Secret Garden, 66 Braunstone Gate Variation of Licence Application Representation – Planning Department

The Planning Department objects to variation of licence at 66 Braunstone Gate relating to the licensing objective Prevention of Public Nuisance

66 Braunstone Gate has been used as a bar/public house for many decades, at least since 1954,) and is most recently in use as a bar ('Secret Garden') by the applicant. It is a mid-terrace two storey premises sandwiched between two locally listed buildings and is in an area that primarily includes public houses, bars, hot food takeaways, cafés and restaurants, many with flats above, as in the case of the application site.

Recently, the property has undergone an unauthorised change of use from a bar to restaurant and shisha lounge. In addition, without planning permission, an extension has been constructed in the rear yard and flues have been installed, this being the area covered by the retractable canopy. A retrospective planning application was submitted for *'installation of canopy with louvres to rear of drinking establishment'* in December 2023 but was withdrawn due to lack of information from the applicant. Since then and most recently up to November 2024, liaison has been attempted with the applicant via his planning agent and a planning application was anticipated to rectify all issues, but this has not been forthcoming.

The below plan was submitted as part of the withdrawn application and shows the area used as the shisha lounge in light grey and the louvred retractable roof is hatched. The hatched area was the rear yard and bin storage area for the former public house. The conversion of the two existing rear parts of the premises and rear yard to a unified shisha lounge leaves the property without a bin storage area which is not acceptable in planning terms. The retractable roof when open, allows all noise from the shisha lounge, which includes live music, to be heard unfettered in the neighbourhood, affecting the residential amenity of occupiers of the flats above and surrounding it at first floor level. Effectively, the retractable roof creates an open air shisha area. It would be more usual for an establishment in such a location to have hours more suited to residential living. Each such planning application is considered on its own merits.



The yard and accordingly the unauthorised extension is surrounded on three of its four boundaries by residential flats at first floor level, some at second floor level, as follows:

Five flats above the application address Two flats above 1C Western Road Five flats above 1A Western Road

The hours of use under planning permission 20011692 (when the premises was 'The Braunstone Gate Inn') were 11:00-23:00 Monday - Saturday and 12:30-22:30 Sundays. No planning permission has been sought and granted to alter these hours of use, however the current hours of use are stated on 'Secret Garden's' website below.



The licence application is to 'extend the sale of alcohol, provision of regulated entertainment and late night refreshment and dance etc' to be largely in line with those unauthorised hours. Of particular concern in planning terms is the disturbance caused to nearby residential flats by the in effect 'open air' activities when the retractable canopy is open.

No planning application has been submitted for the change of use or hours. Were planning permission to be granted, it would be highly likely that a condition would be imposed that 'There shall be no live or amplified music or voice played which would be detrimental to the amenities of occupiers of nearby properties. (In the interests of the amenities of nearby occupiers come up under the coordinates with [policy].)' which would be standard in applications in similar circumstances regarding proximity to residential housing.

Policy PS10 of the City of Leicester Local Plan states that in determining planning applications, the following factors concerning the amenity of **existing or proposed residents** will be taken into account:

a) noise, light, vibrations, smell and air pollution (individually or cumulatively) caused by the development and its use;

b) the visual quality of the area including potential litter problems;

- c) additional parking and vehicle manoeuvring;
- d) privacy and overshadowing;
- e) safety and security;
- f) the ability of the area to assimilate development; and
- g) access to key facilities by walking, cycling or public transport.

[emphasis added]

A formal decision has not yet been made as to the taking of formal enforcement action, which may involve issuing an Enforcement Notice for removal of the structure and/or change of use. Regardless of this, the unauthorised use is currently operating and would not be granted planning permission in its current form due to issues including noise and light issues affecting the flats and lack of bin storage area.

Granting of the licence means the unauthorised activities would continue at the cost of loss of amenity to nearby neighbours and would not be expected to operate in the open air.

The Planning Department objects to the extension of licensing hours in the interests of Prevention of Public Nuisance.