

Southern Area Licensing Sub Committee

MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 11 OCTOBER 2021 VIA AN ONLINE TEAMS MEETING.

Application for a Premises Licence by Damiee Ltd in respect of Tinga, 4a and 4b, Endless Street, Salisbury, SP1 1DL

Present:

Cllr Trevor Carbin, Cllr Ernie Clark and Cllr Robert Yuill

Also Present:

Sarah Marshall, Senior Solicitor
Lisa Alexander, Democratic Services Officer
Lisa Pullin, Democratic Services Officer
Katherine Edge, Licensing Officer
Mr Hancock – Applicant
Rep 1
Rep 2
Rep 3

1 Election of Chairman

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

Resolved:

To elect Councillor Trevor Carbin as Chairman for this meeting only.

2 Apologies for Absence/Substitutions

There were none.

3 Procedure for the Meeting

The Chairman explained the procedure to be followed at the hearing, as contained within the “Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications” (Pages 1 – 6 of the Agenda refers).

4 Chairman's Announcements

There were no Chairman’s announcements.

5 Declarations of Interest

There were no interests declared.

6 **Licensing Application**

Licensing Officer's Submission

The Sub Committee gave consideration to a report (circulated with the Agenda) in which determination was sought for an application for a new premises license in respect of Damiee Ltd, presented by Katherine Edge (Public Protection Officer – Licensing) for which 4 relevant representations had been received.

The application was for the following:

| Licensable Activities | Timings | Days |
|---|------------------|-------------------|
| <u>Provision of regulated entertainment</u> Recorded Music | 12:00 – 00:00hrs | Sunday - Saturday |
| Sale by retail of alcohol ON and OFF Sales | 12:00 – 00:00hrs | Sunday – Saturday |

It was noted by the Sub Committee that there were four options available to them:

1. To grant the licence subject to such conditions as are consistent with those included in the operating schedule submitted with the application, modified to such extent as the Sub Committee considers appropriate for the promotion of the licensing objectives, together with any mandatory conditions required by the Licensing Act.
2. To exclude from the scope of the application any licensable activity.
3. To refuse to specify a person as the designated premises supervisor.
4. To reject the application.

The following parties attended the hearing and took part in it:

Statement on behalf of the Applicant

Mr Hancock – Daimee Limited

- He has been running licenced premises in Salisbury since 2009 and he and his wife are Directors of 3 Licensed Premises in Salisbury and he is also the Salisbury Pubwatch Manager.
- He also runs other large events in Salisbury Market Square, which involved working alongside the Salisbury City Council to host an outside experiential event with a licensed bar.

- Having been born in Salisbury, he has a big appreciation of the local community.
- He has never received any complaint for any of his Licensed Premises.
- The business employees 40 young people.
- He aims to grow the Tinga business already operating on Salt Lane.
- Hospitality has been under extreme pressure due to Covid.
- He has been asked to be one of the brand ambassadors, representing hospitality to drive the economy.
- The Application is for a Mexican restaurant, similar to that in Salt Lane, but a bigger version. There has been some confusion earlier on. He confirmed the premises is not a night club.
- Alcohol sales on and off from 12:00 – 00:00hrs.
- Music from 12:00 – 00:00hrs.
- He has amended the original timeframe (10:00 – 02:00hrs).
- Times in line with current planning restrictions – which he is now aware of.
- Following extensive conversations with the Senior Environmental Health Officer (EHO), he added a further 3 conditions, in line with the advice.
- He has also now written a detailed Noise Management Plan.
- The EHO has not made a representation against this application.
- He has responded to all representations made and prides himself in working in harmony with local residents.
- Some responses to our letter he finds uncollaborative.
- No evidence submitted to support the claims raised.
- Lack of understanding and experience he has; it is a legal requirement for him to control people outside of the venue.
- The key points raised within the representations, focused on music and specifically the noise base music would have for residents. He has addressed this aspect in the Noise Management Plan and agreed to install a noise limiter. An EHO will come and visit to monitor/set that.

- He has weekly visits with the Police and they have never experienced fighting at Tinga since opening.
- Off site sales – may not be understood. They would not be selling alcohol in open containers to be consumed outside the venue.
- The concerns around possible loud conversations from visitors congregating outside to smoke, wait for taxis etc are addressed by measures within the Noise Management Plan. They will do everything as set out in the plan.
- Other venues in the surrounding area, have a licence with longer hours. The kebab shop opposite is open until 02:00 – 03:00hrs on a Saturday. They may not sell alcohol in the kebab shop, but they are proposing to close 3 hrs earlier than them.
- What they have applied for is in line with a previous tenant, the Thai Restaurants hours.
- They are combatting the decline in economy – and providing employment.
- They have an open-door policy and are willing to speak to any one at any time.

