

MINUTES OF THE MEETING OF THE SPECIAL LICENSING SUB COMMITTEE HELD ON WEDNESDAY, 18TH MAY, 2022, 7:00PM – 10:00PM

PRESENT:

Councillors: Gina Adamou (Chair), Barbara Blake and Luke Cawley-Harrison

1. FILMING AT MEETINGS

The Chair referred to the filming of meetings and this information was noted.

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. URGENT BUSINESS

It being a special meeting of the Sub Committee, under Part Four, Section B, Paragraph 17, of the Council's Constitution, no other business shall be considered at the meeting.

4. DECLARATIONS OF INTEREST

There were no declarations of interest.

5. SUMMARY OF PROCEDURE

The Chair provided a summary of the procedure for the meeting.

6. APPLICATION FOR A NEW PREMISES LICENCE AT DUKES HIGHGATE, 16 HIGHGATE HIGH STREET, LONDON, N6 (HIGHGATE)

Presentation by the Licensing Officer

Ms Daliah Barrett, Licensing Team Leader, informed the Sub-Committee that:

- The applicant sought the supply of alcohol from 12:00 to 01:00. This would be for consumption on and off the premises.
- The premises would be open from 12:00 to 01:00.
- The application had been altered as regulated entertainment had not been placed on the public notice and this was why it had been removed.

- If the licence was granted and alcohol was allowed to be sold at the premises, then the applicant would be able to offer regulated entertainment in any case between the hours of operation (between 12:00 to 01:00).
- The applicant would allow for 30 minutes of drinking up-time, so the premises would close at 01:30.
- An agreement had been reached between the applicant and the Licensing Authority in various areas save the proposed operating hours.
- A company called Dukes Head Highgate Limited was dissolved in 2019 and in such situations, the premises licence would become defunct if appropriate action was not taken. The Licensing Authority had not been informed of the situation and when it became apparent that the premises was operating without a valid licence, the applicant was asked to seek a new premises licence.
- It was unclear when the applicant had taken over the premises.
- The applicant would call Dr Hayden as a witness.

In response to questions, Ms Barrett, informed the Sub-Committee that:

- In relation to noise complaints in the last 18 months, there had been five in total.

The Legal advisor to the meeting stated that if a non-registered speaker spoke at the meeting, then any decision made by the Sub-Committee could be open to legal challenge.

Presentation by interested parties

Ms Noshaba Shah, Licensing Officer, informed the Sub-Committee that:

- The applicant had agreed most terms with the Licensing Authority, with the exception of the operating hours.
- There had been five noise complaints and there had been no noise complaints during the time the premises had operated a temporary event. None of the complaints had been investigated.
- The applicant had sold alcohol despite not having had a valid licence and was informed of this by the licensing team on 8 March 2022.
- Antisocial behaviour officers visited the premises on 26 March 2022 to the premises was found to still be operating. The applicant stopped selling alcohol on 26 March 2022.
- The Licensing Authority had no issue with the selling of alcohol until 01:00 and closing the premises at 01:30, but the timing of 01:30 had not been stated on the application.

In response to questions, Ms Shah, informed the Sub-Committee that:

- Temporary Event Notices (TENs) had been submitted for events occurring in 2022.
- The applicant had agreed to all conditions proposed by Licensing save for the closing time.
- The noise complaints that had been made had been submitted on 14 August 2021 for a complaint regarding noise (loud music) heard at 02:00. The complaint had been picked up at 10:33. No action had been taken or checks had been made to see if the premises had been operating at that time.
- A noise complaint had been recorded on 9 December 2021 at 09:23.
- Another noise complaint had been recorded on 9 December 2021 at 22:59. It could be the same complaint as the one recorded on 09:23. This issue had been submitted as a phone complaint and by the time the officer had called back, the noise had apparently stopped. No letter had been sent to the premises to address the complaint.
- Another incident had been recorded on 12 February 2022 at 18:00, but it was not clear when the noise nuisance had occurred. The complaint had been submitted through an online form.
- Another incident had been recorded on 12 (or 13) February 2022 at 00:43. This had been submitted through an online form.

