

SHEFFIELD CITY COUNCIL Licensing Sub Committee Report



Report of: Chief Licensing Officer, Head of Licensing

Date: 30th November 2020

Subject: Licensing Act 2003

Author of Report: Clive Stephenson

Summary: To consider an application to grant a premises licence made under the Licensing Act 2003.

Blend Kitchen, Ground Floor, Wards Exchange, Twinkl Tower, 197 Eccelsall Road Sheffield S11 8HW

Recommendations: That members carefully consider the representations made and take such steps, as the Sub Committee consider necessary for the promotion of the Licensing Objectives.

Background Papers: Attached documents

Category of Report: OPEN

**REPORT OF THE CHIEF LICENSING OFFICER
(HEAD OF LICENSING) TO THE LICENSING SUB COMMITTEE
LICENSING ACT 2003**

Ref No 90/20

Blend Kitchen, Ground Floor, Wards Exchange, Twinkl Tower, 197 Eccelsall Road Sheffield S11 8HW

1.0 PURPOSE OF REPORT

- 1.1 To consider an application for the grant of a premises licence made under section 17 of the Licensing Act 2003.

2.0 THE APPLICATION

- 2.1 The applicant is Blend Cook Eat Share CIC Company Limited.
- 2.2 The application, which was received by the Licensing Service on the 13th October 2020, is attached to this report labelled Appendix 'A'.

3.0 REASONS FOR REFERRAL

- 3.1 Representations concerning the application have been received from the following and are attached at Appendix 'B':-

1 x Interested parties
1 x Responsible Authority

- 3.2 The applicant and objectors who made written representations have been invited to attend the hearing. Copies of the front page of the notices are attached to this report labelled Appendix 'C'.
- 3.3 The Applicant and Environmental Protection Services have agreed conditions set out below;

Amplified sound or live music shall only be played within the building and in such a way that noise breakout does not exceed the prevailing ambient noise level by more than 3dB when measured at 1m from the façade of the nearest residential property;

- a) as a 15 minute LAeq, and;
 - b) at any one third octave band centre frequency as a 15 minute LZeq.
- No amplified sound shall be played within the building except through an in-house amplified sound system fitted with a sound limiter, the design and settings of which shall have received the prior written approval of the EPS.
 - No loudspeakers shall be fixed externally nor directed to broadcast sound outside the building at any time.
 - Any outside seating area shall not be used from 22.00-09:00hrs.

4.0 POLICIES TO CONSIDER

4.1 Sheffield City Council Statement of Licensing Policy.

5.0 FINANCIAL IMPLICATIONS

5.1 There are no specific financial implications arising from this application. However, additional costs may be incurred should the matter go to appeal. In such an eventuality it may not be possible to recover all these costs. The impact of these additional costs (if any) will be kept under review and may be subject of a further report during the year.

6.0 THE LEGAL POSITION

6.1 The Licensing Act 2003 at section 4 (1) requires the Licensing Authority to carry out its functions with a view to promoting the Licensing Objectives which section 4(2) sets out as:-

- a) the prevention of crime and disorder,
- b) public safety,
- c) the prevention of public nuisance,
- d) the protection of children from harm.

6.2 Section 4(3) of the Licensing Act also requires the Licensing Authority to have regard to the published statement of Licensing Policy and any guidance issued by the Secretary of State under section 182.

7.0 HEARINGS REGULATIONS

7.1 Regulations governing hearings under the Licensing Act 2003 have been made by the Secretary of State.

7.2 The Licensing Authority has provided all parties with the information required in the Regulations to the 2003 Act as set out at Appendix 'C'.

7.3 Attached at Appendix 'C' is the following: -

- a) a copy of the Notice of Hearing;
- b) the rights of a party provided in Regulations 15 and 16;
- c) the consequences if a party does not attend or is not represented at the hearing
- d) the procedure to be followed at the hearing.

8.0 APPEALS

8.1 The Licensing Act 2003 section 181 and Schedule 5 makes provision for appeals to be made by the applicant and those making representations against decisions of the Licensing Authority to the Magistrates' Court.

9.0 RECOMMENDATIONS

9.1 That Members carefully consider the representations made and take such steps as the Sub Committee consider appropriate for the promotion of the Licensing Objectives.

10.0 OPTIONS OPEN TO THE COMMITTEE

- 10.1 To grant the premises licence in the terms requested.
- 10.2 To grant the premises licence with conditions.
- 10.3 To reject the whole or part of the application.



