

Minutes of: LICENSING HEARING PANEL

Date of Meeting: 15 September 2016

Present: Councillor D Jones (in the Chair)
Councillors P Adams and R Hodkinson

Also in attendance: Ms Deegan - Objector
Mr Flannery - Objector
Mr Hewitt - Objector
Mr Hoolihan - Objector
Mr King - Barrister supporting Objectors
Mr Lau - Applicant
Mr McCreesh - Objector
Mr J McCreesh - Objector
Mr Murray - Applicant
Mrs Ratcliffe - Objector
Mr Saul - Solicitor representing Applicant's

Apologies for Absence: -

LHP.1 DECLARATIONS OF INTEREST

Councillor Jones declared that he recognised Mr Laum, a director of the Ivory Pan Asian restaurant, as he had patronised the restaurant when it had been The China Lounge. This would not affect his judgment of the issues.

Councillor Jones also said he recognised Mr Hewitt, one of the objectors as he recognised him due to working next door to where Mr Hewitt lived prior to his retirement. This would not affect his judgment of the issues.

Councillor Adams stated that he recognised Mr Lau a director of the Ivory Pan Asian restaurant as he had patronised the restaurant when it had been The China Lounge. This would not affect his judgment of the issues.

Councillor Hodkinson declared that he was the treasurer for Ramsbottom Business Group for many years and in this role had encountered Mr Murray. This would not affect his judgment of the issues.

LHP.2 APPLICATION FOR A VARIATION OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF WHICH REPRESENTATIONS HAVE BEEN MADE

Prior to the Hearing the authority received an application to vary the Premises Licence under the Licensing Act 2003 in respect of Ivory Pan Asian, 190 - 194 Bury New Road Whitefield.

The application was as detailed in the report which was presented to the Members of the Panel by the Deputy Licensing Officer.

All written representations were contained within the report to Panel. All documentary evidence comprising the application, report provided with the agenda and representation were served on all parties in advance of the hearing.

It was explained that a premises licence had been in force since November 2005 when the business began trading as the China Lounge a licensed restaurant and bar. The licence was transferred to Robata Grill Limited, t/a Ivory Pan Asian on 20 June 2016.

The Panel heard oral representations on behalf of the Applicant from Mr Thomas Saul, the applicants' solicitor.

Mr Saul explained that the applicants understood the concerns of the residents in attendance and those that had objected to this application; especially after issues with local premises that had received complaints due to various types of nuisance caused after opening. He stated that the Ivory Pan Asian would not be anything like the establishment referred to and would be similar to the China Lounge but with more to offer with a lounge bar ambiance (akin to the type of establishment known as "Australasia" in Manchester) being a restaurant with a bar.

It was explained that Mr Murray the DPS and Mr Lau had both run extremely successful restaurants in the past, Mr Lau being a Director at the China Lounge and Mr Murray being the current DPS at The Buddha Lounge in Whitefield. Neither had ever had any trouble at any of their establishments.

It was anticipated that the premises would offer an ambient atmosphere where patrons could enjoy a late meal in a lounge atmosphere.

Mr Saul explained that the applicants had worked with Greater Manchester Police and had volunteered conditions which were attached to the report. One of the conditions was relating to noise not being audible outside of the premises. This was something that the applicants were more than happy to comply with. Plans were to have a DJ with lounge music and the occasional cabaret singer which wouldn't result in too much noise. He added that the residents could come back if issues did occur. He explained Mr Murray runs the Buddah Lounge on Radcliffe New Road, his clients recognised the concern and would work with the residents to minimise the concerns.

Mr Saul stated that the 2005 licence had operated without any issues.

The Chair asked the objectors present if they had any questions for the applicants and their representative.

Mr King representing some of the objectors set out that the objections were around the significant increase in hours and that it was considered that there would be a change in the nature and function of the premises.

It was suggested that it could be possible to come to some sort of agreement between the applicants and the objectors now that they had heard what the business involved.

Ms Deegan a local resident explained that the objectors had been invited to the premises to discuss their concerns but she hadn't attended.

The Chair suggested that the meeting be adjourned for a short period of time to allow a discussion between the Applicant and the Objectors in relation to the conditions surrounding the application.

The panel adjourned.

The panel heard representation from Mr King, the objectors' legal representative who stated that the Applicants had discussed the concerns with the objectors and some positive suggestions had been raised.

The objectors were concerned about noise levels from the premises and asked whether the installation of a sound limiter could be included within the conditions.

It was also suggested that the entrance doors into the premises should be self closing to stop noise from being emitted for lengthy periods.

The noise made when emptying bottle bins at night was loud and it was suggested that a restriction be put on relating to when this activity can be undertaken.

Residents were still concerned with regards to the proposed extended opening hours, particularly up to 2am, as they felt that public nuisance could still be an issue. It was suggested that a door supervisor may help with an exit procedure.

There were also concerns about parking locally and where patrons would park.

There were concerns that the premises would attract people calling in to have a late night drink after other establishments had closed.

Mr Saul was given the opportunity to respond to the issues raised.

It was explained that car parking would not be an issue as it would be no different than what had happened for the last 10 years that the premises had been run as the China Lounge.

Mr Saul stated that the premises were not the type of establishment that would require a door supervisor.

The bar would be serving wine and cocktails to the customers that had eaten a meal. It would be somewhere to sit and relax after a meal rather than a venue that people would go to just to drink.

