



## **LICENSING SUB-COMMITTEE**

**MEETING** : Monday, 22nd October 2012

**PRESENT** : Cllrs. Lugg, Brown and Randle

### **Officers**

### **Also in Attendance**

**APOLOGIES** : Cllrs.

### **1. ELECTION OF CHAIR**

Councillor Jan Lugg was appointed as Chair.

### **2. INTRODUCTIONS AND PROCEDURES**

The Chair introduced the Members of the Sub-Committee and Officers in attendance and asked the Applicant and Other Parties to introduce themselves at the appropriate time. The Chair explained the procedures that would be followed during the meeting.

In addition to the Members of the Sub-Committee and Council officers in attendance the following were present:

Mr Ibrar Ahmed Malik, Applicant  
Ms Sonia Francis, Applicant's Representative

Mr Lloyd Griffiths, Environmental Health Protection Team, Gloucester City Council  
Mr Alex Mason, Environmental Health Protection Team, Gloucester City Council

Mr Andy Cook, Licensing Manager, Gloucestershire Constabulary

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Chief Inspector Richard Burge, Gloucestershire Constabulary  
Mr David Macfarland, Licensing Team, Gloucestershire Constabulary

Mr Paul Jennings, Resident (Other Party)

**3. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**4. APPLICATION UNDER SECTION 34 OF THE LICENSING ACT 2003 IN RESPECT OF PERI PERI'S CHICKENLAND, 152 SOUTHGATE STREET, GLOUCESTER, GL1 2EX**

The Licensing and Enforcement Officer presented an application to vary a premises licence made under Section 34 of the Licensing Act 2003 from Mr Ibrar Ahmed Malik in respect of a business known as Peri Peri's Chickenland, operating from 152 Southgate Street, Gloucester. The application requested the removal of the provision for the retail sale of alcohol and the adding of the provision of Late Night Refreshment both on and off the premises between the following times:-

Sunday to Thursday	23.00 to 02.00 hours
Friday and Saturday	23.00 to 03.00 hours

Details of the application and a copy of the current licence were referred to as Appendix A to the report.

Members noted that the only licensable activity on the existing licence related to the sale of alcohol and that with the exception of the following two conditions, all other conditions related purely to this function:-

- *A CCTV system shall be installed in accordance with UK police requirements and be maintained in working order*
- *A sign shall be placed in a conspicuous position requesting customers to leave the premises quietly.*

The Licensing and Enforcement Officer advised Members that should they agree to vary the premises licence, they should consider removing all the existing conditions relating to the sale of alcohol, with the exception of the two conditions above and that they should consult with the two Responsible Authorities if they were minded to do so.

The Sub-Committee was informed that the applicant had left Section P of the application blank and had not proposed any additional measures to support the licensing objectives.

Members noted that representations had been received from two Responsible Authorities directly relating to the licensing objectives. Gloucestershire Constabulary had concerns regarding crime and disorder and public nuisance and

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the City Council's Environmental Protection Team considered public nuisance would be an issue if the variation was approved.

The Committee's attention was drawn to the list of existing licensed premises in Gloucestershire Constabulary's representation and it was noted that one of these premises was now closed and that the Applicant's premises had also been included in this list.

Representations had also been received from three nearby residents either living above the actual premises or above the adjoining premises. They had concerns regarding alleged existing nuisance and the potential for this to continue into the early hours, should the licence be granted.

The Licensing and Enforcement Officer summarised the application and referred Members to the relevant sections of the Home Secretary's Guidance and the City Council's Licensing Policy Statement.

Members were advised that having considered the application, any relevant representations, the legislative provisions, the Council's Statement of Licensing Policy and the Home Secretary's Guidance, they had the following options as considered necessary to promote the Licensing Objectives.

- (a) To accept the application and attach conditions as consistent with the operating schedule.
- (b) To accept the application and modify the conditions of the licence which includes altering, omitting or adding new conditions.
- (c) To reject the whole, or part of the application.

The Sub-Committee was reminded of the City Council's licensing objectives:-

- (a) The prevention of crime and disorder
- (b) Public safety
- (c) The prevention of public nuisance
- (d) The protection of children from harm

There were no questions to the Licensing and Enforcement Officer from the Applicant, the Applicant's Representative, the Responsible Authorities, the Other Party, or from the Sub-Committee Members.

Gloucestershire Constabulary asked permission to circulate some additional data relating to crime statistics in the Southgate Street area. There was a short adjournment whilst this material was examined by the Members, Officers and the Applicant. The Applicant indicated that he had no objection to the material being presented.

**Statement by the Applicant**

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Mr Malik told the Sub-Committee that he had operated the business for four months without any problems. He alluded to an incident reported in the local press which had been attributed to his premises, but which had nothing to do with his business. He assured the Sub-Committee that he would endeavour to avoid any problems at his takeaway if Members were minded to grant the variation.

