

## Application for a premises licence to be granted under the Licensing Act 2003

Belinda Jayne Griffiths, 19 Wyle Cop, Wyle Blue World (received 22 March 2021)

REPRESENTATION: Mr Paul Higgins 16 April 2021



### 1. THE PREVENTION OF HARM TO CHILDREN

#### (i) Pollution

- The bar/restaurant, which involves an outdoor kitchen, is to be located in the heart of a residential community, where children live and play. Research shows that children are acutely susceptible to regular and prolonged exposure to harmful particulates, which are emitted from outdoor burners, grills and fire pits. 'Children seem to be most vulnerable to the harmful effects of ambient air pollutants because their defence mechanisms are still evolving and because they inhale a higher volume of air per body weight than adults.' *Health effects of ambient air pollution in children* Sundeep Salvi **Paediatric Respiratory Reviews Volume 8 Issue 4** December 2007 pp. 275 – 280.
- The harmful effects of the pollution for children are exacerbated by the particular topography of the site, since the houses are situated above the fuel source so that pollutants rise into the adjacent residences.
- There is no valid reason given as to why any cooking could not be sited indoors, except perhaps the reference to a 'Moroccan vibe', which suggests that the arrangement is more about design than necessity. Therefore the outdoor arrangement for burning fuels for prolonged periods creating an outdoor hazard particularly toxic to children is not functionally necessary and should be rejected outright.

#### (ii) Safeguarding

- The application states 'we will not encourage children, young people or large groups', but does not stipulate any age limit for entry to the bar, nor any restrictions on hours when children may be present, nor on the presence of children under a certain age for specific activities. As such, the phrase 'we will not encourage' provides no protection or guarantee of safeguarding for children in an environment where alcohol is served throughout the day and evening. The statement is typical of the many vague assertions contained in the application.

## 2. TO PREVENT PUBLIC NUISANCE

### (i) (a) **Noise**

- The application states: 'No noise generated on the premises, or by associated equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.' Such an assurance is clearly contradicted by the open nature of the site, which, far from precluding any mitigation of noise, accentuates it.
- The application is unclear on numbers to be accommodated and no numbers are shown on the site plan, but the noise impact on a 'busy' site (the term used in Mrs Griffiths' own advert for personnel, please see photo WBW3), from customers and staff numbering possibly 60 or more, would be significant. The outdoor kitchen itself and management of the restaurant, with bustle and traffic in and out of the shop and setting and clearing tables, will inevitably create ongoing noise. Furthermore, the hours proposed, from 10.00 am to 11.00 pm 365 days a year, would mean continuous disturbance for adjacent residents into the late evening, with no respite. Such a situation is surely intolerable and could have serious effects on the emotional well being and mental health of neighbours in the close community.

### (i) (b) **Music**

- The application is unclear about music. The boxes simply show NA, but the application does not explicitly state that recorded music will not be played. Since recorded music has already been played outside regularly throughout the day, at times at night, and on occasion beyond legal hours, there is nothing in this application to stop the practice continuing. There needs to be a clear obligation that recorded and live music will not be permitted at any time.

### (ii) **Odour and smoke**

- The outdoor kitchen will create odours and smoke which will rise into adjacent residential areas and properties.
- The application does not make clear the proposed fuel and is vague on the arrangements for cooking, simply referring to 'less innocuous grills', whatever that might mean. The application states that wood fired ovens will no longer be used for cooking, but does not mention fire pits, which have been regularly lit. As Mrs Griffiths herself states, 'I had the food cooked on a fire pit' (*Shropshire Star* Friday 12 February 2021 p.6). A fire bowl is still visible on the site (please see the attached photos WBW1 and WBW2, where what appears to be a covered fire bowl is visible in the foreground.) The application does not preclude the use of either fire pits or wood burners for heating, ambience or promotion (fire bowls are apparently sold in the shop), only that they won't be used to prepare the food. Such vagueness leaves open damaging possibilities were the application to be passed. Fire pits and open grills or burners of any kind should be prohibited at all times given the impact on ambient air pollution, which is outlined in the latest Defra report of February 2021.

### **3. TO PREVENT CRIME AND DISORDER**

#### **(i) Security**

- The application states an 'intention' to 'stamp out' anti-social behaviour, by working with 'neighbouring premises', without listing who might be involved or what the strategies for controlling such behaviour might comprise. No specific arrangements for security, for instance on the door, are provided. Furthermore, the access to the back of the surrounding residential properties that the bar allows creates a clear security risk to residents, since customers can view the properties from this normally closed area and so are potentially able to enter them for any purpose if they were moved to do so.

