

LICENSING PANEL

Wednesday, 6 April 2022

Present:

Councillors C Jones
D Mitchell
C O'Hagan

37 **APPOINTMENT OF CHAIR**

Resolved – That Councillor D Mitchell be appointed Chair for this meeting.

38 **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the Panel were asked to declare any disclosable pecuniary and non pecuniary interests in connection with any application on the agenda and state the nature of the interest.

No such declarations were made.

39 **APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - UNIT 4, THE CURVE, TELEGRAPH ROAD, HESWALL, CH60 7SE**

The Director of Law and Governance reported upon an application that had been received from Tahona Projects Limited for a Premises Licence in respect of Unit 4, The Curve, Telegraph Road, Heswall.

It was reported that the premises do not currently have a Premises Licence. The hours applied for were set out within the report.

The applicant had submitted an operating schedule setting out how the business would be conducted/managed in accordance with the four licensing objectives. A copy of the full application was available. Members were advised that the proposals set out in the operating schedule may become conditions of the licence should the application be granted. Following discussions with Merseyside Police the applicant had agreed to include a number of conditions on the Premises Licence should the application be granted. Details of these conditions were set out within the report.

In respect of the application, twenty-one representations had been received from local residents. The representations related to concerns of anti-social behaviour and public nuisance that may be caused by customers of the

premises as well as parking related issues should the application be granted. The representations also related to strong concerns regarding the operating hours due to the close proximity of the premises to residential properties.

A representation had also been received from Ward Councillor Andrew Hodson who supported the representations submitted by local residents. Copies of all the representations were available.

The applicant attended the meeting together with a colleague. Two local residents who had made representations were also in attendance together with Ward Councillor Andrew Hodson.

The Licensing Officer confirmed that all documentation had been sent and received.

The Licensing Officer outlined the report.

The applicant informed Members of the Panel that he had resided in Heswall all his life and had experience working in licensed premises. He advised that the application for a Premises Licence had been made in order to provide a Mexican restaurant which would operate primarily as a restaurant with background music or live music and for last orders for food to be available until 10.00 pm with a capacity of about 70 seats for the restaurant and 20 people at the bar area and to allow the provision of alcohol until 1.00 am for staff from other hospitality establishments and the community to be able to attend these premises for a drink after they had finished work.

The applicant advised Members that he wanted to provide a safe, relaxed drinking environment and not a night club and that he intended to provide 10% discount cards for staff from other hospitality establishments in the area.

The applicant also advised that he wished to operate a delivery service for takeaways from the rear of the premises and that customers would not be encouraged to congregate outside the premises as there would be no drinking outside, no glasses would be permitted to be taken outside and there would be no seating or heaters in the outside area to encourage individuals to congregate there.

The applicant responded to questions from the local residents in attendance, the Legal Advisor to the Panel and Members of the Licensing Panel.

In response to questions from Ward Councillor Hodson, the local residents, Members of the Licensing Panel and the legal advisor to the Panel, the applicant advised that last orders for food would be taken at 10.00 pm for customers to finish eating at 11.00 pm and although the intention was to have a bar after the restaurant the premises would not be a nightclub. He also advised that if customers were intoxicated or disruptive he had experience in

dealing with this. He further advised that the takeaways would be operated as a delivery service until 9.30 pm. The applicant informed Members that in respect of a dispersal policy he could keep customers inside the premises until their taxi arrived by way of using a call back facility.

The applicant informed Members of the Licensing Panel that the live music would be played on a stage situated at the front of the premises which would be furthest away from local residents and that although no testing in respect of noise nuisance had been carried out he would be willing to do this. He advised that the provision of food would be operated along the lines of 'scoop and go' where food would be prepared and made fresh on the day.

The applicant further advised that the clientele he was hoping to attract for the latter part of the night would be mature clientele and staff from other hospitality establishments in the vicinity for a quality drink and as he had previously worked at another premises in the area he believed there was a market for this. He reported that the live music he intended to provide was acoustic music maybe with a guitar or keyboard and he had no plans for bands.

The applicant explained that doorstaff would be employed should they be required and that the maximum capacity would be 85-90 which would include members of staff. He also advised that should the takeaway service operating at the rear of the premises cause a nuisance to local residents he would move this to the front of the premises. He informed Members that there was currently gym operating 24 hours from the first floor of the premises which played music and he therefore believed noise would not be an issue.

In response to a question from the legal advisor to the Panel in respect of the premises being represented as a bar, the applicant believed that should the premises serve food for 12 hours and alcohol for 2 hours the premises would be primarily a restaurant. It was highlighted that the planning permission stated that the premises must be cleared by 11.30 pm.

Ward Councillor Andrew Hodson and the local residents in attendance at the hearing informed the Panel that although they welcomed a restaurant in the area, they had concerns in respect of alcohol being sold until 1.30 am which they believed would encourage anti-social behaviour and public nuisance that may be caused by customers of the premises congregating outside as well as parking related issues should the application be granted. They also had strong concerns in respect of the operation of the premises as a bar rather than a restaurant and the operating hours due to the close proximity of the premises to residential properties. Councillor Hodson referred to the operating hours of other premises in the vicinity and believed that the hours permitted for these premises should be in line in order to prevent customers migrating at a late hour and causing nuisance to local residents beyond 1.30 am. Councillor Hodson also expressed concerns in respect of the provision of

takeaways and the disturbance that would be caused by the use of a delivery vehicle late at night in a residential area.

In determining the application Members of the Licensing Panel had regard to the Licensing Objectives, the Council's Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Licensing Act 2003.

In coming to their decision, Members gave consideration to the responses made by the applicant and his wish to provide the sale of alcohol for 2 hours after the last serving of food.

The Panel noted the willingness of the applicant to liaise with local residents in respect of any concerns that may arise.

Members also noted the concerns of local residents in respect of the close proximity of residents and the hours of operation applied for and took into consideration the opening hours of other licensed premises in the vicinity.

In determining the application Members also had regard to the fact that there were no representations from any of the Responsible Authorities, in particular Merseyside Police.

Members also took into account Section 11 of the Guidance in respect of the review mechanism provided by the Licensing Act 2003 when problems associated with the Licensing Objectives occur after the grant of a Premises Licence.

Resolved (2:1) –

(1) That in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during consideration of the application.

(2) That the application for a Premises Licence in respect of Unit 4, The Curve, Telegraph Road, Heswall, be granted with the following hours:

Sale by Retail of Alcohol

Sunday to Saturday 10:00 to 23:00

Hours Open to the Public

Sunday to Saturday 09:00 to 23:30

Recorded Music

Sunday to Saturday 09:00 to 23:00

Live Music

Friday and Saturday 18:00 to 23:00

(3) That the following additional condition be placed on the Premises Licence:

- **There must be no takeaway deliveries after 21.30**