Ms Sarah Thorley, resident, informed the Sub-Committee that:

- She was surprised to hear that there had only been a total of five complaints as she has had recently called the Environmental Health team regarding issues after midnight and did not feel that she was being unreasonable.
- She lived with her husband and daughter and her daughter's room was located closest to the building and she heard most of the noise made at the premises.
- She had made records of some of the noise that she had heard and had complained to the Council several times.
- The reason she had not spoken to the applicant and premises staff herself was because she was disabled and blind.
- Her daughter, who was a student, valued her sleep as she was a busy student. It was something that was particularly difficult to deal with on Thursday and Friday evenings.
- She had contacted the premises regarding a separate issue dealing with delivery people parking in the disabled bay. She had a difficult conversation with one of the individuals involved and subsequently had been put off trying to speak to the applicant.
- When the noise was loud, it was very intrusive and it did not help her mental well-being as she had a stress related illness.

In response to questions, Ms Thorley informed the Sub-Committee that:

- She had made complaints to the Environmental Health team and had spoken to several people. Complaints had been made on at least five occasions including September and October 2021.
- She also believed that she had complained in December 2021 and January 2022. Highgate was a peaceful, family-oriented village and that was the reason why she had brought a home there.
- There were multiple causes for the noise and the premises did not have a beer garden and so the noise was being emitted from the people at the front of the premises standing outside. The individuals were smoking and talking very loudly. When the premises was closing, there would be a lot of noise from people come out of the premises whooping, yelling and laughing.
- Loud music could be heard and there was a lot of noise from the premises after midnight and she had a recording from the noise made at the premises in October 2021 after midnight. This was not a reasonable amount of noise.
- When the premises had previously operated, there was less noise as there were not many people standing outside. The premises operated more quietly at that time.
- She appreciated that the applicant wished to make a living.
- In relation to the incident where she had complained about the disabled bay, the conversation became aggressive and she felt she should not have to ask the premises to turn down the noise. It also put her off visiting the premises and asking the applicant to reduce the noise level as she feared some kind of aggressive feedback.
- There had been at least three occasions where she had complained and when she spoke to the Environmental Health team, they had stated that the premises was closed.

Ms Barrett, Licensing Team Leader, stated that the complaints had likely been submitted during hours when services were not operating and went through to the Anti Social Behaviour team, not to the Licensing team. However, only two out of five complaints had been recorded as having been submitted by Ms Thorley, but further investigations could be made into .

In response to further questions, Ms Thorley informed the Sub-Committee that:

- On every occasion Ms Thorley had complained, she had provided all her details including her name.
- She had moved into the premises around August 2020.
- It was delivery people for the premises that had parked in the disabled bay. She had also telephoned the brewery.

- She would be happy to communicate with the applicant.
- It was quite noisy during, September, October (during Halloween) and the Christmas period. There had been many occasions regarding noise such as shouting and music.
- She had heard music after 23:00, 00:15 and 00:30. She had not kept a log of all incidents and had contacted Environmental Health due to various nights of excessive noise.
- No regulated entertainment or recorded music after 23:00 would be helpful but it would not solve patrons from making noise in the street.

Presentation by the applicant

Mr Robert Sutherland, the applicant's representative, informed the Sub-Committee that:

- The licence that could be found on the additional papers had been submitted to help clarify that Mr David John Murphy had believed that the licence was still in place and that he was still the DPS.
- When the tenants company went into liquidation in January 2022, this brought the licence to an end and this had not been known by Mr Murphy.
- The letter from David Murphy stated the circumstances with the dispute with the previous operators . There had been no transfer application due to a dispute with the tenant which had gone through court and had been settled. It was intended that no application would be sought during that time as it may complicate the issue he had had with the tenants.
- The applicant apologised for not having a current premises licence.
- The applicant considered himself part of the community as he played for the local football team and sat on the committee which made decisions regarding Christmas lights on the roadside.
- Patrons who visited the premises felt that the premises had helped them settle into the community and encourage communication between residents.
- The applicant had found his representative shortly before the hearing and had he been able to seek assistance earlier, the issues may had been already addressed.
- The applicant was seeking the sale of alcohol until 01:00 and this was a terminal hour which had operated at the premises for many years.
- The applicant had stated that the hour that the premises would close was 01:00, matching the hours of licensable activity. This was something that any ordinary member of public seeking to operate a pub would do and there had been no intention to mislead. The sale of alcohol would cease at 01:00 and would then be followed by a period for drinking up time.
- It was likely that by the time the premises approached its closure hour of 01:30 that most (if not all) patrons would have left by that time.

