

LICENSING SUB-COMMITTEE

Thursday 21 January 2021

Present:

Councillors Newby, Vizard and Wood

Also Present:

Legal Advisor, Principal Licensing Officer, Licensing Officer, Democratic Services Officer (MD) and Democratic Services Officer (HB)

1

APPOINTMENT OF CHAIR

Councillor Wood was appointed as Chair for this meeting.

2

DECLARATIONS OF INTEREST

No declarations of interest were made by Members.

LICENSING ACT 2003

3

APPLICATION TO GRANT A PREMISES LICENCE

The Chair introduced the members of the Sub-Committee together with the Legal Advisor, the Principal Licensing Officer, Licensing Officer and the Democratic Services Officers. The Legal Advisor set out the hearing procedure and the Applicant, who was in attendance, agreed that the procedure was understood. Two speakers making representations on the application were also in attendance.

The Licensing Officer presented the application to grant of a new premises license for Ganbeis, Unit 2, Commercial Road, Exeter, EX2 4AE. The Applicant was seeking to apply for:

- Provision of Recorded Music: Monday-Sunday 09:00 – 01:00 hrs. (Indoors only);
- Late Night Refreshment: Monday to Sunday 23:00 – 01:00 hrs (On and Off-sales.);
- Supply of alcohol: Monday to Sunday: 09:00 – 01:00hrs (On and Off Sales); and
- Hours Open to the Public: Monday to Sunday 09:00 – 02:00 hrs

The Licensing Officer explained that the Devon and Cornwall Constabulary had mediated with the Applicant within the 28 day consultation period and had proposed some amended times and licensing conditions, which had been agreed with the Applicant. The proposals were set out in the report and listed as follows:-

- Provision of Recorded Music: (Indoors only) - Monday to Saturday 09:00 – 01:00hrs. Sunday 09:00 – 00:00hrs;
- Late Night Refreshment: (On and Off-sales) - Monday to Saturday 23:00 – 01:00hrs. Sunday 23:00 – 00:00hrs;
- Supply of alcohol: (On and Off Sales) - Monday to Saturday: 09:00 – 00:30hrs. Sunday 09:00 – 23:30hrs; and
- Hours Open to the Public - Monday to Saturday 09:00 – 01:00hrs. Sunday 09:00 – 00:00hrs.

The Application had been advertised on the premises from 27th November 2020 and in the local newspaper on 3rd December 2020 in Express & Echo in accordance with the requirements of the Licensing Act 2003. The end date for representations was on the 24th December 2020.

The Applicants were in attendance and spoke in support of the Application and responded to questions from the Licensing Sub-Committee and the Legal Advisor. Two objectors were in attendance and made representations against the Application.

RESOLVED: that the Application be granted subject to conditions for the reasons set out in the formal decision notice attached.

4 **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 EXCLUSION OF PRESS AND PUBLIC**

RESOLVED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the consideration of the following items on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 1 of Part I, Schedule 12A of the Act.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

5 **APPLICATION FOR ROVING CONSENT TO ENGAGE IN STREET TRADING**

The Chair introduced the Licensing Sub Committee members and Officers.

The Principal Licensing Officer, presented the report which advised the Applicants were seeking the approval of the Licensing Sub-Committee for a roving street trading consent applicable to designated Consent Streets across Exeter, but with particular designated Consent for streets in Topsham. The Applicants had applied for a 12 month licence to sell hot drinks and cakes, trading between Saturday and Sunday between 08:00 and 18:00 hours. It was the intention to trade mainly on Sunday and potentially Saturday, the applicant currently trading on private land at the Cat and Fiddle Training Ground but wishing to extend trading into Exeter

The Applicants had submitted correspondence regarding omissions from the application form and photographs of the proposed purpose-built food van, which were included in the report papers. Members were informed that the Applicants had registered the business with Environmental Health, but were yet to receive a food hygiene rating visit.

The Principal Licensing Officer highlighted that there had been no comments or objections received from Environmental Health or the Highways Authority but referenced relevant comments from Devon County Council in respect of similar applications points:-

- dedicated parking for the vehicle cannot be authorised and therefore the locations cannot be guaranteed to be available to allow parking;
- to also note that it is prohibited to sell anything from a designated parking place; and
- It remains the responsibility of the driver to ensure that they park in a safe location that does not obstruct any traffic or visibility. Parking over/on footways is not permitted.

The Applicants were in attendance and spoke in support of the application, stating:-

- that one of the applicants had 20 years' experience in hospitality and looked to approach the business in the correct and appropriate manner and adhere to re-cycling and cleaning conditions;
- the application would primarily be operating on private land and quieter areas across the city, catering for various walkers;
- the exact hours of operation had not been fully outlined but would be between 8am and 6pm on weekends only;
- the food safety requirements were underway and the purpose-built food van was due to be inspected soon;
- the ingredients and coffee would be locally sourced from a Cornish supplier and there were negotiations underway to use a local Exeter supplier;
- dog walkers will be catered for through provision of dog bags, dog waste bins and water bowls for the dogs; and
- staff would be fully trained in food safety and safe working practices.

In response to questions from the Licensing Sub-Committee, the Legal Advisor and Principal Licensing Officer, the Applicants explained

- that safety precautions during the Coronavirus Pandemic would include providing hand sanitizer for staff and customers, use of face masks, maintaining social distancing, only accepting contactless card payments and staff would be working in an open area. Condiments and milk would be added to the drinks on the customer's behalf.
- a training day was undertaken at the Halden Forest Park Car Park;
- they had initially used A boards to display both menu and coronavirus safety information, but had removed these to comply with conditions. The A board was kept very close to the catering van, to avoid any issues.
- they were looking at trading in areas with good pedestrian footfall, and considered Topsham to be a location. A licence was required in case it is wished to venture outside this location, the intention being to continue largely operating on Sundays with possible assistance from their wives if also trading on Saturdays in Exeter.
- they would have regard to the location of the van and, whilst Topsham had been identified as a potential location, they were mindful of competing cafes and outlets. Ideal locations would be the more remote locales where there was little or no competition. Exhibition Fields identified as one such area which also has good footfall.
- that the hours of operation were likely to be between 09:30 and 15:00 on weekends, but the requested time of 08:00 to 18:00 would allow more flexibility.

