:

The sale or supply of alcohol (off the premises): Mon to Sat: 07.00 to 21.00 hrs
Sun: 07.00 to 20.00 hrs

Hours premises open to the public: As for sale/supply of alcohol above.

The Chair informed the meeting of the decision reached by the Subcommittee and that all parties would receive written notification of the decision, which would include details of the right of appeal against the decision.

07/lic/04 Application for a New Premises Licence: Wetherspoon's, Cambridge Leisure Park

Declarations of Interest by Subcommittee

Cllr Dixon said that one of the persons making representations was a former colleague of his.

Present:

Stephen Walsh, Gareth Steel, Ms M Berridge (for applicants)
PC P Sinclair, Insp C Porter, Mr Jeremy Phillips (Counsel for the Police)
R Bourdon (Cherry Hinton and Rathmore Roads Residents Association)

Licensing Officer

The Licensing Officer presented her report, which had been amended following publication as indicated below, and outlined the application being made. Representations had been received from the Responsible Authorities: Police, Planning and Environmental Protection which were attached at Appendix B. The grounds of their objections were set out in the report. Three interested parties, local residents and representatives of Residents

Associations had commented on the application and their representations were attached as Appendix C to the report.

Following consultation with local residents and taking into account the comments of the Responsible Authorities, the applicants had amended their application as set out below to reduce the opening hours of the premises and retain only the showing of films within the proposed regulated entertainment.

Sale/supply of alcohol (on and off premises):	Mon – Sun	09:00 to 23:00
Films:	Mon – Sun	07:00 to 00:00
Late Night Refreshment (indoors and outdoors)	Mon – Sun	23:00 to 23:30
Hours premises are open	Mon – Sun	07:00 to 00:00

Applicant's Case

Stephen Walsh presented the case for the application by JD Wetherspoon plc referring to :

- The type and location of the company's outlets among which were leisure areas; the company aimed at a style appropriate to the location.
- The proposal was for a family style pub with an emphasis on food and not a late-night entertainment-led venue for primarily young people. The premises would be aimed at catering also for patrons of the Travelodge already in place.
- The Leisure Park lacked a pub as other facilities such as the Junction were aimed at a different clientele, and this was seen as filling a gap in the market.
- Following the meeting with residents, the application had been altered to take account of their concerns. The relevant Responsible Authorities had been kept informed of the changes in the application
- The Police objection to the grant of a licence were based on the existing level of disorder in the Leisure Park which mostly related to the Junction. The Wetherspoon's pub was not intended to be a 'destination venue' in the same way as the Junction; it was to operate at different times and attract a different clientele.
- There was no evidence from comparisons with other Wetherspoons' pubs operated in Leisure areas that it would add to public disorder. The proposed pub was a different proposition to the Regal in the city centre and was on a significantly smaller scale.
- The company took its duties as a landlord seriously and operated Challenge 21, requiring proof of age to be shown and had been commended for the way it operated.
- The company was proposing a mid-price range for alcohol sales and pursued a responsible retailer policy avoiding '2 for 1' offers and similar cut-price drinking opportunities.
- In relation to the external drinking area, this would be a seated area which would be monitored by dedicated members of staff.
- The applicant proposed to pursue a responsible approach to the operation of the pub which could not be compared with other venues in the Leisure Park area.
- In response to a question from a member of the Committee, Mr Walsh said that he acknowledged the difficulty that might arise from responding to the new Smoking law when it was introduced and that Wetherspoon's customers would be restricted to the open air area and would not be encouraged to move into the public square.

Police (as Responsible Authority) Comments

Inspector Porter requested permission to submit two further documents to the Subcommittee. These were in the form of a Witness Statement by PC Sinclair and summary of the incidence of Anti-Social Behaviour occurring in the area of and around the

Leisure Park. The applicants agreed to their circulation at the meeting. Members read the submissions before continuing the meeting.

