

MINUTES OF THE MEETING OF THE LICENSING SUB COMMITTEE B HELD ON THURSDAY, 16TH MARCH, 2017, 7.00 - 8.45 pm

PRESENT:

Councillors: Vincent Carroll (Chair), David Beacham and Ann Waters

1. FILMING AT MEETINGS

The Chair referred Members present to agenda Item 1 as shown on the agenda in respect of filming at this meeting, and Members noted the information contained therein.

2. APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllr Mallett, for whom Cllr Waters was substituting.

3. URGENT BUSINESS

There were no items of urgent business.

4. DECLARATIONS OF INTEREST

There were no declarations of interest.

5. SUMMARY OF PROCEDURE

All parties noted the summary of procedure.

6. 48 GRAND PARADE, N4

Item withdrawn from the agenda.

7. HANOI PHO CAFE / RESTAURANT, 1 GRAND PARADE, TOTTENHAM, N4 1JX

Daliah Barrett, Licensing Officer, introduced the report on an application for a new premises licence at Hanoi Pho café/restaurant, 1 Grand Parade N4. The report set out details of the application, the representations received and the planning history – it was noted that this was included by way of background information only, as planning issues had been raised in several of the representations received from local residents, however the Licensing Sub Committee noted that it could not take planning issues into account in reaching its decision on the application.

Ms Barrett advised that the conditions put forward by the applicant in their application did not adequately address the licensing objectives in relation to the sale of alcohol, and therefore proposed a number of additional conditions for the prevention of noise and vibration emanating from the premises, prevention of off sales of alcohol, limiting the sale of alcohol only to those seated within the premises and ancillary to a meal, preventing consumption of alcohol outside the premises and proposing a Challenge 25 scheme. The applicant had accepted the conditions put forward by the Police and Enforcement Response team in advance of the meeting. The Committee also noted in the final paragraph of section 3.1 of the report that the owner of the premises had been prosecuted by the Council's Enforcement Response Team on the basis of nuisance from odour, and not the Commercial Environmental Health Team as stated.

Cllr Barbara Blake, St Ann's Ward Councillor, and local residents addressed the Committee in objection to the application and raised the following points:

- Residents had been badly affected by public nuisance associated with this premises; there were 6 flats with a total of 20 occupants directly above the premises, who had made complaints regarding the smell, noise, food hygiene and planning violations associated with Hanoi Pho. Neighbouring businesses, as well as residents in the flats above, were also reported to have been negatively affected by the actions of Hanoi Pho.
- The owner of the premises was felt to have acted with no regard to planning regulations or the concerns of local residents, and residents therefore doubted the premises' commitment to abiding by any conditions on a licence for the sale of alcohol.
- The premises had been subject to abatement and enforcement notices in the past, and Cllr Blake gave a summary of some of these issues. Following a prosecution by the Enforcement Response team in January 2017, the owner had promised to make improvements but nothing had changed.
- The owner of the premises was an experienced business-owner and had at least one other premises operating within London, it was therefore felt that things should not have been permitted to escalate to the level they had before being addressed and attempts should have been made to engage with local residents regarding their concerns at an earlier stage.
- Residents advised that there were still enforcement issues that needed to be addressed, and that these had affected them badly.
- Residents noted that a condition on a licence for a previous business occupying these premises had been for the rear door to remain closed at all times in order to prevent nuisance affecting the bedrooms of flats above.
- It was reported that last summer had been the worst nuisance residents had experienced in 10 years, particularly in relation to food odour and noise.
- The owners were felt to have shown disregard for all of the Council's regulations, and it was suggested that, given the history of call-outs, fines and notices served on the premises, it would be irresponsible to grant them a licence for the sale of alcohol.

Nilgun Canver, representative for the applicants, addressed the Committee in support of the application, and drew the Committee's attention to the applicant's representation as set out on page 47 of the agenda pack. In addition to the points raised in the written representation, Ms Le, premises owner, advised that she was

very sorry for any nuisance caused prior to September 2016 when she was away from the business and hoped that no further nuisance would arise from now on.