In response to questions from the Licensing Sub-Committee, the Principal Licensing Officer explained:-

- that a roving licence prohibited trade in key areas such as the city centre and quay and that trading was allowed in all other areas; and
- that the condition to prevent the use of A boards was not mandatory and

applied more for areas where there was a higher footfall and the boards being an issue to pedestrians. In more remote locations it was acceptable to remove this condition.

RESOLVED that the Application be approved with the following conditions:

- a) all of the conditions contained within Appendix A of the Street Trading Policy dated 2015 should be included in the consent;
- b) the consent holder will provide a bin for customer use and that the consent holder will ensure that any rubbish in the vicinity (within 100m of the business), emanating from the business is cleared away at regular intervals;
- c) the consent holder will not conduct fly posting;
- d) in the event that issues do arise from this consent, then this consent may be revoked by the Service Lead Environmental Health and Community Safety in consultation with the Chair of the Licensing Committee;
- e) in line with the Council's resolution of 24th April 2018, any cutlery, food/ drink containers, and drinking straws used should not be made from single use plastics.

(The meeting commenced at 10.00 am and closed at 12.24 pm)

Chair



Exeter City Council

LICENSING ACT 2003

APPLICATION FOR GRANT OF A PREMISES LICENCE

NOTICE OF DETERMINATION

Date of Hearing: 21 January 2021

Application: Grant of a New Premises Licence

Name of Premises: Ganbeis, Unit 2, Commercial Road, Exeter, EX2 4AE

Applicant: Ford Holdings Limited (Company Registration No 12606277) represented by Mr Robert Rofe (RR) and Mr Glynn Ford (GF)

Licensing Sub-Committee Members: Councillors: Wood, Newby and Vizard

Legal Advisor: Matthew Hall (MH)

Licensing Officer: Neil Gardiner (NG), Lee Staples (LS)

Democratic Services Officer: Mark Devin (MD), Howard Bassett (HB)

Representations: Simon Goddard (SG), Heather Goddard (HG)

Hearing Duration: 10:05 Hours to 11:48 Hours

TAKE NOTICE

That the Licensing Sub-Committee convened on 21 January 2021 has determined to grant a premises licence in accordance with section 18 of the Licensing Act 2003 and as set out in this notice.

THE SUB-COMMITTEE'S DECISION

In determining this application, the Licensing Sub-Committee took into account all the relevant evidence and information presented to it both written and oral, and took account of all the matters it is bound to take account of, in particular the following:

- Licensing Act 2003
- Statutory Guidance
- Exeter City Council Statement of Licensing Policy
- Human Rights Act 1998
- Any equality and diversity considerations

The Application was granted for the licensable activities applied for and the amended hours agreed by the Applicant with Devon and Cornwall Constabulary, subject to the following conditions:

- a) The conditions agreed with Devon and Cornwall Constabulary;
- b) Conditions consistent with the Operating Schedule;
- c) Condition restricting off-sales set out below.

Off sales of alcohol shall only be permitted by pre-order and by delivery to a residential or business address and not to a public place.

Alcohol will only be delivered to the person who placed the order and whose name appears on the credit/ debit card.

- Challenge 25- if the driver considers the recipient of the alcohol appears under 25 recognised photographic identification will be requested and must be provided evidencing the recipient to be of at least 18 years of age before any alcohol is handed over
- Delivery will also be refused if the driver believes the alcohol was purchased on behalf of another person who is not 18.

REASONS FOR THE SUB-COMMITTEE'S DECISION

The Sub-Committee was mindful of the issues raised by the two members of the public in their representations, in particular, the late operating hours and incidents of public nuisance in an area with both residential and commercial premises. With regard to the incidents of public nuisance the Sub-Committee noted that such incidents were not linked to this Premises which was yet to trade.

The Applicant's explanation of the operation of the Premises primarily as a restaurant reassured the Sub-Committee. The applicant had also engaged with Devon and Cornwall Constabulary and agreed to reduce the operating hours and add additional conditions. Furthermore the Applicant agreed to an additional condition to limit off-sales of alcohol by delivery to residential and/or business premises.

The Sub-Committee considered that the application together with the agreed amendments promoted the Licensing Objectives and that should issues arise as a result of this grant, a Review of the Premises Licence is available to Interested Parties and the Responsible Authorities.

RIGHT OF APPEAL

All parties are reminded of their right to appeal against this decision to the Magistrates' Court by virtue of Section 181 and Schedule 5 of the Licensing Act 2003. Any appeal must be made within the period of 21 days beginning with the date on which you are notified of the decision appealed against.

Any Appeal is commenced by a notice addressed to:

The Clerk to the Justices, North and East Devon Magistrates Court Office, Southernhay Gardens, Exeter, EX1 1UH Telephone 01392 415300.

Parties were advised to contact the court office to check the form of notice required and the fee payable.

RIGHT OF REVIEW

At any stage, following the grant of a premises licence or club premises certificate, a responsible authority or any other person may ask the Licensing Authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives; the prevention of crime and disorder, Public Safety, the prevention of public nuisance and the protection of children from harm.

The Chair of Licensing Sub Committee



.....Date: 27 January 2021
Cllr D Wood

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