Inspector Porter said that the Police would object to any proposal to licence a pub in the location of the Retail Park on the grounds that it was the wrong site for a public house. They had no objection to the applicant or their operation policies. He spoke to his background and the relevance of his comments as one of the duty inspectors in the city. He referred to:

- The submitted summary provided by Police Intelligence Analysts set out the level of disorder in the area of the Leisure Park and indicated a rise in the level of disturbances and violent incidents. The statistics for the Regal, the applicant's other venue in the Centre of the City, had been included for comparison.
- The Regal was a central venue opening out on the pavement, whereas the proposed venue would open out on to a public square.
- In terms of controlling the level of incidents the Police's busiest time was Friday and Saturday nights and the location of the Leisure Park would provide a challenge to efficient policing which currently concentrated on the city centre. The additional pressure of another venue out of the centre would have an impact on the ability to resource an appropriate response, especially given the level of concern on the current situation expressed by residents.
- He gave a synopsis of a typical Friday night's duty report to illustrate the concerns felt by the Police.
- There were no doubts about the applicant's ability to operate the premises, however there was considerable concern over additional demand for police resources which would impact on their ability to respond.

PC Sinclair, the Police Licensing Officer, spoke to his Witness Statement and said that he had viewed with concern the growth of reported incidents in the Leisure Park area and the number of licences being granted. He added:

- The design of the plaza area made it difficult to carry out the police's role of prevention and response with limited resources. These were concentrated in the City centre and it would stretch resources to have to deal with two areas.
- The new smoking legislation would be difficult to police as was external drinking proposed in that location.
- The number of customers to be catered for at the new premises was greater than anticipated, especially in the open air section.
- He spoke to the list of incidents at the Leisure Park in his statement.

Members Questions

Members then asked the applicants and Police the following:

- From Inspector Porter's comments, it appeared that the Police, although not objecting to any licence so far under the new legislation, were now likely to object to any new application within their operational area. Is this the case?

Inspector Porter responded that the Police would not object *per se* to any application, in this instance the location of the premises would have a significant impact as it was outside the City centre.

- In PC Sinclair's statement he refers to the kebab van operating from a lay-by in Cherry Hinton Road, did the Police object to the grant of a late night refreshment licence for this facility?

PC Sinclair responded that this was a reference to the likely cumulative impact of the number of venues and facilities, the Council if so minded could declare a cumulative impact zone. The application had been granted unopposed as there was no such zone in operation in Cambridge.

- Were the statistics for offences compiled under the old Licensing regime?

Inspector Porter said that the regime was not significant, for example the Regal had a licence to operate until 3.00am which it rarely operated, closing at the latest at 1.00am. The significance of the statistics was the evidence of the increase in offences at the Leisure Park.

- Was enforcement action being taken to ensure emergency services could access premises on the Leisure Park?

PC Sinclair said that the Park used a professional Security service and additional door staff to police individual premises and the plaza area in general.

Mr Walsh commented that the Junction operated its own security staff.

- While acknowledging the concern expressed by the Police, it was difficult to apply the city wide implications to the specific application being considered within the Council's Licensing Objectives.

The Police said that the incidence of anti social behaviour in the city started to increase from around 8.00pm or 9.00pm, the comparison with the Regal and Junction was made in the graph in the submission to the subcommittee. The Leisure Park incidents started at around 7.00pm and these could be linked directly to alcohols supply and consumption.

Other Responsible Authorities' Comments

Fire Officer Pilsworth said this service had made no objection to the application but that there was concern about the numbers projected, and he would welcome sight of a proposed layout for the seating.

The applicants said they would provide a layout as requested.

The Environmental Protection Officer said that the applicant had agreed conditions and an amended condition 6 relating to sound breakout.