In response to a question from the Committee, it was confirmed that Mr Phung had been appointed to manage the premises on a part-time basis, and that Ms Le and her husband would be responsible for the running of the business when he was not on duty.

The Committee asked about the nature of the premises, and it was reported that it was to be a Vietnamese café, with no cooking on site – the proposal was to be able to sell alcohol alongside meals which had been cooked at another premises and re-heated to order at Hanoi Pho. In response to a further question from the Committee regarding odour arising from re-heating of food, Ms Canver advised that, with the approval of the Council's Enforcement Response team, the owners had installed a carbon-based air circulation system in order to minimise any food odours. The Committee asked whether the applicants would be happy to provide residents with a contact number for them to make any complaints directly to the premises and the applicants confirmed that they would be happy to provide residents with a direct contact number.

The Committee asked residents whether they had noticed any improvement since September 2016. The residents indicated that due to the colder weather since this time, they had not been opening their windows and had therefore not been affected in the same way as they had been in the summer. It was also reported that the Enforcement Response team had recommended that residents not submit any further complaints about the premises until the prosecution was concluded in January 2017, which might account for the reduction in complaints since this time.

Ms Canver noted that Council officers had not noted any nuisance arising from odour in their visits to the premises between September 2016 and January 2017, and stated that the Enforcement Response team were happy with the air circulation system that had been installed by the owner. It was confirmed that there were still some issues to be addressed with the Council's Planning service, and that she and the applicants would be meeting with planning officers next week to discuss these. In response to a question from the Committee regarding the new air circulation system that had been installed, it was confirmed that this did not require planning permission as there was no external flue required for this system, and that Enforcement Response team officers had confirmed that they were satisfied that the new system addressed concerns regarding odour.

In response to concerns raised by the objectors regarding whether there was a difference in the odour caused by reheating, as opposed to cooking, on the premises, the applicants advised that the smell was much stronger when food was cooked from scratch on the premises, and that reheating would result in much lower levels of odour. Ms Le advised that she had demonstrated the proposed methods of reheating all the items on the menu in front of the Enforcement Response team officer and they had indicated that they were satisfied that what was proposed would minimise any potential nuisance from odour. The objectors expressed specific concern that reheating food using a deep-fat fryer was essentially no different from cooking.

Ms Barrett noted that, during the last visit made by the Food Safety Officer in November 2016, the applicants had been advised not to use a deep-fat fryer to reheat food. Ms Canver noted that there had been no follow-up by the Food Safety Officer since that visit, although the applicants had requested a further visit, but that the Enforcement Response team had agreed the use of the fryer for reheating subsequent to the visit from the Food Safety Officer.

The objectors gave a closing argument that, while they were sorry to hear of the personal difficulties affecting the premises owner prior to September 2016, the effect on residents during this period had been unacceptable and that as a business owner, contingency arrangements should have been in place for the effective management of the premises. The objectors argued that, looking at all the breaches of regulations and the issues there had been with the premises, they did not trust that the premises owner would keep their promises and requested that the application be refused.

The applicants gave a closing argument that the premises owner was a responsible trader who ran a business that closed at 11pm, had agreed to limit her menu and operate as a café and had installed a new air circulation system in order to minimise nuisance to residents. Ms Le was keen to have a dialogue with her neighbours, and would provide a contact number for them to use in the event of any concerns. This application was solely for the sale of alcohol on the premises, 12pm – 11pm; all conditions proposed by the Enforcement Response Team and Police had been agreed and the owners would comply with all the licensing requirements. The Committee was therefore asked to grant the application as requested.

RESOLVED

The Committee carefully considered the application, the Council's Statement of Licensing Policy, the guidance under section 182 of the Licensing Act 2003 and the representations by the residents.