- The vast majority of the patrons were local people. Some individuals visited for the country and western theme that the premises had, but most visited as this was a local pub and generally could be thought of as a community asset.
- He would ask that the terminal hour for licensable activity cease at 01:00.
- In relation to the playing of recorded music, the premises could play recorded music as part of the deregulated hours.
- The premises had in the past played live music on a few occasions and looked to continue to do so. There had been no complaints in relation to the playing of live music.
- The licence had lapsed due to technicalities, not due to a review application.
- There was a considerable amount of support from residents for the application.
- This was the first time the applicant had been aware of specific dates of any complaints made.
- Had complaints been brought to the attention of the applicant, then investigations could have been made as to the source of the issues and investigations could have examined CCTV footage if it was necessary.
- It was important that the premises had adequate measures in place to ensure that patrons did not become a source of nuisance. The applicant would examine the dispersal policy and the smoking policy and ensure that adequate steps were in place. Residents had been given a landline number and a mobile number to contact the applicant if there were any issues. The applicant was present at the premises most of the time and could raise issues with other premises staff.
- Any music played after 23:00 would be background music.
- The applicant had direct contact with residents directly living in vicinity of the premises and no nuisance issues had been raised.
- The conditions could be found from page 15 of the additional papers. Condition 3 proposed that an individual seeking to leave the premises to smoke would not be able to take drinks with them, condition 4 ensured that patrons did not obstruct the highway at anytime of the day, condition 5 noted that any incident of disorder would be recorded and any relevant action would be taken and recorded. Condition 6 dealt with noise on the premises and ensured that no noise was caused to residents nearby.
- Appropriate signage would be in place to ensure that patrons would leave quietly.
- The premises could fit no more than 50-70 people at maximum capacity.
- Conditions relating to Challenge 25 had been proposed along with an Over 21s Policy. Anyone under 21 was discouraged in attending and anyone found to be under 21 would be asked to leave.
- The previous operator appeared to have stopped operating in March 2020.

Speaking as a witness for the applicant, Dr Hagen informed the Sub-Committee that:

- Being a Highgate resident, the premises was not a premises which had customers shouting, fighting and taking drugs.
- The applicant was a hard-working individual who had worked hard to re-establish the premises.
- Some of the patrons included clinicians, specialists and those aged over 60.
- The premises was a well-run institution and could become a successful part of the High Street.
- The High Street needed to stay open for the vibrancy of the area.
- The applicant should be given a chance to make a success of the premises.

In response to questions, Mr Sutherland informed the Sub-Committee that:

- The applicant was not looking to extend the hours of licensable activity.
- The applicant wished to work with the residents and this could be seen in relation to the support the application had received.
- The applicant would be prepared to meet with any residents in the area including having a regular meeting. The Licensing Authority could facilitate the meetings.
- Premises staff would ask patrons to leave quietly.

In support of the applicant, Ms Rachel Terry, resident, informed the Sub-Committee that:

- She had lived on the High Street since June 2018.
- She was aware that there were several bars near where she lived along with restaurants in the area. She was aware that there would be potential noise issues due to living on the High Street.
- It was never clear which premises patrons were leaving from, but it was generally accepted that there would be noise and disturbance when living on the High Street.
- As a feminist, she would not go to a misogynistic or an anti-women bar.
- The premises was inclusive and diverse.
- She came home late at night and was able to use the premises.
- She had positive experiences with the applicant who operated safely.

To summarise, Ms Shah stated that the Licensing Authority would prefer that licensable activity cease at 00:30 and that the premises closed at 01:00.

To summarise, Ms Thorley stated that residents wanted to live a peaceful existence in the area. There needed to be a limit on the noise from patrons.

To summarise, Mr Sutherland stated that the Sub-Committee should grant the licence as sought. The premises had been a pub since 1800s and had operated from July 2021 without

(c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.

(d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.