Residents' Comments

R Bourdon (Cherry Hinton and Rathmore Roads Residents Association) said that

- The residential area around the Leisure Park was increasing in density
- There were a number of licensed premises in the area in addition to those listed, including the Earl of Derby PH and the effect of these premises in the vicinity of family housing and students of Hills Road V1th form college could only be detrimental.
- The increasing incidence of vandalism and anti-social behaviour as evidenced by the Police report was of great concern. No matter how effective the management of the premises was in controlling incidents with the venues, it was what happened once customers left that lead to problems.
- There was already a parking problem because of use of the site, local residents were experiencing vandalism to their vehicles from late night drinkers.
- The success of the Leisure Park was to be acknowledged and welcomed as a facility for all age groups to enjoy; however, the addition of another drinking venue would have a detrimental effect on the balance of facilities available and discourage family use.
- The proposed external drinking area was not compatible with family use.

Questions to Applicants Interested Parties and Responsible Authorities

- The Police representative asked Mr Steel about a final estimate of capacity for the premises.

Mr Steel responded that although this had not yet been finalised it was expected the facility would attract some 300 to 400 customers. Further research would be carried out and the Police and Fire Officer be informed. Similarly the footfall through the door had not been calculated, but was expected to be around 400 to 500 customers, depending on use by Travelodge customers and filmgoers.

- The Police representative asked what the expected barrellage was according to the company's business plan.

Mr Steel explained that the take up was split between food (at 60%) and alcohol sales. To ensure success the turnover should be £25,000 per week.

- The Police representative asked what the pricing policy was likely to be.

Wetherspoon's representatives said that the pricing was likely to be mid-range, and would include offers on real ales, bottled lager and other drinks. However as responsible retailers there would not be any 'half-price' or similar offers

- The Police representative asked whether it was reasonable to expect the pub to be regarded as a family venue if it was in that location, where young people might well see it as a preliminary venue before going on to other premises, such as a night club.

Wetherspoon representatives said that the premises was seen as a family pub, there would not be any music, smoking, or competitive pricing. The large plasma screens would show News 24 in the morning and would alternate between that and MTV later in the day. There would be no live music.

Summing Up

In summing up the applicant's representative said that the objections by the Police and local residents were based on the cumulative impact of the number of licensed premises in and around the Leisure Park. The Council had not agreed on a cumulative impact policy and it would be difficult to sustain an objection to the licence for that reason. The residents' concerns were acknowledged but the applicants felt that the Junction had provided the basis for the problems and that the pub would not add to the incidents because of the projected clientele. The venue was a different proposition from the Regal which was a destination venue and was closing at 11.30pm, operating in conjunction with Travelodge. It would be an unusual Leisure development without a pub located somewhere within it. The applicants were confident the premises would not add further pressure on police resources.

The Police said that their objections were based on the experience of the Regal and the impact that had on its resources. While the changes to the report had taken into account the changes in the application but there was still concern that, with the other existing licensed premises on site, there would be a significant further effect. It was difficult to accept that after the projected family use there would be no use of the premises by young people drinking prior to going on to night clubs. Reference was made to the statistics submitted and the timing of incidents which related to alcohol consumption. The Police would have been in dereliction of duty if it had not objected to the application with those statistics in hand and the situation with its resources. A pub of this sort in the location would be contrary to Licensing policy .

Councillors adjourned to discuss the application in the light of the representations by the Responsible Authorities, and the Interested Parties.

At the Chair's request the Council's Solicitor, Mr Feroze Abbas, summarised the the advice he had given to members during their adjournment.

Mr Abbas indicated he had directed members to their relevant powers under the Licensing Act 2003 specifically sections 17 and 18, he had also directed members to provisions 3.13–3.28 of the s.182 Statutory Guidance and Section 5 of the City Council's Statement of Licensing Policy. Mr Abbas confirmed that he had advised members that Cumulative Impact was a valid consideration for members to take into account but had also pointed out that as under section 5 of the Council's Statement of Licensing Policy the Council had not agreed a cumulative impact policy in the area of the application, there was no rebuttable presumption that applications for new premises licenses in this area would normally be refused.

The Chair confirmed that the Police's case would be part of the consideration by members but in common with other applications, a number of issues raised about the application were not relevant to the licensing process under the Licensing Act 2003.

