

**LICENSING PANEL held at COUNCIL CHAMBER - COUNCIL OFFICES,
LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on THURSDAY, 30 JUNE
2022 at 10.00 am**

Present: Councillors R Freeman, L Pepper and G Smith

Officers in attendance: A Lindsell (Democratic Services Officer), S Mahoney (Senior Licensing and Compliance Officer) and E Smith (Solicitor)

Also present: The applicant and their partner
N Bryant (Police District Licensing Officer)
D Eke (attending as a member of the public)
R McManus (Police Senior Licensing Officer)

LIC9 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence.

Councillor Freeman declared a non-pecuniary interest as a resident living in close proximity to the premises.

Councillors Freeman, Pepper and Smith declared personal, non-prejudicial interests due to one of the objectors being a fellow Council Member.

LIC10 APPLICATION FOR A PREMISES LICENCE

The Panel and Officers present introduced themselves to the applicant.

The Senior Licensing and Compliance Officer gave a summary of his report which requested that Members determine the application.

He clarified the specific address of the premises and the licensing hours of the proposed premises, both of which differed slightly from that specified on the application.

The Police District Licensing Officer noted their concern of potential of noise nuisance as a result of customers utilising the outside area. She confirmed that they had negotiated with the applicant and that conditions prevented the provision of outside furniture.

Mr Eke, in his capacity as a member of the public detailed his concerns and noted that the Senior Licensing and Compliance Officer had addressed some but not all of his concerns. These included:

- The large size of the warehouse and whether the lease covered the whole building or just the area proposed for use

- Whether the lease would allow expansion into the whole warehouse
- The safety of the building which was asbestos and cement clad
- The location of the mezzanine
- The potential risk of fire
- The emergency access limitations of having only one access down a three metre wide lane
- The absence of the vault distillery from the application
- The potential for noise nuisance with music permitted from 9:00am to 11:00pm
- The presence of five licensed premises within a two hundred metre radius of the premises
- Parking issues already existed on Church Street, particularly at weekends
- Protection of children that are not required to be accompanied by an adult when attending the licensed premises during the day.

The Senior Licensing and Compliance Officer confirmed that the vault distillery required a separate specialist license.

The Applicant explained that he and his family had moved to Saffron Walden in 2021 and hoped to move their aperitivo bar business from London to Saffron Walden and become part of the local community.

He said that:

- The lease did not apply to the whole warehouse
- The vault distillery was a small area for workshops and tastings for a maximum of ten people. It was housed in a fireproof cabinet and had a separate risk assessment
- The rotary evaporators distil under vacuum at forty degrees
- They had provided seating for twenty five customers, and would not offer service at the bar
- They would not over-serve and would not offer discounts
- The access and escape route limited maximum numbers to fifty customers
- They have installed a second exit, which was a rolling shutter door mainly used for deliveries
- The distillery was located at the front side, not on the resident side of the building
- An external wall was being erected to contain the business
- Child safety was a key objective
- The license times were in place to enable customers to purchase items to take away for future consumption and to enable the online element of the business to operate. It was not intended to serve alcohol from 9:00am
- The business would operate as a café during the day and as a bar at night
- They were looking to only open until 10:00pm and not every day of the week but were advised to apply for the full week to ensure any bank holiday or exceptional events did not require further license applications
- They intended to create an intimate small environment that would be welcomed and enjoyed by residents.
- They confirmed that there would be no raves

In response to questions from Members the applicant confirmed:

- The windows were original crittal and were openable
- There was air conditioning provided in the mezzanine space and the downstairs area had windows and doors that provided adequate ventilation
- The music would be low level ambient background music.
- There had been an audio survey conducted over a week long period.
- There had not been an application for live music and there were no music lead events planned
- Any issues that arose would be appropriately handled by qualified staff
- They would be happy to join the Pub Watch scheme

The Chair explained that the Panel would retire to consider the application.

The applicant left the meeting at 10:40am and the meeting was adjourned; the Panel retired to make its decision.

The applicant rejoined the meeting at 10:57am and the meeting reconvened.

The Chair advised the applicant that their application was approved subject to their acceptance of the conditions required by the Police and subject to a noise management plan to be approved by the Council's Environmental Health department.

The meeting concluded at 11:06am.

DECISION NOTICE – CHATER'S GENERAL STORE AND APERITIVO BAR

The application before us today is for the grant of a Premises Licence for Chater's General Store and Aperitivo Bar. The application is dated 04 May 2022 and is made by Chatersco Ltd in respect of 17 Church Street, Saffron Walden, Essex CB10 1JW. Representations have been made by two separate neighbours in response to this application, therefore this matter has been referred to the Committee for adjudication.

The options open to the Committee are set out by law, and are:

- To grant the application
- To modify the application by inserting conditions
- To reject the whole or part of the application

We have had the opportunity of reading the officer's report in this case, a copy of which has been served on the applicant, the objectors and the statutory consultees. Essex Police did initially raise some objections, but their concerns were allayed following the acceptance of the additional conditions suggested by them, hence their objection was withdrawn. Those conditions are set out in the email correspondence between Officer 42080730 Bryant and the applicant, contained in our packs at pp 39-42. They did attend before us today and confirmed that they are content for the application to be granted on those terms. These additional conditions were not sufficient to allay the concerns of the individual objectors and so this matter comes before us on the basis of those objections only. One of the objectors was unable to attend but the other objector did address us and we have paid careful attention to what he had to say.