The Panel were given the opportunity to ask questions of the Applicants:-

- Councillor Jones asked why the applicants were requesting off sales to be added to the licence

It was explained that sometimes customers would like to take a bottle of wine away with them and this would allow for that.

- Councillor Adams asked how often the premises would have live music acts performing.

It was explained that this would be very occasionally on special days such as Valentine's Day or New Year's Eve. It would be when the cost can be covered by charging a premium for a special event.

- Councillor Hodkinson referred to the issue of bottle bins being emptied and asked whether this could be done the following day.

It was explained that once the kitchen had closed the bottles could be stored in the kitchen until the following day.

Mr King asked that the Panel consider the conditions suggested by the objectors.

Mr Saul stated that the resident's had nothing to fear from the application. The applicants were responsible business men and licence holders who would meet the licensing objectives and had no intention of upsetting any neighbours.

The Panel then duly retired to consider the application and all of the information provided.

The Members of the Panel were advised by the Legal Officer as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

The Members were also advised of their duties in carrying out those functions in relation to:

- a) the Council's published Statement of Licensing Policy
- b) the Guidance issued by the Secretary of State as contained in section 182 of the Licensing Act 2003, which was updated in March 2015

In addition Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives and the representations presented by all parties.

The Panel also had regard to the European Convention on Human Rights and in particular that everyone has the right to peaceful enjoyment of his possessions, respect for his private and family life, his home and his correspondence. A fair balance between competing interests must be considered.

FINDINGS

The following facts were found:

- The Applicants had experience in dealing with licensed premises and one of them was an experienced DPS. The DPS was also the DPS at the Buddha Lounge in Whitefield and there had never been any concerns with that establishment. Mr Lau had been involved with the running of the premises

when it was the China Lounge and there had never been any issues or concerns during this time.

- Following the representations received in relation to the application, Mr Lau and Mr Murray had understood the concerns of residents and had engaged with the local community and even tried to arrange a meeting with concerned residents in an attempt to present their business model and alleviate any concerns residents might have. They were keen to work with local residents to ensure a good relationship was maintained.
- The intention of the premises is in clear contrast to what some of the objectors' representations had envisaged, which may or may not have been as a result of the way a neighbouring establishment had been run.
- The intention of the business was clearly the more high-end restaurant type of facility with quality foods and wines.
- The Applicant acknowledged that a good deal of the concerns from local residents was the playing of live music. The Applicant represented that the intention was nothing more than say live music on special occasions during the year (New Years Eve, Valentines Day). This was not to be an establishment that would for example have loud rock bands and live karaoke, etc
- The Applicants had confirmed that off sales would be patrons taking wine home and it would be too expensive to be an off license type of premises.
- The Panel felt that dialogue with the Police and given that the Panel noted that the Police were not in attendance at the Panel hearing and there was no actual evidence of anti-social behaviour or parking problems at the premises.
- The Panel found that the Applicant had sensibly volunteered conditions to be imposed as part of the licence and after due consideration found that these would be appropriate for the purposes of the promotion of the licensing objectives, with some additional conditions.
- The panel were impressed by the responses provided from the Applicants and their intentions, particularly in relation to dialogue with the Police in attempting to alleviate any concerns.

Delegated decisions:-

The Panel considered the merits of the case and in accordance with its duties and in light of the relevant policy and guidance unanimously resolved the following modifications to the premises licence

1. That the timings shown in relation to terminal hours on a Sunday on the proposed varied licence be reduced by half an hour with the resultant timings as follows:

a. Supply of alcohol – For consumption both On & Off the Premises.

Monday – Wednesday	11.00 – 00.30
Thursday – Saturday	11.00 – 01.30
Sunday	11.00 – 00.30
When New Years Eve falls on a Sunday	11.00 - 01.30

b. Late Night Refreshment (indoors only):

Monday – Wednesday	23.00 – Midnight
Thursday – Saturday	23.00 – 01.00
Sunday	23.00 – 00.30
When New Years Eve falls on a Sunday	23.00 - 01.30

c. The provision of Live & Recorded Music (indoors only):

Monday – Wednesday	11.00 – 00.30
Thursday – Saturday	11.00 – 01.30
Sunday	11.00 – 00.30
When New Years Eve falls on a Sunday	11.00 - 01.30

d. Hours the premises are open to the public:

Monday – Wednesday	11.00 – 01.00
Thursday – Saturday	11.00 – 02.00
Sunday	11.00 – 01.00
When New Years Eve falls on a Sunday	11.00 – 02.00

Where the following day is a Bank Holiday the timings would be as follows:

a. Supply of alcohol – For consumption both On & Off the Premises.

Monday – Wednesday	11.00 – 00.30
Thursday – Saturday	11.00 – 01.30
Sunday	11.00 – 01.00
When New Years Eve falls on a Sunday	11.00 - 01.30

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Sunday	11.00 – 01.30
When New Years Eve falls on a Sunday	11.00 – 02.00

2. An effective noise limiting device approved in writing by the Council (which shall so far as possible be tamper-proof) shall be installed and operated in the premises and all noise levels shall be agreed and set to the written satisfaction of the Council. Whenever regulated entertainment is taking place, all amplified music (whether live or recorded) and associated sources (e.g. DJ's and amplified voices/amplified instruments) are to be connected to this noise limiting device.
3. No bottles shall be disposed of externally between the hours of 22.00 and 08.00.
4. All external doors and windows will be closed after 23.00 when live or recorded music is in progress.

COUNCILLOR D JONES
Chair

(Note: The meeting started at 1.00 pm and ended at 3.35 pm)