Stephen Lonnia
Chief Licensing Officer
Head of Licensing

Date: 30th November 2020

Appendix 'A'

Application

Attached as PDF

Appendix 'B'

**Objection:
Response from Applicant. Correspondence:**

RESPONSIBLE AUTHORITY – OBJECTION & CORRESPONDENCE

This emailed representation is made in accordance with the agreement with the Licensing Authority on the 18th October 2006 to accept representations by email.

I regret to inform you that as a responsible authority in respect of Public Safety, at the present time I have no alternative than to make a formal representation due to the proposed layout and arrangements shown in the plan, which are unsatisfactory.

Hello Michelle – it's the British Standard for cafes and restaurants. Its unfortunate that the clients designers haven't considered this.

I suggest we put in a formal representation to allow time for further consideration.

I am sorry I can't leave it any later today, there are issues with our emails, so I am not sure if you will receive this.

The objection can be removed once we have an agreed way forward.

Please forward the guidance I sent you to your client as there is useful information on slip resistant flooring standards etc

Kind Regards

Elaine

Elaine Cresswell BSc (Hons)

Environmental Health Technician/Health & Safety Inspector Environmental Regulation, Sheffield City Council, 5th Floor North, Howden House, 1 Union Street, Sheffield, S1 2SH

From: Michelle Hazlewood CBII <

Sent: 10 November 2020 15:29

To: Cresswell Elaine <

Subject: RE: SRU 674004 : New Grant Application : Blend Kitchen, Ground Floor, Wards Exchange, Twinkl Tower, 197 Ecclesall Road, S11 8HW (Comments 10.11.2020)

Hi Elaine

I think it makes it really difficult as the cupboard have been made more generous so that all the workers/students can access them-wheelchair or with a support worker/carer.

I will speak with the client but 4 toilets for 53 people seems excessive –there will be more space for the toilet provision than for the kitchen.

Regards

Michelle Hazlewood CBII

Partner

From: Cresswell Elaine

Sent: 10 November 2020 10:01

To: Michelle Hazlewood CBII

Subject: RE: SRU 674004 : New Grant Application : Blend Kitchen, Ground Floor, Wards Exchange, Twinkl Tower, 197 Ecclesall Road, S11 8HW (Comments 10.11.2020)

Hello Michelle,

I refer to our guidance above and apologies for the delay in getting back to you. Our service is experiencing a high demand due to Covid-19 enquiries.

The numbers of sanitary appliances for customers should be calculated using the capacity of the premises at a ratio of 50:50 male to female, in accordance with the current edition of BS 6465 as amended. Table 10-minimum provision for restaurants and other places where seating is provided for eating and drinking is on page 6.

The problem is not the size of the toilet, but the total number of toilets for the number of people. Assuming an occupancy of 53, this would be $53/2 = 27$ Female: 27 Male. (Up to 30 Female require 2 WC: Up to 30 Male require 2 WC ie 4 WC)
Based on the British Standard 4 WC are required so the proposed 2 WC is 50 % under provisioned for a licensed café of this size.

Not all of the toilets have to be accessible but I understand the preference for ease of use. I suggest an additional 2 standard toilets could potentially be accommodated by sacrificing/rearranging the cleaners cupboard and/or store room. Please let me know your clients thoughts.

Kind regards

Elaine Cresswell

Environmental Health Technician/Health & Safety Inspector Environmental Regulation, Sheffield City Council, 5th Floor North, Howden House, 1 Union Street, Sheffield, S1 2SH

From: Carron Mather **On Behalf Of** Michelle Hazlewood CBII

Sent: 03 November 2020 08:45

To: Cresswell Elaine <Elaine.Cresswell@sheffield.gov.uk>

Subject: RE: SRU 674004 : New Grant Application : Blend Kitchen, Ground Floor, Wards Exchange, Twinkl Tower, 197 Ecclesall Road, S11 8HW (Comments 10.11.2020)

Elaine,

Please find attached documents referenced in my earlier e-mail and apologies for the omission. These show the revised layout along with a document explaining the nature of the premises with its sponsors and objectives set out.

I await to hear from you.

Kind regards.

Michelle Hazlewood

From: Carron Mather **On Behalf Of** Michelle Hazlewood CBII

Sent: 02 November 2020 14:37

To: Cresswell Elaine

Subject: RE: SRU 674004 : New Grant Application : Blend Kitchen, Ground Floor, Wards Exchange, Twinkl Tower, 197 Ecclesall Road, S11 8HW (Comments 10.11.2020)

Dear Elaine,

Further to your comments regarding the toilet provision for Blend, I have spoken with my clients and I can confirm that they have re-issued plans to me in relation to the potential occupancy. The new plans are attached and you will see that they have agreed to remove the rear terraced area from the Licence. This area will not be utilised and as a result, some 10 covers are lost. Their view was to sacrifice that area rather than alter the layout as the internal space is precious and has been designed to be more generous throughout so as to facilitate access by those persons this premises are intended to support – disabled employees, whether they be wheelchair bound or ambulant disabled.