Questions from the Sub-Committee:

- The Noise Management Plan is very comprehensive, could you clarify the waste management aspect, as we know that the discharge of bottles in to skips can cause a lot of noise, would staff be restricted to emptying waste between set hours?

Answer: If there are a lot, we could look at a cut off time and if 23:00hrs is considered too late for emptying waste then I would be happy to consider this. Could hold glass in containers in the building overnight and empty in the morning. We already do this in Salt Lane, when morning staff come in they empty.

- With regards to the supervision of those outside, is this to be done by supervisors, if so what is their role and what else would they would do?

Answer: The structure would be for one General Manager and four Supervisors, with always 2 on shift. We use an application called Trail which is used by all large establishments. Behind the bar there is a tablet where the app is live all of the time. It can be programmed with tasks that must be completed as a set time, these can include, toilet checks and noise checks etc. We would allocate the Supervisors to monitor the people outside. There would be a front desk where all visitors would have to wait to come through. CCTV will also monitor who is outside.

- Maps show function rooms on first floor, what would they be used for?

Answer: The plans were from the previous landlord; we didn't want to change the layout – they currently show private dining – we do not plan to have a function room upstairs. The upstairs will be used for upstairs dining, we do get requests for 10+ to eat, we have the option upstairs to accommodate larger dining groups. We have no plans to put a DJ in.

Questions from those that made relevant representations:

- Rep 1 – The circumstances of my comments of people being outside, refer to a very hot night. We stopped outside and saw the group part, half to the Pheasant and half to Tinga, their doors were wide open.

Answer: There is no evidence that this happened. Our monitoring is very accurate and professional – we run events in the market square and have never had a complaint.

- Rep 2 – Would you have disco music upstairs, as disco beat does get outside of buildings.

Answer: No we won't have that.

Statements from those that made a Relevant Representation:

Rep 1 – Sarum Lodge resident

- They have lived in Sarum Lodge on the corner for approx. 19 years.
- They and other residents have concerns under public nuisance due to associated street noise.
- When a Thai restaurant was open there was noise through the building, presumably emanating through the windows. The ventilation has to be switched off at a set time under conditions.
- They recognise disco type music won't be played. The base beat does cause concern and they would not want to experience that again until midnight every night.
- The Applicant states that he will monitor people leaving to smoke etc, and it is understood what he has said about this already being done at other premises, but what authority will his staff have outside of the building as, only the Police have authority to do that.
- Some outside noise was beyond what level of normal conversation should be. They suggested that Endless Street is narrow and one way and flanked on each side by 3 storey buildings, when traffic noise has died down after 21:00hrs, there should be a balance between a hospitality and the residential need. They are asking to reduce to 23:00hrs (from 00:00) by just one hour.

There were no questions from the Sub-Committee
There were no Questions from the Applicant.

Rep 2 - Sarum Lodge resident

- Rep 1 has set out some of their concerns very clearly – they also want it to be recognised that more accommodation has been approved for the area too.

Legal Officer – Informed the parties and the Sub Committee that the Sub Committee is unable to consider any Planning matters.

There were no questions from the Sub-Committee
There were no Questions from the Applicant.

Rep 3 - (on behalf old Sarum Lodge residents)

- They are the Chairman of the Residents Association, there are 47 apartments in the block, the 6 residents that face Endless Street all have concerns.
- In a city centre location, sometimes hearing noise from commercial businesses is expected, but it is a matter of getting the balance right.
- Their concern is of excessive noise, from those leaving and exiting to smoke outside.
- The comments of the Applicant today and in his letter to residents has gone some way to address our concerns.
- In the Applicant's letter there was no mention of the use of the upper room would be used for parties. If they had not insisted on the hearing, they would not be aware of what is in the Noise Management Plan.
- People leaving at the end of the evening means the noise is likely to continue for a further 30 mins after the closing time.
- The cap on max of smokers to 6 outside, how would that work. Once someone has left the premises, the Applicant has no control over their behaviour. He cannot prevent people from asking a taxi to collect them from outside.
- When the general surrounding town centre noise is low, after 21:00hrs, we want to strongly request that the license closing time be no later than 23:00hrs on any day of the week.
- In his proposed Noise Management Plan, it states that smokers would be asked to smoke at the side of the building, nearest to 8 Endless Street. It is hoped that the Applicant's intention should be to direct them as far as possible towards the A Plan building, which is a business premises not a residential one.
- They congratulate the Applicant on running these successful licensed businesses and look forward to working with him to make sure there is good will on both sides.