The premises are a warehouse converted into a café and provisions shop. It is proposed that a small aperitivo bar will open in the evening. The building is two storeys with a mezzanine floor and situated next to existing residential dwellings. Included within our bundle is a copy of the application form giving details of the proposed method by which they will be operated and a plan of the building, and

we note the proposed licensable activities and times are set out on page 5 of the application form. We note that the licence sought is very limited indeed and that the other statutory consultees including Environmental Health and the Fire Service have raised no objection.

The applicant, who is to be the Designated Premises Supervisor, spoke in support of the application, outlined the plans for the business and explained what experience of he and his wife had within the licensed trade. They seemed very knowledgeable and had thought out their application carefully: they have co-operated in full with the statutory authorities.

The proposed licensable activities are below:

- Recorded Music
- Supply of Alcohol

We have considered the application carefully and have read the documents before us, including the letters submitted by two neighbouring residents, and listened carefully to all of those who have spoken before us this morning. We remind ourselves that the Police objections were resolved by the acceptance of additional conditions and Officer Bryant confirmed this today. One of the two residents, who addressed the Panel this morning, is a member of Uttlesford District Council but is acting in a private capacity. We therefore state that we are acquainted with him but that we not personal friends of his and we approach the application with open minds.

In carrying out its statutory function, the Licensing Authority must promote the
four

licensing objectives as set out in the Licensing Act 2003. We remind ourselves
the

Police have already requested additional conditions in respect of the question of
crime and disorder, and the applicant has accepted these. We gratefully adopt
the

wording suggested by the Police at pp 39-40 of our packs.

Those four objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

There is no hierarchy of importance among the objectives, and all must be given an equal weight.

The decisions that the Committee can make in respect of this application are to:

- Grant the application
- Modify the application by inserting conditions
- Reject the whole or part of the application

When determining an application, due regard should be given to the Council's Licensing Policy (a copy of which is before us) and the Secretary of State's Guidance issued in accordance with the 2003 Act. The latter provides at paragraphs 10.8 and 10.10 the following assistance for members:

10.8 "The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions must be included that are aimed at preventing illegal working in licensed premises."

10.10 "The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions that are

considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions.”

If the Committee’s decision is to impose conditions, the only conditions that can be imposed are those that are necessary and proportionate to promote the licensing objective relevant to the representations received. Furthermore, the Committee should not impose conditions that duplicate the effect of existing legislation.

We have heard from the applicant, Police Licensing Officer 42080730 Bryant and a neighbour. We have considered what they have all said very carefully and our decision is to grant the application subject to the conditions required by the Police, agreed by the applicant and set out at pp39-40 as aforesaid, and to an additional condition that will address, we hope, any potential noise nuisance issues emanating from the premises.

That additional condition will read as follows: –

A noise management plan shall be submitted to the Licensing Authority within 28 days from the date hereof for approval by the Licensing Authority. Any event involving amplified music shall not take place without Licensing Authority approval of the noise management plan. The noise management plan shall include details on measures, controls and actions to ensure that the playing of amplified music does not cause a public nuisance. Measures, controls and actions will include an approach to monitoring that also assesses the impact of any noise on neighbouring premises at the start of the regulated entertainment and periodically throughout the regulated entertainment and take any action to ensure compliance with the management plan. The management plan shall ensure a telephone number

is made available for local residents to contact in the case of disturbance from noise or anti-social behaviour by persons or activities associated with the premises. The telephone number will be a direct number to the management who are in control during opening hours. A record will be kept by management of all calls received, including the time, date and information of the caller, including action taken following the call. Record will be made available for inspection either by any relevant responsible authority throughout the trading hours of the premises. The Premises License Holder must comply with the agreed noise management plan at all times during regulated entertainment.

The Premises Licence Holder shall within 28 days of receiving instructions by the Licensing Authority install a noise limiting device to the approval and satisfaction of the Licensing Authority. A noise limiting device (the specification and design to be agreed with Uttlesford District Council's Environmental Health Service) shall be fitted so that all regulated entertainment is channelled through the device(s). The maximum noise levels will be set by agreement with Uttlesford District Council's Environmental Health Service and will be reviewed from time to time as appropriate. The noise limiting device shall be kept at the settings approved by the Council through an authorised officer of the Uttlesford District Council's Environmental Health service. The Premises Licence Holder or nominated person shall ensure that the noise limiting device is sealed after commissioning so that sound operators cannot override the system during the performance of live and recorded music. If deemed necessary the noise limiting device shall only be reset to a level approved by the Council through an authorised officer of the Uttlesford District Council's Environmental Health Service within 7 days of notification.

For the avoidance of doubt these two requirements are sequential and if the noise management plan is efficacious then the noise limiting device will not be required. It is therefore up to the applicant to make this work.

All parties have a right of appeal against this decision to the Magistrates Court. This must be exercised within 21 days of the date of service of this decision

notice. All parties will receive notification from the Legal Department explaining this.