This brings down the occupancy to 53 persons who would have the benefit of 2 DDA toilets and space throughout the venue for those individuals and those working there to be vulnerable or disabled persons.

I would be grateful if you could confirm that your concerns have now been addressed and no formal representation is to be raised.

We await to hear from you as soon as possible.

Kind regards.

Michelle Hazlewood

From: Cresswell Elaine [**Sent:** 23 October 2020 14:01

To: Michelle Hazlewood CBII

Subject: RE: SRU 674004 : New Grant Application : Blend Kitchen, Ground Floor, Wards Exchange, Twinkl Tower, 197 Ecclesall Road, S11 8HW (Comments 10.11.2020)

There only appears to be 2 toilets – I want to clarify numbers of users of the premises
Thank you

Elaine Cresswell
Environmental Health Technician/Health & Safety Inspector Environmental Regulation, Sheffield City Council, 5th Floor North,
Howden House, 1 Union Street, Sheffield, S1 2SH

From: Michelle Hazlewood CBII

Sent: 22 October 2020 17:50

To: Cresswell Elaine <

Subject: RE: SRU 674004 : New Grant Application : Blend Kitchen, Ground Floor, Wards Exchange, Twinkl Tower, 197 Ecclesall Road, S11 8HW (Comments 10.11.2020)

Hi Elaine

In view of the fact we are now in tier 3 do you wish to meet with my client at site. The space is an empty unit- no fit out has been undertaken at all.

Can you give me more details on the toilet point and I will see if we can set up a meeting.

Regards

Michelle Hazlewood CBII

Partner

From: Cresswell Elaine

Sent: 22 October 2020 06:45

To: Michelle Hazlewood CBII

Subject: SRU 674004 : New Grant Application : Blend Kitchen, Ground Floor, Wards Exchange, Twinkl Tower, 197 Ecclesall Road, S11 8HW (Comments 10.11.2020)

Dear M Hazelwood

I refer to the above application.

I would like to arrange an appointment/telephone discussion with your client regarding the layout and operation of the premises prior to closure of the consultation period.

I am principally concerned with the number of toilets which appear to be insufficient.

I would appreciate it if you could arrange for your client to contact me.

Yours sincerely

Elaine Cresswell BSc (Hons)

INTERESTED PARTIES OBJECTION

I write on behalf of the members of the Botanical Gate Community Association, residents of Khartoum, Thompson, Wadbrough and Walton Roads. At present it is not been possible to hold our usual monthly meetings at which such issues are discussed and our response agreed. This application was circulated by e-mail and responses collected.

We wish to oppose some details of this application.

We wish the Opening hours for the sale of alcohol and refreshments on/off sales to cease at 23.30 every day.

Our experience of some customers leaving licensed premises after 23.30 is that they hold unacceptably loud conversations. Furthermore if they have purchased take away food they have a tendency to discard uneaten food and packaging in the streets. These premises are within walking distance/ hot food take away consuming distance of our area.

In order to prevent or at least limit public nuisance late at night their hours should be restricted to 23.30 every day.

Michael West

Co-chair BGCA

Licensing Officer – response to Objectors

Dear Mr West

Thank you for the below email and I acknowledge receipt of the objection on behalf of Botanical Gate Community Association.

I have been in contact with the applicants solicitor in regards to any objections made on the application and to see if we can come to a resolution without attending a Licensing Sub-Committee hearing.

Michelle Hazelwood from John Gaunts Solicitors has asked me to forward you the attached email for your information and I am told there is currently some discussion on resolving the concerns raised.

I would also like to confirm that conditions have also been agreed with the applicant and SCC Environment Protection Service as detailed in the attached email and below for ease which should assist in noise issues:

- Amplified sound or live music shall only be played within the building and in such a way that noise breakout does not exceed the prevailing ambient noise level by more than 3dB when measured at 1m from the façade of the nearest residential property;
 - a. as a 15 minute LAeq, and;
 - b. at any one third octave band centre frequency as a 15 minute LZeq.
- No amplified sound shall be played within the building except through an in-house amplified sound system fitted with a sound limiter, the design and settings of which shall have received the prior written approval of the EPS.
- No loudspeakers shall be fixed externally nor directed to broadcast sound outside the building at any time.
- Any outside seating area shall not be used from 22.00-09:00hrs.