There were no questions to the Applicant by the Responsible Authorities, the Other Party, or from the Members of the Sub-Committee.

**Statement from Gloucestershire Constabulary**

PC Cook explained the statistics provided in the late material he had circulated which illustrated that there had been 1411 incidents in Southgate Street over a two year period ending on 17<sup>th</sup> October 2012 with anti-social behaviour contributing to a high proportion of the incidents. He drew Members' attention to the bar chart which showed peaks in the numbers of crimes committed between 4 pm and 1 am with figures being particularly high between midnight and 1 am. Mr Cook pointed out that this area was of mixed use with residents and businesses. Southgate Street was not subject to any cumulative impact assessment in the same way as Eastgate Street. He compared the figures with those for the other gate streets in the City Centre. Mr Cook asserted that residents were already suffering from the impact of a high concentration of takeaways in the street. Mr Cook referred to one incident which had occurred at Peri Peri Chickenland during Mr Malik's occupancy and agreed that this was a relatively low statistic. He understood the desire to pick up trade from those leaving the City Centre after a night out, but asserted that any extension in the trading hours would result in increased anti-social behaviour and would be to the detriment of local residents.

Chief Inspector Richard Burge highlighted the initiatives by Police and other agencies to reduce anti-social behaviour in the City Centre. He referred to problems caused by late night takeaways which encouraged loitering and said that whilst he appreciated each application to extend opening hours should be treated on its merits that the Police could no longer cope with the high level of incidents and that they intended to challenge other similar applications in the future.

**Response to Gloucestershire Constabulary by the Applicant**

Mr Malik pointed out that the incident referred to by Mr Cook at his premises had taken place in March 2012 and that he had only operated the business since July 2012. This was noted by the Sub-Committee Members.

At this point, Mr Malik further indicated that he wished to amend his application to trade until 2 am on Friday and Saturday nights and not 3 am. Members noted this amendment.

Mr Malik queried how many incidents had taken place specifically at takeaways in Southgate Street. Mr Cook responded that he was unable to answer the question, but stated that takeways caused major problems for the Constabulary.

The City Council's Solicitor asked if any takeaways in the City were under review. Mr Cook confirmed that Police action had been taken against two takeaways in

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Eastgate Street but they had not actually been reviewed. One had been withdrawn following agreement by the owner to employ a doorman. The other takeaway had agreed to remove a punchbag from its premises which had incited anti-social behaviour. However, no takeaways had been subject to review in Southgate Street.

**Questions to Gloucestershire Constabulary by the Environmental Protection Team and the Other Party**

There were no questions from the Environmental Protection Team or from Mr Jennings.

**Questions to Gloucestershire Constabulary by the Members of the Sub-Committee**

Councillor Randle asked for a breakdown of the statistics to reflect the area from the triangle to the Baker Street public house. Mr Cook said that this was impossible to produce. Chief Inspector Richard Burge added that from his local knowledge the majority of incidents occurred in lower Southgate Street from the triangle to Spa Lights.

The Chair asked if this was the main route out of the City Centre. Chief Inspector Richard Burge responded that it depended upon which part of the City Centre revellers were departing from.

Turning to the issue of persons urinating in the archway at the side of the premises, the Chair asked if this was the only 'private' place for this activity. Chief Inspector Richard Burge said that people tended to use it because of the absence of any public conveniences and that it created a particular problem at the site.

The Chair sought clarification on data provided in the late material which appeared to indicate that crime figures were the same for every day of the week. It was confirmed that the highest levels were reached on Friday evenings and early Saturday mornings.

**Statement by the Environmental Protection Officer**

Mr Alex Mason outlined the concerns of the Environmental Protection team which concentrated on the likely increase in noise and nuisance to local residents by persons visiting the takeaway and problems with fumes and odour from the premises itself if the variation was granted. Mr Mason further pointed out that the Applicant had not indicated how he intended promoting the four licensing objectives, with prevention of nuisance being the main objective.

Mr Mason circulated to all present a revised representation which recommended that should the Sub-Committee be minded to vary the licence at Peri Peri Chickenland that the closing hours should be the same as the adjacent takeaway business and additionally proposed six conditions to be attached to the variation which were intended to prevent Public Nuisance. The Applicant confirmed his agreement to the revised representation being circulated and there was a short adjournment whilst the Sub-Committee considered its contents.

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**Response by the Applicant to the Environmental Protection Officer**

Mr Malik confirmed that he accepted the six conditions suggested by the Environmental Protection team but not the proposed closing hours. He indicated that he was willing to prevent customers sitting inside the premises after 10 pm in the week. He did not agree that he could do anything to control the noise of potential customers, leaving customers and passers-by outside in the street.