### **4. PUBLIC SAFETY**

#### **(i) Fire**

- The site plan shows the open kitchen situated against the old Town Walls, which is a listed structure. These walls were repaired in 2017 as part of a community project involving Historic England (managed by Imogen Sambrook), Andrew Arrol Architects, the Illuminate bookshop and the residents of 1 and 2 Dogpole Court and Cardington House. It is unclear whether or not planning permission has been granted for the kitchen, but the current positioning of the kitchen shown on the site plan places it directly beneath protected and established pine trees (please see photos WBW1 and WBW2 attached). This placement is the very worst position possible in this setting, creating a clear risk of fire, as any sparks or flames could readily set light to the trees around and above. There has been an incident of fire from the trees in this precise area in the past.
- The only fire exit is through the shop. There is no exit from the garden itself. A previous much more modest application by the Illuminate bookshop for a garden café was turned down because of limited escape routes. The previous spiral staircase has been replaced, but access to the shop from the garden is still down a single iron staircase, which could be a clear hazard in situations requiring prompt exit of all personnel. Children and older people would be particularly vulnerable in this situation.

#### **(ii) Smoke**

- Smoke pollution is a scientifically established health hazard, particularly for children (as highlighted above), but also for vulnerable adults. The World Health Organisation states that air pollution is a 'public health emergency', which creates damage in every organ throughout the body. The latest report, *Air Pollution and Non-Communicable Diseases*, the result of a global review, states: 'Persons are more vulnerable to air pollution if they have other illnesses.... Harmful effects occur on a continuum of dosage and even at levels below air quality standards previously considered to be safe.' CHEST 2019; 155(2):409-416

- I get asthma. Professor Bown lives directly above the site. She is 94, is officially classed 'at risk', has chronic obstructive pulmonary disease (COPD) and is under a consultant at the Royal Shrewsbury Hospital for her breathing difficulties. Any negative impact on air quality in the vicinity could have serious and immediate consequences for her. The risk is grave. Furthermore, given the evidence from the WHO report, any provable link to a deterioration in her health as a result of the operation of this open kitchen could be actionable.

### (iii) **Management of Risks**

- Please note that the application throughout refers to 'we' but in the redacted document the agent or contractor responsible for food preparation is not specified. So it is not clear who exactly is responsible for preparing and cooking the food, what arrangements for control and supervision are in place and how any associated risks will be managed, including the control of vermin.

### **Suggested conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account**

- The application is vague on key points, such as the burning of fuel, and is full of inconsistencies, for instance that the 'bar' will be 'seasonal' but is in fact for 365 days a year. The very term 'bar' is misleading since what is involved is a restaurant with an open kitchen releasing toxic pollutants into the atmosphere all day every day. It provides only lame assurances on key points 'we will not encourage...' and lacks explicit strategies for dealing with risks to children, fire, smoke, noise nuisance, odours and vermin.
- The application regulations warn that it is an offence to make a false statement 'in or in connection with' any application. At the beginning of the application Mrs Griffiths states the following: 'The bar became and (sic) success and proved so popular, winning a National Retail Award.' The statement is odd and clumsy, but the meaning is clear: the award was for the restaurant.
- The award was given by the Good Retail Awards in February 2021 for 'In Store Creativity'. The reasons for the allocation of the award are given on the Good Retail Awards website. Communication with the judges has made it clear that the award was for a range of factors, but that a key point was 'visual merchandising' (email Good Retail Awards judge, 31 March 2021), such as window display.

- The suggestion that the award was given solely for the restaurant is false and is repeated in the articles in the *Shropshire Star*, with the headline '**Belinda toasts award for transforming her back garden into bar**'. An accompanying article states 'The bar was such a success that earlier this week she was presented with an award...' (12 February 2021 p. 6), accompanied by photographs of Mrs Griffiths in the garden area with a glass of champagne. It is my view that this attempt to influence opinion with misleading statements in the application and in a published article amount to a breach of the stipulation under section 158 of the Licensing Application 2003 for accuracy and as such the application should be disqualified from consideration.
- Under no circumstances should an open kitchen, dangerously positioned, in daily operation over sustained hours, creating smoke and releasing carcinogens and particulate matter that rise into adjacent residential areas, be permitted to operate, not only for the case involved here, but because of the damaging precedent which would be established for other restaurants in town.
- For these reasons, I can see no mitigating factors for the application and am lodging my objection to it in its entirety.



Paul Higgins



16 April 2021