

## CANTERBURY CITY COUNCIL

### LICENSING SUB COMMITTEE

**Minutes of a meeting held on Wednesday, 25th February, 2009  
at 10.30 am in The Guildhall, Westgate, Canterbury**

**Present:** Councillor Harrison (Chairman)

Councillor R Flaherty  
Councillor J Perkins  
Councillor Staley (Reserve)

**Officers:** Nick Hughes - Democratic Services Officer  
Julie Oates - Senior Environmental Health Officer  
Dave Stevenson - Senior Licensing and Enforcement Officer  
Janet Taylor - Deputy Head of Legal Services

#### 15 **APOLOGIES FOR ABSENCE**

There were no apologies for absence received.

#### 16 **SUBSTITUTE MEMBERS**

There were no substitute Members.

#### 17 **DECLARATION OF ANY INTERESTS BY MEMBERS OR OFFICERS**

There were no declarations of interest made.

#### 18 **LICENSING ACT 2003 - PREMISES LICENCE FOR CASTLE HOUSE, 28 CASTLE STREET, CANTERBURY**

The Applicant was represented by Mr J. Dillon.

Dave Stevenson the City Council's Senior Licensing Officer introduced the application by The English Cultural Experience Ltd for supply of alcohol, regulated entertainment and late night refreshment at Castle House.

The Applicant's Solicitor explained to the Sub-Committee that he had taken over his client's application rather late in the process and therefore asked the committee whether he might hand in a set of suggested conditions that modified the application following a meeting with the police who had originally made representations about the application but had now withdrawn following negotiation.

He explained that Castle House had been a guesthouse since 2001. Although when his client had bought the Guesthouse she had been assured that it had had planning permission for use as a Guesthouse, she had now found that it did not have such permission. He confirmed that planning permission for the existing property and conversion of the adjoining coach house would be sought as soon as possible.

He explained that the applicant wanted to provide food for residents and their guests and to hold the occasional function.

He suggested an additional condition that non residents would not use the garden after midnight although the Police had suggested that residents might still want to use the garden to smoke after midnight.

Some of the interested parties had raised the point that the premises needed to have strong conditions as the premises could be sold and new less responsible owners take over. He explained the right to review under the Licensing Act 2003.

The applicant's manager was an experienced licensee. The Applicant and her son were also qualifying as personal licence holders.

The Applicant's solicitor confirmed that the area being licensed would include the whole site with the exception of the terraced garden and the car park.

A Member asked whether the premises was too small for the matters asked for in the application?

The Applicants solicitor explained that the definitions of Guesthouse and hotel were vague. He expected the premises to be a Guesthouse. The Applicant would only cater for small functions, as the garden was not very big. There would be tables and chairs and possibly a marquee, which might hold a small bar for functions.

A Member of the Sub-Committee pointed out that the steps down to the garden were very steep.

A Member asked whether there were plans to show live televised sport in the garden. The Applicant's solicitor confirmed that there would be no live sport shown outside.

The Applicant's solicitor confirmed that he wanted to keep the permission for dancing in the application in order to cover the applicant in the event of people spontaneously dancing.

A Member said that because of the number of local residents; activities in the garden would have to be considered very carefully.

The Applicant's solicitor agreed to a suggested condition from the Senior Licensing Officer that there would be no use of the garden after midnight as noise from customers was very disturbing and very difficult to manage.

A discussion ensued regarding a suggested limit on the number of people allowed on the site at any one time. The Applicant confirmed that she had a fire safety plan and that a fire risk assessment had been completed and set for comment to the Fire Authority. It was suggested as a condition that the number of people on the site did not exceed 80 including staff.

The Sub-Committee asked Mrs Oates, the Senior Environmental Health Officer for her views on the application. She explained she had visited the premises and discussed the application with the Applicant.

She explained that the additional special days to hold special events applied for in the application would result in another 21 days of late night events and that would be excessive.

Her main concern was the use of the garden. The Applicant and their solicitor had asked for 30 events, but she considered that a fair number in the course of a year would be 14.

The Applicants solicitor confirmed to the Sub – Committee that his client would accept a limitation to 8 events of live and recorded music per month. He also confirmed that the Applicant would end activities on special days at midnight.

He agreed to have only unamplified live music in the garden, but still wanted amplified recorded music outside. He added that they would not be prepared to install a noise limiter, as it was very expensive, however the applicant was prepared to work closely with the environmental health office to regulate the level of music.

The Sub-Committee were very concerned with the steps leading down to the garden. The Senior Licensing Officer suggested that the Sub-Committee could add a condition that Health and Safety could look at the steps before any licence was granted.

The Applicants solicitor also confirmed in response to the Sub-Committee's concerns that there would be a sign in the car park reminding smokers not to take their drinks outside.

The interested parties were invited to make their representations to the Sub-Committee. Mr Cameron, Cllr Linfield on behalf of Mrs Earlam, Mr Bowman, Mr Weber, Cllr Eden-Green and Mrs Cowie all addressed the Sub-Committee and made the following points:

- i) The interested parties had few objections to the premises extending to include a restaurant, however they did not want a nightclub.
- ii) Use of the garden for licensable activities would be unacceptable.
- iii) There would be noise by non-residents leaving the property.
- iv) There were significant issues with noise from outside events in other parts of the town including the Dane John Gardens, any noise in the garden would be unacceptable especially amplified music.
- v) There was no sound proofing in many of the nearby properties as they were very old and many were listed.
- vi) The top of the garden in the application being proposed was terraced and was at the same height as nearby houses.
- vii) Many residents were concerned regarding the security arrangements as there had been burglaries in the past.
- viii) There was a need for draconian conditions on the premises in case it was sold to less well-intentioned owners, as it could become a nightclub under less scrupulous owners.
- ix) There would be significant archaeology under the garden and it would be difficult to erect a marquee.