**Response by Gloucestershire Constabulary to the Environmental Protection Officer**

Mr Cook concurred that external noise was beyond Mr Malik's control, but asserted that any increase in opening hours would be unacceptable to the Constabulary.

**Response by the Other Party to the Environmental Protection Officer**

Mr Jennings remarked that he had shouted down to revellers in the street asking them to be quiet and that this had resulted in verbal abuse.

**Questions by the Sub-Committee to the Environmental Protection Officer**

The Chair queried whether the toilet facility was for staff or customers. Mr Malik responded to this point and confirmed it was only available to staff. The Chair asked if there was a legal requirement to provide customers with a toilet and Mr Malik confirmed that this only applied to businesses having more than 16 seats.

Councillor Brown asked whether there were any concerns relating to the extractor fans in the premises. Mr Mason replied that whilst there had been no complaints since 2008 that any increase in opening hours would put a strain on the existing equipment and that it would need to be serviced and maintained as set out in one of the six conditions proposed by the Environmental Protection Team.

The Chair asked about odour resulting from the preparation and cooking of the foodstuffs. At this point Mr Jennings remarked that there was a strong odour emanating from the premises and that he had not realised that he had had the right to complain about it before.

**Statement by the Other Party**

Mr Jennings referred to noise and disturbance in the street and persons already urinating in the archway under his flat with the existing hours of operation. He pointed out that his daughter had an evening job and that if the extension to opening hours was granted that she could be faced with having to pass by persons urinating when trying to enter the flat and that he was concerned for her personal safety.

Ms Francis remarked that there was no proof that persons urinating in the archway were customers of Mr Malik's takeaway. It was an open archway accessible to everyone.

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There were no questions from the Gloucestershire Constabulary, the Environmental Protection Officer or the Sub-Committee to the Other Party's statement.

**Summing Up – Gloucestershire Constabulary**

Gloucestershire Constabulary reminded Members that the special policy relating to Eastgate Street did not apply to Southgate Street and that recent changes to the Licensing Act from “necessary” to “appropriate” changed the relevance of the case referred to at 7.2 of the Officer report regarding Daniel Thwaites v Wirral Borough Magistrates' Court.

**Summing Up – Environmental Protection Team**

Mr Mason indicated he had nothing further to add.

**Summing Up – Other Party**

Mr Jennings indicated had nothing further to add.

**Summing Up – the Applicant**

Mr Malik confirmed he was a responsible businessman and invited the Sub-Committee to review his performance after three months.

**The Decision**

The Members of the Sub-Committee withdrew to reach their decision.

**RESOLVED**

That the licence be granted for the sale of late night refreshments for the following days and hours subject to conditions set out in the Notice of Determination issued to the Applicant:-

Sunday to Thursday	to midnight
Friday and Saturday	to 1 am

**Conditions**

1. That all conditions relating to the sale of alcohol are removed
2. For the avoidance of doubt, the existing condition relating to CCTV is retained, i.e. ‘ *A CCTV system shall be installed in accordance with UK Police requirements and be maintained in working order.*’
3. Seating is not to be used after 23.00 hours.
4. Prominent, clear and legible notices shall be displayed at all exits requesting that patrons respect the needs of local residents and to leave the premises and the area quietly.

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5. The movement of bins and waste outside the premises will not take place between the hours of 23.00 hours and 08.00 hours.
6. The delivery of goods is restricted to between the hours of 08.00 hours and 19.00 hours.
7. The licence holder will arrange for litter dropped in the vicinity of the premises to be collected and removed at the licence holder's expense at a frequency of not less than 60 minute intervals during opening hours.
8. The 'collection and removal of litter' should be taken to include the satisfactory disposal of spilled food and similar materials so as to leave the footway in a clean, safe and wholesome condition.
9. Ventilation equipment will be regularly cleaned and maintained to control the levels of odour and noise generated by the premises.

**Reasons**

The Police have submitted evidence in a statistical form about incidents and crime, taking in the whole of Southgate Street between Gloucester Cross and the Peel Centre. The Guidance makes it clear that it is 'incumbent on the Police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing'. In this respect, the Police have submitted no prime evidence of crimes and incidents that have occurred whilst the applicant has been at the premises, to show he will not achieve the licensing objectives.

Turning to the evidence of Environmental Protection. There is some evidence, based on their expert opinion, to show that the increased hours applied for will result in nuisance for residents living above the premises and above 150 Southgate Street. For this reason, the Sub-Committee has restricted the hours applied for and imposed the conditions.

The Sub-Committee is mindful that should there be crime and disorder, or public nuisance in the future, and there is actual evidence of this, then the licence may be brought back before the Sub-Committee for a Review.

**Time of commencement: 10:00 hours**

**Time of conclusion: 12:30 hours**

**Chair**