The Decision: In reaching the decision on the application the Subcommittee considered the material presented, the written representations submitted, the Council's Statement of Licensing Policy and the Statutory Guidance under the Licensing Act 2003.

It was decided:

To grant the application, subject to conditions translated from the applicant's Operating Schedule, which are considered to be necessary for the promotion of the licensing objectives, specifically the promotion of public safety and the protection of children from harm.

Details of the decision:

It was decided:

To grant the application, as applied for save for the following amendments:-

The sale or supply of alcohol (on and off the premises): Mon to Sun: 09:00 to 23:30 hrs

Provision of Films (indoors): Mon to Sun 07:00 to 00:00hrs

Late Night Refreshment (indoors and outdoors): Mon to Sun 23:00 to 23:30hrs

Hours premises open to the public: Mon to Sun 07:00 to 00.00hrs

The following conditions(which had been agreed between the Applicant and the Environmental Protection Manager [EPM]) be added to the Licence:

The prevention of public nuisance

1. No regulated entertainment shall be provided until a full acoustic survey report assessing the impact of noise emanating from the premises during proposed entertainment events, upon neighbouring premises (having regard to representative levels of internally generated noise in terms of music and voice) has been carried out by an acoustic consultant or competent person.

The acoustic assessment / survey report shall determine the impact of sound breakout and in particular the effect on guests of the hotel (located adjacent and above the premises) and other nearby residential and commercial premises.

The survey report and full scheme of noise insulation and/or measures to limit the level of noise at source (noise limiters / noise cut off devices) shall be designed by a suitable acoustic specialist and submitted in writing for approval by the Environmental Protection Manager, ("EPM"). The assessment/report shall deal specifically with the control of all external doors and windows during periods when regulated entertainment, is being provided thus to avoid potential noise nuisance.

2. Any agreed noise insulation scheme provided to satisfy *Condition 1* above shall be installed to the satisfaction of the EPM and shall not be altered without prior approval and if a noise limiter / regulatory device is installed it shall be operated and maintained to an agreed level that shall be specified by a condition of this licence.

3. The licence permission for regulated entertainment shall be of no effect until any works and /or measures identified in Conditions 1 and 2 above have been completed/implemented to the satisfaction of the EPM.

4. Regulated entertainment shall not be permitted in the external/outside drinking areas except with the prior written consent of the EPM. If film is provided then its volume, if any, is to be set at a level acceptable to the EPM

5. When regulated entertainment is provided, no amplification of sound in the form of external loudspeaker systems shall be permitted in any outside areas.

6. When regulated entertainment, except for film, is provided all external doors and external windows shall be kept closed at all times apart from the main entrance to the shared courtyard of the Cambridge Leisure Complex and exit door that allows general ingress and egress, which shall be kept closed at all times so far as is reasonably practicable.

If film is provided then the volume if any shall be set at a volume acceptable to the Environmental Protection Manager.

7. On all days when the premises are open after 2330hrs for any licensable activity all the external tables and seats shall be removed from the external licensing area or stacked and secured so that they and this area cannot be used by patrons, after this time.

8. Prominent, clear and legible notices shall be displayed at all exits, requesting patrons departing to respect the needs of local residents and to leave the premises and the area quietly.

9. The Premises shall adhere to the JD Wetherspoon Dispersal Policy. When door supervisors are engaged at the premises the DPS will ensure they are instructed to carry out the following duties: Ensure as far as reasonably possible that customers leave the premises in an orderly and quiet fashion.

10. Deliveries to and collections from the premises shall not be permitted between the hours of 2300 and 0700.

11. No waste with the exception of the contents of ashtrays shall be moved, removed or placed in outside areas between 2300 and 0700

A further condition be attached to the Licence:-

That the maximum capacity for premises be agreed with the Fire Safety Officer prior to commencement of the Licence.

The Chair informed the meeting of the decision reached by the Subcommittee and that all parties would receive written notification of the decision, which would include details of the right of appeal against the decision.