- x) The ability to review premises was not very possible for residents as the process was too complicated.
- xi) The amount of noise generated would seriously compromise the enjoyment of resident's homes, especially as the city wall only reflected noise back towards the homes.

The Applicant's solicitor confirmed that only guests, residents, residents bone fide guests and those attending functions would be allowed to purchase food and drink.

In addition he confirmed that the terraced part of the garden did not form part of the application. He also confirmed that the premises would be called Castle House.

A Member asked regarding toilet provision in the garden and on the premises as they were expecting up to 80 people on site at once. The applicant's solicitor confirmed that they had no intention of building any toilets in the garden area. There were toilets in each guest room and male, female and disabled toilets on the ground floor of the premises.

The applicant's solicitor summed up the application and the proposed conditions and amendments.

He reiterated that the owners did not want to open a nightclub and with the suggested conditions the licence would be anything but loose. He insisted that all that was wanted was to run a hotel where you could eat and occasionally hold a function. If the ability to hold functions were denied the premises would be unviable.

He agreed that it would be a sensible proposal to limit all activity in the garden to 22:00 hours and to only allow recorded and unamplified music in the garden. CCTV would be installed to address security concerns.

He confirmed that the outside area that would be licensed would be the garden with the exception of the raised terrace area and the front car park. The City Council's legal advisor asked that a definitive, accurate plan of the area to be licensed be submitted to the City Council within 14 days of the hearing.

The Sub-Committee adjourned the hearing to consider their decision:

The hearing was reconvened and the City Council's Legal representative confirmed the result of the hearing. She explained that the decision had been one of the most difficult Members had had to make. The application was not clear. The premises seemed very small for the kind of activities requested, and in spite of a long hearing the members were not satisfied that the regulated entertainment requested, particularly in the garden of the premises, would not cause a nuisance to nearby residents.

Whilst the sub committee understood that Planning and Licensing were different branches of the law, and that the planning guidance asked that these two regulatory frameworks be treated separately, in this case the Panel had decided that they could not give a decision on some elements of the license until the issue of planning permission had been resolved.

The Sub Committee were concerned that the potential for noise nuisance was high, both from any regulated entertainment and customers leaving the premises late at night to walk along Castle Street.

In making their decision they had due regard for the Licensing Act 2003, government guidance, the Council's Licensing Policy and the licensing objectives, in particular the prevention of public nuisance.

RESOLVED – that the license be granted for the following hours, and subject to the following conditions:

i) **LIVE MUSIC**

10:00 - 23:00 indoors on only 8 occasions per month.

**RECORDED MUSIC**

**10.00 – 23.00** indoors on only 8 occasions per month

**FILMS, PLAYS, PERFORMANCES OF DANCE, ANYTHING OF A SIMILAR DESCRIPTION TO THAT FALLING WITHIN (e), (f) or (g), PROVISION OF FACILITIES FOR MAKING MUSIC, OF A SIMILAR DESCRIPTION TO THAT FALLING WITHIN I OR J**

10:00 – 23:00 indoors only

**LATE NIGHT REFRESHMENT**

23:00 – 05:00 on New Year's Eve and  
23:00 – 24:00 on New Year's Day

**SUPPLY OF ALCOHOL**

10:00 – 23:00 with meals  
10:00 – 24:00 to residents and their bona fide guests

**OPENING HOURS**

**10:00 -23:30 every day**

**CONDITIONS**

- a) The garden may be used only by residents, their bona fide guests and customers taking meals and will be closed and locked at 21:00 hours everyday.
- b) Alcohol will only be allowed in the bar, restaurant and garden area.
- c) The Licensee shall ensure that no noise caused by regulated activity at the premises can be heard at the nearest façade of any residential building.
- d) All doors and windows of rooms used for the provision of regulated entertainment shall be kept closed whilst live or recorded music is played save only for the purposes of entering or leaving.
- e) Live music may not be amplified and shall be performed by solo performers or duos only.

- f) The opening hours of the premises on New Years Eve/Day will be from 10.00 on New Years Eve to 00.00 hours (midnight) on New Year's Day
- g) There shall be no entertainment at the premises comprising of tableside dancing, lap dancing or other similar entertainment of a sexual nature or naked or semi naked dancing.
- h) CCTV shall be provided to cover the garden, the car park, the reception area and the bar. Copies of CCTV recordings shall be made available to an authorised officer of the council or a police officer upon immediate request, together with viewing facilities. CCTV will also be kept in good working order with date and time set accurately. Recordings are to be kept for inspection by a police officer or duly authorised council officer for 30 days.
- i) No off-sales will be allowed accept for resealed unfinished bottles of wine for residents and those having meals.
- j) The holder of the Licence and the Designated Premises Supervisor will maintain a Challenge 21 Policy; challenging to produce ID any person who appears to them to be under the age of 21, only pass approved ID, photo driving licence or passport to be accepted as proof of age.
- k) Smoking will only be allowed in the smoking shelter in the car park of the Premises. No alcohol may be consumed in this area.
- l) A notice shall be displayed in the Smoking shelter of the Premises asking residents customers and guests to respect nearby residents and to keep quiet, particularly after 22.00 hours.
- m) Empty bottles will only be removed from the premises between 07:00 – 21:00.
- n) The steps to the garden shall be checked by the City Council's Health and Safety team before use.
- o) The applicant shall work with the City Council's Environmental Health team to monitor and control the level of music.
- ii) No licence shall be granted until the Licensing Authority has received an accurate and detailed plan showing the areas of the premises to be licensed.
- iii) That the hearing be adjourned with regard to the proposed use of the Premises for functions until such time as a decision on the planning permission be made.

There being no other business the meeting closed at 4.05 pm