

Ashik Madlani(Candle Rooms) V Leicester City Council
Loughborough Magistrates Court
31st August 2016

1. The Court is dealing with an appeal by Mr Ashik Madlani, the appellant, against the refusal of the Leicester City Council to grant premises licence in respect of the Candle Rooms, 25 Gravel Street Leicester. The premises are situated within the Churchgate Cumulative Impact Zone (CIZ) of Leicester City Centre.

Background

2. In February 2005 Leicester City Council introduced a special policy on cumulative impact in the Churchgate area which refers specifically to on and off licences. This creates a rebuttable presumption, in the event of representations being received, that an application for a new premises licence will be refused, unless the applicants can show that their premises are unlikely to add to the problems of saturation.
3. The appellant acquired the premises in January 2016 and applied to Leicester City Council for change of use of the premises from a shop to a Function Suite. This application was successful and the Court refers to the Planning Permission, Particulars of Decision at p 20-22 of the bundle. It is made clear in the particulars of decision that the grant of planning permission does not obviate the need for permission under other Regulations. P21
4. The appellant intends for the premises to be used exclusively for private events (mainly Weddings, Asian primarily and corporate events). The premises have a maximum capacity of 500 guests with a front entrance onto Candle Street and a rear exit leading to a private car park with a capacity of approximately 80 parking spaces.
5. The appellant applied for the grant of a premises licence by application dated 11th February 2016, this is contained at p29-50 of the bundle. The application sought a 24 hour licence for 7 days a week with permission for all licensable activities being sought p 32 part 3 of the Operating schedule.
6. A relevant representation was received from the police on 8th April 2016 (p51-52 of the bundle). The representation related to the prevention of crime and disorder, the prevention of public nuisance and public safety. The police were concerned that the appellant had made no reference to the premises being within the Churchgate CIZ and had not addressed this in the Operating schedule of his application.
7. The application for the premises license was refused by the licensing Committee on 11th May 2016. The appellant was informed at the Hearing and also in writing *the reason for the decision after considering the application carefully and also the representation made on behalf of Leicestershire police was that the application had not demonstrated that the grant of the licence with or without conditions would not add to the existing problems in the CIZ.. The grant of the licence would they feel undermine the promotion of the*

licensing Objectives or preventing crime and disorder, preventing public nuisance and public safety.

8. Since the decision of the Licensing Committee in May 2016, a number of conditions have been proposed by the appellant which he submits deals with any concerns which may persist in relation to the location of the premises within the CIZ and the adding to the problems of saturation. These conditions are contained at paragraph 26 a) –f) of the appellants' skeleton argument.
9. The police have considered the proposed conditions and have concluded that they are in their view *insufficient to address the issues within that area*. P66-67 of PC Webb's statement. The Conditions were also referred to the licensing committee who were not prepared to revise their decision.

The law

The appeal is a de novo Hearing of the application based on the evidence now available before the Court.

The case of R (Hope and Glory Public House Ltd) V City of Westminster Magistrates Court 7 ors [2011] makes it clear that the court should have close regard to the decision made by the Licensing Authority. This is reaffirmed in the case of Sagnata Investments Ltd V Norwich Corporation [1971] QB 614 that not only should the Court of appeal pay close regard to the decision but that the decision should not lightly be reversed.

The burden of proof rests with the appellant on the balance of probabilities.

The Court's paramount considerations are the Licensing objectives contained at para 2.2 p95 of the Leicester City Council statement of Licensing Policy p93 onwards. These are:

1. The prevention of crime and disorder
2. Public safety
3. The prevention of public nuisance
4. The protection of children from harm

These objectives carry equal importance.

In relation to the policy on Cumulative Impact this is set out at para 4 p97.

Judgment

The Court heard evidence from PC Webb and Mr Madlani. Both had submitted additional statements. PC Webb also provided a log of reported incidents occurring in the night time economy hours in the CIZ between July 2015 and June 2016. PC Webb stated that this did not include spontaneous incidents. Although the Court accepts that not all the incidents resulted in crimes being recorded each one required police resources.

We agree with Counsel for the appellant that the key issues are:

1. What is the problem within the CIZ; and
2. Will the grant of a license increase those problems?

In our judgment it is clear from the evidence presented by the Local Authority that there is saturation of licensed premises within the Churchgate CIZ. This results in an increased number of alcohol related incidents.

The addition of a significant number of extra people into licensed premises within the CIZ albeit attending private events will in our judgment increase the risk of crime and disorder incidents. The concern for the court is the exiting of these guests into the locality which is already saturated which is likely to increase the potential for alcohol related incidents.

The Court is not persuaded by the argument that there is spare police capacity if the nightclubs nearby are not operating to their maximum or if less than 500 people attend the Candle Rooms. By granting a license the Court would be adding to the number of people within the CIZ and therefore increasing the risks of crime and disorder issues.

The Court has considered the conditions proposed by the appellant at paragraph 26 of his skeleton argument.

In our view these proposals do not address the challenging conditions within the CIZ as a whole but merely the conditions within the premises, car park and its door environs.

The Court has noted the revised application by the appellant regarding licensing hours and activities. However as previously mentioned the Court is not satisfied that these are sufficient to prevent existing problems from being exacerbated. For the sake of completeness the court has considered the car parking issues and whilst the appellant has made arrangements for this the key concern remains the fact that the car parks are within the CIZ adding to its saturation.

The appeal is dismissed.