The Committee resolved to grant the licence as follows:

Supply of Alcohol
Monday to Sunday: 1200 to 2300

For consumption ON the premises

Opening Hours
Monday to Sunday: 1200 to 2300

The Committee considered it appropriate and proportionate to impose the following conditions in order to promote the four licensing objectives:

There shall be no sales of alcohol for consumption off the premises;

The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such person as ancillary to their meal;

Customers will not be permitted to drink outside the premises;

The premises must implement a Challenge 25 policy whereby all customers who appear to be under 25 must produce photographic identification in the form of a passport, driving licence or Proof of Age Scheme (P.A.S.S) approved identification before being served alcohol;

No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which give rise to nuisance;

The rear door to be kept closed at all times and a self closure to be added to the rear door in order to prevent nuisance;

Staff to be reminded not to cause a noise nuisance in the rear yard;

Deliveries and collections associated with the premises will be arranged between the hours of 08.00 and 20.00 so as to minimise the disturbance caused to the neighbours, this will include refuse collections;

Empty bottles and non –degradable refuse will remain in the premises at the end of trading hours and be taken out to the refuse point at the start of the working day rather than at the end of trading when neighbours might be unduly disturbed;

All plant and machinery to be correctly maintained and regularly serviced to ensure that it is operating efficiently and with minimal disturbance to neighbours arising from noise;

All ventilation and extraction systems shall be correctly maintained and regularly serviced to ensure that it is operating efficiently and with minimal disturbance arising from odour

The applicant to obtain written confirmation from the Enforcement Response Team that the carbon based air circulation system minimises food odours to an acceptable level;

The applicant to provide local residents with a contact telephone number for them to make any complaints directly to the applicant;

Illuminated external signage shall be switched off when the premises is closed;

A digital CCTV System to be installed in the premises;

Cameras must be sited to observe the entrance doors from inside;

Cameras on the entrances must capture full frame shots of the heads and shoulders of all people entering the premises i.e. capable of identification; Cameras must be sited to cover all areas to which the public have access including any outside smoking areas;

Provide a linked record of the date, time of any image;

Provide good quality images – in colour during opening times;

Have a monitor to review images and recorded quality;

Be regularly maintained to ensure continuous quality of image capture and retention;

Member of staff trained in operating CCTV must be at the venue during times open to the public;

Digital images must be kept for 31 days. The equipment must have a suitable export method, e.g. CD/ DVD writer so that Police can make an evidential copy of the data they require;

Copies must be available within a reasonable time to Police on request;

An incident log shall be kept at the premises and made available on request to the Police which will record the following:

- a) All crimes reported to the venue
- b) all ejections of patrons
- c) any complaints received
- d) any incidents of disorder
- e) seizures of drugs or offensive weapons
- f) any faults in the CCTV system or searching equipment or scanning equipment
- g) any refusal of the sale of alcohol
- h) any visit by a relevant authority or emergency service

The objections raised by Enforcement Response and the Police have been overcome by the agreed conditions which the Committee has imposed.

The Committee listened carefully to the representations by the residents and noted the close proximity of the premises to the residential properties. In so far as the concerns of the residents related to planning issues the committee could not have regard to them in deciding whether or not to grant the licence.

However, in so far as the complaints of the residents related to public nuisance in the form of noise and odour, the Committee were satisfied

that there had been an improvement since September 2016 and felt that the conditions it has imposed are appropriate and proportionate to promote the licensing objective of the prevention of public nuisance.

As an informative, the Committee remind the applicant of the need to comply with all of the conditions of the license and that failure to do so could result in a review of the premises license.

8. ESPLANADE CLUB, 422 WEST GREEN ROAD, N15

Item deferred to a future meeting.

9. ITEMS OF URGENT BUSINESS

There were no new items of urgent business.

The meeting closed at 8.45pm.

CHAIR: Councillor Vincent Carroll

Signed by Chair

Date