

Further Information 24 April 2021.

Given the following:

The Licensing Act 2003 (Hearing Regulations) 2005

18. In considering any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.

Please find further information to support our position. We apologise for the very late notice.

This application is founded on it being a food led operation and withdrawal of the Town Council's and Councillor Orrell's objections are conditional on this, with a proviso for no open bar.

The restaurant and takeaway has recently published its opening times and these vary throughout the week, see appendix 1.

The proposed on-sales and bar opening times are well outside of the restaurant and takeaway opening times, so, when the latter are closed, the bar transactions will not be dependent on or led by the ordering of, or consumption of food prepared by the restaurant under its own menu.

If stand alone bar snacks are not prepared by the restaurant operation, when the restaurant and takeaway are closed, this part of the operation will not be led by the restaurant. The % sales of food compared to the % sale of alcohol in these hours is likely to be less. This will support an alcohol led bar.

It is acknowledged that visiting the bar for a cocktail or other drink after having consumed a substantial, seated meal in the restaurant, could be viewed as food-led via the restaurant.

Use of the bar to order a takeaway could quite easily be used as a ploy to enable an open bar, for anyone off the street, if alcohol consumption is permitted without an order being placed, paid for and in progress while the restaurant and takeaway are open.

Since the application was submitted, there is a new sign to the bar aspect of the building - Tiki Bar. See appendix 2. This has not been raised in the application. It seems to demonstrate that the bar is seeking to become an independent, open bar, not led by or dependent on the food led operation, or the brand of the restaurant, as presented in the application. This could lead the way to future variations not linked to the restaurant.

The proposed conditions of the representation are amended as follows:

Still relevant/required.

There should be no off-sales. In any form.

Replace:

~~**On-Sales should be limited to the asserted food led operation, from 17.00 – 23.00.**~~

With:

On-Sales will be tied to the published opening/serving times of the restaurant/takeaway, to 23.00.

Replace:

~~**Open hours should be limited to the asserted food led operation, from 17.00 – 23.30.**~~

With:

Open-hours will be tied to the published opening/serving times of the restaurant/takeaway, to 23.30.

Still relevant/required.

The bar aspect of the operation should not be presented as a standalone bar with a different name and operation to the food led operation, as is emerging now. It should be part and parcel of it.

Still relevant/required.

There should be no staff or patrons taking smoke breaks in the narrow passageway outside the main entrance. All persons wishing to have a smoke break should be directed to Maiden Street.

Still relevant/required.

There should be no drinking in any controlled areas outside of the premises. From glasses or bottles or any other container. This includes non-alcoholic beverages.

Replace:

~~No alcohol should be served without a seated, served, substantial/main meal taken from the menu of the restaurant. At any time.~~

With:

No alcohol should be served at the bar unless:

- a takeaway order has been paid for and is being prepared (evidence is required for remote orders through Deliveroo, Just Eat or similar)
- a seated, main meal has been served, consumed and paid for in the restaurant,
- a bar snack from the restaurant menu, prepared by the restaurant, has been served, paid for and consumed at a bar table.

The provision of a stand alone bar outside of restaurant opening hours for the consumption of alcohol only, or where sales are weighted to alcohol, remains vehemently opposed. This application has asserted a food led operation.

Remove:

~~Continued and extended serving of alcohol for drinking purposes only, beyond serving that has been supplementary to the enjoyment and completion of a seated meal, should not be permitted.~~

It has been revised against the above changes and application.

Remove:

~~A background noise condition is required for any use of music.~~

It is acknowledged that this is not enforceable because the deregulation of the Live Music Act would prohibit its use prior to 23.00. And any music other than background music is prohibited after 23.00

However, the applicant has stated that no loud music will be played and a voluntary condition disapplying the deregulation for background music only would be welcomed. Failing this, if public nuisance is caused, a review of the licence will be sought by the community to apply preventative noise conditions and disapplication of the deregulated protection, as permitted by the above Act.

Remove:

~~A preventative noise condition with limits and measuring locations at noise sensitive properties should be provided for outside patron noise in controlled areas. Details of this will follow this representation.~~

This will be sought for any future variation, with other noise conditions, if a late licence is applied for. Reactive enforcement of statutory and public nuisance will be progressed after 23.00 if needs be.

Remove:

~~The building is not fit to play amplified music above background levels. A preventative noise condition with limits and measuring locations at noise sensitive properties should be provided for inside noise (for bass and mid to high level frequencies). Details of this will follow this representation.~~

As above. It is acknowledged that this is not enforceable because the deregulation of the Live Music Act would prohibit its use prior to 23.00. And any music other than background music is prohibited after 23.00.

If public nuisance is caused, before or after 23.00, a review of the licence will be sought by the community to apply preventative noise conditions and disapplication of the deregulated protection, as permitted by the above Act.

Note that, although the application states that no loud music will be played, evidence shows that there has already been regular playing of loud music with doors and windows wide open to the street. Audible 50 yards up the road. The applicant is not honouring his word.

Appendix 1 - Food Led Operation, Opening Times



Tuesday to Thursday 5pm to 10.30pm
Friday to Saturday 2pm to 10.30pm
Sunday 4pm to 9pm

Appendix 2 - New Independent Bar Sign