There were no questions from the Sub-Committee

There were no Questions from the Applicant.

The Chair advised that the written representations had been read and considered by the members of the Sub Committee in advance of the meeting. The Chair invited;

Closing submissions from Applicant

In their closing submission, the following points were highlighted:

- Thanks to all that gave feedback today, we will work with an open door policy to make sure we address concerns.
- A closing time of 00:00hrs is very appropriate and in line with commercial and residential business in the area. The square has premises that are licensed until midnight and there are also flats around there.
- The kebab shop attracts people until much later – waiting for their food to be cooked. Not heard about complaints from that.
- No experience of people waiting outside after their meal. The premises is a restaurant not a pub.
- Groups upstairs – not sure about the concern – whether there are many small groups or one large groups the music will be the same.
- The EHO has no concerns and the Noise Management Plan is in place.
- Management of people outside – suggest that an understanding can be sought through the Licensing Officers about what our powers are – we have the experience to manage this

Points of Clarification Requested by the Sub Committee

The following points were clarified for the Sub Committee:

- Regarding the smoking point for guests, not sure where no.8 came from, possibly a typo. They would be directed to the A Plan building and not next to the residents.
- Smokers outside would be capped at 6, this can be managed.
- Confirm that between the hours of 23:00 – 00:00 this would be a winding down time. Commercially the 00:00 is needed and this would enable things to be wrapped up and closed.

The Sub Committee then adjourned at 11.50hrs and retired with the Senior Solicitor and the Democratic Services Officer to consider their determination on the licensing application.

The Hearing reconvened at 12:30hrs.

The Senior Solicitor advised that she gave the following relevant legal advice to the Sub Committee:

- Brief advice on the definition of waste, in that it would include the emptying of bottles, as set out in the Noise Management Plan.

Resolved:

The Southern Area Licensing Sub Committee agreed to GRANT the Premises Licence in respect of Damiee Ltd, Tinga, 4a and 4b, Endless Street, Salisbury SP1 1DL, as applied for.

Reasons for the Decision;

In reaching its decision, the Sub Committee took account of and considered all the written evidence and the representations from all parties in addition to the oral submissions presented at the hearing and made on behalf of the Applicant, and those parties who had made relevant representations.

The Sub Committee noted the concerns raised by the parties who had made a representation at the hearing relating to public nuisance, with regards to noise and the proximity of the premises and associated outside spaces in relation to their residential dwellings. The Sub Committee noted that the applicant owned and ran other licensed establishments and large events within the city where the applicant had stated to the Sub Committee that it had never received noise complaints.

In addition, as this license related to a new premises it was not possible to provide any evidence which could be presented to support claims that the running of the restaurant would cause a public nuisance.

The Applicant had provided a detailed Noise Management Plan which included reference to the installation of a Noise Limiter Device if requested by the Council to be installed for all regulated entertainment and, a restriction to the hours permitted for any waste clearance, as between 08:00 – 23:00hrs only. The Sub Committee noted that this would include recycling or disposal of glass which had been raised as a possible noise concern, and in turn, having restricted hours for waste clearance would minimise any disturbance which may be caused.

The Applicant confirmed that the use of the first-floor area would be for dining accompanied by background music and that there was no intention to hold party events with a DJ.

The Sub Committee was satisfied with the clarification on the external location for guests to smoke, which would be outside of the 'A Plan' commercial business, and not outside of the residential windows of Sarum Lodge. The Applicant acknowledged that he was willing to work with the local residents to alleviate any concerns should they arise and was an experienced business owner and event organiser and as such he had worked closely with the Responsible Authorities on a Noise Management Plan.

The Sub-Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the four Licensing Objectives; the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

Right to Appeal

All parties were informed of the right to appeal to the Magistrates Court within 21 days of the written decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee remains valid until any appeal is heard and any decision is made by the Magistrates Court.

The parties were informed that a Responsible Authority or interested party has the right to request the Local Authority to review the licence in accordance with the provisions of s.51 of the Licensing Act 2003. Such an application may be made at any time, but it is in the discretion of the Local Authority to hold the review, and a review will not normally be held within the first twelve months of a licence, save for the most compelling reasons.

(Duration of meeting: 10.30 am - 12.35 pm)

The Officer who has produced these minutes is Lisa Moore of Democratic Services, direct line 01722 434560, e-mail lisa.Alexander@wiltshire.gov.uk

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