I would be grateful if you can let me know your position as soon as you are able to on whether your concerns can be resolved with the applicant and their representatives.

We have provisionally penciled in a Licensing Sub-Committee hearing date for the 30th November 2020 at 2pm if we are unable to find a resolution.

If you have any questions or queries, please do not hesitate to contact me.

Kind regards

Shimla

Appendix 'C'

Hearing Regulations, Notices, Procedure



Notice of hearing of representations in respect of the following application: LA03 Premises Licence Application

Blend Cook Eat & Share CIC Co Limited
Rep- Michelle Hazelwood
John Gaunt and Partners

Sent via email:

The Sheffield City Council being the licensing authority, on the 13th October 2020, received an application in respect of the premises known as;

Blend Kitchen, Ground Floor, Wards Exchange, Twinkl Tower, 197 Eccelsall Road Sheffield S11 8HW

During the consultation period, the Council received a representation from the following authority / interested party:

- **Responsible Authority**
- **Interested party**

on the likely effect of this application on the promotion of the licensing objectives, should it be granted.

The Council now **GIVES YOU NOTICE** that the representation will be considered at a hearing to be held **remotely via Zoom, on Monday 30th November 2020 at 2pm**; following which the Council will issue a notice of determination of the application.

The documents which accompany this notice are the relevant representations which have been made, as defined in Section 35(5) of the Act.

The particular points on which the Council considers that it will want clarification at the hearing from a party are as follows:

- 1) Your response to the representation made, upon which you may ask and be asked questions by the parties to the hearing.
- 2) You may also be asked questions by the parties to the hearing, relating to your application for a licence.

Please complete the attached form LAR1 and return it to: **Licensing Service, Sheffield City Council, Block C Staniforth Road Depot, Staniforth Road, Sheffield, S9 3HD** within five (5) working days before the day or the first day on which the hearing is to be held.

Dated: 13th November 2020

Signed: C Stephenson
The officer appointed for this purpose
Licensing Strategy and Policy Officer

Page 21



Notice of hearing of representations in respect of the following application: LA03 Premises Licence Application

Elaine Cresswell
Health Protection Service (HPS)

Sent via email:

The Sheffield City Council being the licensing authority, on the 13th October 2020 received an application in respect of the premises known as;

Blend Kitchen, Ground Floor, Wards Exchange, Twinkl Tower, 197 Eccelsall Road Sheffield S11 8HW

During the consultation period, the Council received representations from the following authorities / interested parties:

- **Responsible Authority**
- **Interested Party**
-

on the likely effect of this application on the promotion of the licensing objectives, should it be granted.

The Council now **GIVES YOU NOTICE** that the representation will be considered at a hearing to be held **remotely via Zoom, on Monday 30th November 2020 at 2pm**; following which the Council will issue a notice of determination of the application.

The documents which accompany this notice are the relevant representations which have been made, as defined in Section 35(5) of the Act.

The particular points on which the Council considers that it will want clarification at the hearing from a party are as follows:

- 3) The representations you have made with reference to these particular premises and the four core objectives.
- 4) You may also be asked questions by the parties to the hearing, relating to your representations.

Please complete the attached form LAR1 and return it to: **Licensing Service, Sheffield City Council, Block C Staniforth Road Depot, Staniforth Road, Sheffield, S9 3HD** within five (5) working days before the day or the first day on which the hearing is to be held.

Dated: 13th November 2020

Signed: **Clive Stephenson**
The officer appointed for this purpose
Licensing Strategy and Policy Officer



Notice of hearing of representations in respect of the following application: LA03 Premises Licence Application

Mr Mike West
Botanical Gate Community Association

Sent via email:

The Sheffield City Council being the licensing authority, on the 13th October 2020 received an application in respect of the premises known as;

Blend Kitchen, Ground Floor, Wards Exchange, Twinkl Tower, 197 Eccelsall Road Sheffield S11 8HW

During the consultation period, the Council received a representation from the following authority / interested party:

- **Responsible Authority**
- **Interested party**

on the likely effect of this application on the promotion of the licensing objectives, should it be granted.

The Council now **GIVES YOU NOTICE** that the representation will be considered at a hearing to be held **remotely via Zoom, on Monday 30th November 2020 at 2pm**; following which the Council will issue a notice of determination of the application.

The documents which accompany this notice are the relevant representations which have been made, as defined in Section 35(5) of the Act.

