

Decision Notice

Date	23 April 2014
Applicant	Antonio Vavoso and Helen Vavoso
Reason for Hearing	<p>The Licensing Authority has received an application for the grant of a Premises Licence at Spago, 7 Dicconson Terrace, Lytham.</p> <p>There had been representation from the Police, Environmental Protection and Planning departments, who are responsible authorities under the Act, and this means that the Committee must determine the application.</p>
Parties in attendance	<p>Panel – Councillor Angela Jacques, Convenor, Councillors Alan Clayton and Christine Akeroyd</p> <p>Applicant: Malcolm Ireland, of Naphthens Solicitors, Helen Vavoso</p> <p>Responsible Authorities: Philip Dent representing Environmental Protection and Catherine Kitching representing Planning.</p>

The licensing authority received an application for a licence at premises to be known as Spago at 7 Dicconson Terrace in Lytham. We understood from the applicant, and accepted, that the premises are intended to be operated as a restaurant, and that sale of alcohol will be ancillary to that activity.

No members of the public objected to the application, but three responsible authorities did so. The objection from the police was the subject of mediation and agreement was reached on a set of conditions which were satisfactory to both parties.

That left objections from the planning authority and the environmental health authority. These had not been mediated away and consequently were the subject of the hearing.

In considering the application, the panel had to consider whether granting the licence would undermine any of the four licensing objectives which are:

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

The licensing objectives addressed by the objections were the prevention of public nuisance.

The applicants and their representatives and the two responsible authorities were thanked for their help.

The issues were around the hours of operation. The applicants wanted the premises to be able to remain open until 01.30am, and to carry out the licensable activities that had been applied for until 01.00am. The planning authority had argued for the licensable activities to be curtailed to 11.30pm on Sunday to Thursday. The applicants wished to be able to use the external area at the front of the premises until 10.30pm, and that at the rear until 10.00pm. The responsible authorities wanted these times to be limited respectively to 9.00pm and 8.00pm.

The concerns of the responsible authorities were heard, and the reasons for them understood. However, the Panel were conscious that concerns alone are not enough. The Licensing Act, as amended, allowed the Panel to depart from an application if it was felt "appropriate" for the promotion of the licensing objectives, rather than the test being necessity, as before. However, concerns still needed to be supported by sufficient evidence if the Panel were to be able to take them into account. With one exception, the Panel did not feel that there was sufficient evidence to allow them to cut back the hours applied for.

However, they did not feel that there was any sensible reason why the front external area should have different hours restrictions applied to it than the one at the rear. The number of residents affected are small (just one or two), but each is entitled to the same consideration. The Panel will therefore apply the same hours to the front external area as to the rear.

DECISION

Taking into account the information put before the Panel, the Council's Statement of Licensing Policy and the Guidance issued under section 182 of the Licensing Act 2003 the panel decided as follows.

The decision is to allow the application, subject to the mandatory conditions and the conditions set out in the operating schedule, as modified by the applicants' agreement with the police and annexed to this decision, save that the use of the front external area will cease at 10.00pm, rather than 10.30pm.

Appendix 1

Agreement of conditions between the Applicant and the Police as approved by the panel.

The following conditions to be added to the operating schedule:

1. The primary purpose of the premises will be that of a restaurant / bistro/ cafe serving food, with additional occasional use for pre-arranged events and functions. The sale of alcohol will be ancillary to these uses.
2. The provision of food, including full meals and snacks will form a substantial element of the operation of the premises with sufficient furniture and seating provided and set out in such a way that it does not become a high volume, vertical drinking establishment.
3. Seating inside the premises will be provided for at least 70% of the total maximum capacity of the premises as determined by a risk assessment.
4. Whenever licensable activities are available at the premises a waiter/waitress service shall be available. However, in the outside area, the supply of intoxicating liquor shall be by waiter/waitress service only and only to persons seated at tables.
5. At least one personal licence holder will be contactable while the supply or sale of alcohol is being undertaken (whose identity will be known to all other staff engaged in the supply or sale of alcohol) except in the case of emergency.
6. Another member of staff shall be nominated to act for the Designated Premises Supervisor, in their absence, whose identity is known by all other staff when such absence occurs.
7. No customers will be admitted to the premises after midnight. For the avoidance of doubt, this condition shall not apply to those customers who were on the premises prior to midnight, and who exited the premises for the purpose of smoking.
8. A drugs prevention strategy for the premises shall be developed and applied to include any reasonable recommendations of Lancashire Constabulary.
9. Where there is reasonable suspicion that drugs are being carried the licence holder shall ensure that the outer clothing, pockets and bags of those entering the premises are searched by a trained staff member of the same sex.
10. Security/staff arrangements will be sufficient to discourage the sale and consumption of drugs and shall ensure such arrangements include regular checks of toilet areas.
11. Records of incidents involving the use and / or detection of drugs shall be maintained and those records shall be available for inspection.
12. Confiscated and found drugs shall be stored and transferred to the Police in accordance with procedures agreed with the Lancashire Constabulary.
13. Any customers known to the management to have been previously convicted of committing criminal offences relating to drugs shall be excluded from the premises.
14. No person in possession of a drink in a sealed or unsealed container will be allowed to enter the premises except for the purposes of delivery.
15. No drink will be removed from the premises in an unsealed container save for unfinished bottles of wine which must be re-corked before being taken away from the premises.
16. Any individual employed on the premises to carry out a security activity must be licensed by the Security Industry Authority.
17. An incident book will be maintained in which shall be recorded:-
 - i. All incidents of crime and disorder
 - ii. Refused sales to suspected under-age and drunken persons
 - iii. A record of any person asked to leave the premises or removed from the premises
 - iv. Details of occasions on which the police are called to the premises
 - v. A record of persons searched on suspicion that drugs are being carried and the reason for such suspicionThe book will be available for inspection by a police officer.
18. Any risk assessments carried out by or on behalf of the Licence holder, which relate to a licensing objective, shall be available for inspection by an officer of a Responsible Authority.
19. All members of staff shall receive suitable training with regard to serving drunks and are to receive regular refresher training at intervals of a maximum of six months. Records to evidence this will be made available to an authorised officer upon request.

20. Any person within the premises who appears to be intoxicated or who is behaving in a disorderly manner will be asked to leave the premises and will be escorted off the premises in a calm and appropriate manner.
21. The Licence Holder and Premises Supervisor shall ensure the free cold drinking water is available on request and shall have adequate supplies of chilled soft drinks and bottled water available for sale at the bar.
22. No entertainment of an adult or sexual nature will take place on the premises.
23. The departure of customers from the premises shall be effectively managed by staff who will request patrons to leave quietly and to avoid causing noise, nuisance or disturbance in the area.
24. A Challenge 25 proof of age policy shall be implemented and adhered to. All staff to have received suitable training in relation to the Challenge 25 proof of age scheme. Records to evidence this will be made available to an authorised officer upon request.
25. Any person who looks or appears to be under the age of 25 shall be asked to provide identification that they are over the age of 18. The following are the only forms of identification acceptable:
 - i. A recognised proof of age card accredited under the British Retail Consortium's Proof of Age Standards Scheme (PASS)
 - ii. Photo driving licence
 - iii. Citizen card supported by the Home Office
 - iv. Official ID card issued by HM Forces or European Union bearing a photograph and date of birth of the holder.

If no suitable identification is provided, the sale of alcohol to them will be refused.
26. All staff who are involved in the sale of alcohol shall receive suitable training in relation to the proof of age scheme to be applied upon the premises. All staff are to receive regular refresher training at intervals of a maximum of six months. Records to evidence this will be made available to an authorised officer upon request.
27. Suitable signage will be displayed to specify that a Challenge 25 Policy is in place.
28. Children under 16 shall vacate the premises by 2200 unless partaking in a meal or family function.

The following conditions to be removed from the operating schedule:

1. The provision of food, including full meals and snacks will form a substantial element of the operation of the premises.
2. No customers shall be admitted to the premises after 00.30 each night. For the avoidance of doubt, this condition shall not apply to those customers who were on the premises prior to 00.30, and who exited the premises for the purpose of smoking.
3. Toughened glass shall be used at the premises where available.
4. There shall be in place for the premises a policy to prevent the sale or supply of alcohol to persons under 18 years of age. That policy will require any person who appears to be under the age of 21 years to produce a recognised proof of age card accredited under the Proof of Age Standards Scheme (PASS) or if a proof of age card is not available a photo driving licence or passport indicating that they are over 18 years of age.
5. All staff shall have received appropriate training in relation the proof of age scheme to be applied upon the premises. Records to evidence this shall be made available to an authorised officer upon request.
6. An incident book will be maintained in which shall be recorded:-
 - a) all incidents of crime and disorder
 - b) refused sales to suspected under-age and drunken persons
 - c) a record of any person refused admission or asked to leave the premises
 - d) details of occasions on which the police are called to the premises
 - e) the use or discovery of drugs

The book will be available for inspection by a Police Officer, responsible authority or authorised person.