(e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

(f) A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

(i) Management must ensure that patrons do not obstruct the public highway in any manner whilst outside the premises.

(j) An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Police. It must be completed within 24 hours of the incident and will record the following:

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

Prevention of public nuisance

- (a) No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- (b) Loudspeakers shall not be located in the entrance and exit of the premises or outside the building.
- (c) Patrons shall not be permitted to consume alcohol immediately outside the premises after 2100 hours.
- (d) Patrons shall be limited to two outside the premises to smoke after 2100 hours.
- (e) Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
- (f) Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

- (g) A member of the management team must oversee the dispersal of the patrons at closing time ensuring that the needs of the local residents are respected.
- (h) A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.
- (i) The management team to propose twice yearly meetings with local residents to address any specific concerns, with the option for residents to not attend. The invitations to such meetings, any refusal to attend and the outcome of any such meetings to be recorded and to be available for inspection by Council officers.

Staff Training – Appropriate induction training will be undertaken with all relevant staff to cover appropriate subjects for their role including:

- (a) The responsible sale of alcohol.
- (b) The prevention of under-age sales of alcohol, the Challenge 25 policy and in checking & authenticating accepted forms of identification.
- (c) The responsibility to refuse the sale of alcohol to any person who is drunk.
- (d) Fire safety & emergency evacuation procedures

Refuse Disposal - Regular waste disposal is undertaken in accordance with the council's requirements.

No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (08.00) Monday to Sunday.

Litter - The area immediately outside the premises will be maintained to ensure that any litter generated by the premises and / or its customers is regularly cleared, including cigarette butts/packets etc, periodically throughout the premises opening hours and specifically at the end of trading hours.

Public safety

Fire Safety - A fire risk assessment will be conducted and regularly reviewed. In-line with the Fire Risk Assessment:

- (a) Heat / Smoke detectors are installed and maintained by a competent person.
- (b) Fire detection and fire safety equipment checks are recorded.
- (c)Fire extinguishers are installed in accordance with the recommendations of the fire risk assessment.
- (d) Emergency lighting is installed in accordance with the recommendations of the fire risk assessment.
- (e) All emergency exits are marked on the premises plan.
- (f)First Aid - Adequate first aid boxes will be maintained.

Protection of children from harm.

Children only permitted on the premises between 11.00 and 21.00, accompanied by an adult. No children under the age of 18 shall permitted on the premises without an adult to Supervise.

Age verification - A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

Staff will be trained in, and fully aware of, the law relating to sales of alcohol to those under the age of 18.

REASONS

The Committee gave serious consideration to the submissions by the applicant and their representative, their supporters who made both written and oral representations and to the concerns raised by the objectors again both of which were made in writing and orally.

The premises are in a High Street with residential properties above, albeit that the flat immediately above is currently occupied by the applicant's landlord. It was also noted that similar premises on the High Street also have licences until 0030. The Committee was keen to ensure that the public nuisance licensing objective would not be undermined and were satisfied that granting the above operating hours and hours for the licensable activities subject to the imposed conditions would promote the licensing objectives.

The Committee noted that the previous license, since lapsed did have opening hours until 1.30am, and that therefore no extension to these hours was being sought, however, the Committee took the view that the concerns of the residents were not purely due to the hours but primarily the noise emanating from the premises whatever time it occurred.

It was also noted that the premises did operate without a licence for period although it is commended that as soon as they were told to stop operating they did so. The Committee also noted their willingness to work with local residents to resolve any issues.

The Committee acknowledged that the applicant had accepted the conditions proposed by the Licensing Authority save the issue of licensing hours.

The Committee also had to weigh in the balance a number of very convincing written objections and oral representations made by residents who were local and directly impacted by the noise. It was noted noise nuisance complaints had come in on at least 5 occasions recently. The Committee were advised that there were unrecorded complaints of noise that had occurred after midnight.

The Committee did not feel that the issue of how the noise nuisance would be tackled by the Applicant was fully addressed, hence the need to impose the conditions limiting numbers outside the premises drinking or smoking. Limiting the hours to 1 a.m would also reduce the impact on residents of public nuisance in the early hours when patrons are leaving.

CHAIR:

Signed by Chair

Date