The particular points on which the Council considers that it will want clarification at the hearing from a party are as follows:

- 5) The representation you have made with reference to these particular premises and the four core objectives.
- 6) You may also be asked questions by the parties to the hearing, relating to your representations.

Please complete the attached form LAR1 and return it to: **Licensing Service, Sheffield City Council, Block C Staniforth Road Depot, Staniforth Road, Sheffield, S9 3HD** within five (5) working days before the day or the first day on which the hearing is to be held.

Dated: 13th November 2020

Signed: **Clive Stephenson**
The officer appointed for this purpose
Licensing Strategy and Policy Officer

Page 23

NOTES

Right of attendance, assistance and representation

15. Subject to regulations 14(2) and 25, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

Representations and supporting information

16. At the hearing a party shall be entitled to –
- (a) in response to a point upon which the authority has given notice to a party that it will want clarification under regulation 7(1)(d), give further information in support of their application, representations or notice (as applicable),
 - (b) if given permission by the authority, question any other party; and
 - (c) address the authority

Failure of parties to attend the hearing

20. – (1) If a party has informed the authority that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.
- (2) If a party who has not so indicated fails to attend or be represented at a hearing the authority may:–
- (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
 - (b) hold the hearing in the party's absence.
- (3) Where the authority holds the hearing in the absence of a party, the authority shall consider at the hearing the application, representations or notice made by that party.
- (4) Where the authority adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

Procedure at hearing

21. Subject to the provisions of the Regulations, the authority shall determine the procedure to be followed at the hearing.
22. At the beginning of the hearing, the authority shall explain to the parties the procedure which it proposes to follow at the hearing and shall consider any request made by a party under regulation 8(2) for permission for another person to appear at the hearing, such permission shall not be unreasonably withheld.
23. A hearing shall take the form of a discussion led by the authority and cross-examination shall not be permitted unless the authority considers that cross-examination is required for it to consider the representations, application or notice as the case may require.
24. The authority must allow the parties an equal maximum period of time in which to exercise their rights provided for at regulation 16.
25. The authority may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may –
- (a) refuse to permit that person to return, or
 - (b) permit him to return only on such conditions as the authority may specify,
- but such a person may, before the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.

Regulation 8

- (1) A party shall give to the authority within the period of time provided for in the following provisions of this regulation a notice stating –
 - (a) whether he intends to attend or be represented at the hearing;
 - (b) whether he considers a hearing to be unnecessary
- (2) In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.
- (3) In the case of a hearing under –
 - (a) section 48(3)(a) (cancellation of interim authority notice following police objection), or
 - (b) section 105(2)(a) (counter notice following police objection to temporary event notice),

the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.
- (4) In the case of a hearing under –
 - (a) section 167(5)(a) (review of premises licence following closure order),
 - (b) paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence), paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)
 - (c) paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),

the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.
- (5) In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

Licensing Act 2003 – Hearing Procedure – Regulation 7 (1)

This procedure has been drawn up in accordance with the Licensing Act 2003 to assist those parties attending Licensing Committee hearings.

1. The hearing before the Council is Quasi Judicial.
 2. The Chair of the Licensing Committee will introduce the Committee and ask officers to introduce themselves.
 3. The Chair will ask the applicants to formally introduce themselves.
 4. The Solicitor to the Committee will outline the procedure to be followed at the hearing.
 5. Hearing Procedure:-
 - (a) The Licensing Officer will introduce the report.
 - (b) Questions concerning the report can be asked both by Members and the applicant.
 - (c) The Licensing Officer will introduce in turn representatives for the Responsible Authority and Interested Parties who will be asked to detail their relevant representations.
 - (d) Members may ask questions of those parties
 - (e) With the leave of the Chair the applicant or his representative may cross examine the representatives of the Responsible Authorities and Interested Parties.
 - (f) The applicant/licensee (or his/her nominated representative) will then be asked to:-
 - (i) detail the application;
 - (ii) provide clarification on the application and respond to the representations made.
 - (g) The applicant/licensee (or his/her nominated representative) may then be asked questions by members and with the leave of the Chair from the other parties present.
 - (h) The applicant will then be given the opportunity to sum up the application.
 - (i) The Licensing Officer will then detail the options.
 - (j) There will then be a private session for members to take legal advice and consider the application.
 6. The decision of the Licensing Committee will be given in accordance with the requirements of the Licensing Act 2003 and regulations made there under.
- NB:
- 1) At any time in the Licensing Process Members of the Committee may request legal advice from the Solicitor to the Committee. This advice may be given in open session or in private.
 - 2) The Committee Hearing will be held in public unless and in accordance with the Regulations the Committee determine that the public should be excluded.