

MINUTES OF THE LICENSING SUB COMMITTEE HELD ON TUESDAY, 5TH JULY, 2022, 7:00PM – 8:15PM

PRESENT:

Councillors: Sheila Peacock, Ajda Ovat (Chair) and Nick da Costa

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

There was no urgent business.

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 VARIATION OF AN EXISTING PREMISES LICENCE AT JANI, 31 WESTBURY AVENUE, WOOD GREEN, LONDON, N22 6BS (NOEL PARK)

Presentation by the licensing officer

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

- This was an application for variation of an existing premises licence.
- The licence was seeking late night refreshments Monday to Saturday 23:00–02:00 and on Sunday 11:00–00:00, the supply of alcohol Monday to Saturday 11:00–01:30 and on Sunday 11:00–00:00. The hours that the premises would be open to the public would be from Monday – Saturday 08:00–02:00 and 08:00 – 00:00 on a Sunday.
- The application could be found in appendix A and during the consultation period, representations had been received from responsible authorities and residents.

- The applicant had stated how the licensing objectives would be met on page 16 of the agenda papers. These included taking action such as the DPS ensuring that all members of staff would be trained in the sale of alcohol and would be given refresher training. Training records would be kept and a Challenge 25 policy would be enacted. The premises would also put up Challenge 25 posters. The premises would have a refusal book and an incident log which would be made available to Police upon request. A CCTV system would be installed providing good imagery and the images would be retained for 28 days. Notices would be displayed stating that CCTV was in operation. The premises would also be adequately lit and staff would be trained to manage the premises after 23:00. Training was also be provided to staff regarding how to refuse the sale. An age verification policy was in place.
- The premises had planning permission in line with the existing licence. It was not clear if the planning department had been approached to increase the hours of use at the premises.
- The premises had come to the attention of the Council and the Police due to public nuisance issues.
- A summary of the complaints could be found in the additional papers and the licence holder had addressed a requirement to vary the DPS.
- A copy of the existing premises licence could be found on page 23 of the agenda papers and the premises was still known as the Montana Brasserie.
- Representations could be found from page 47 of the agenda papers.
- There were residents that lived near the premises.

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

- Another premises located close by, Sunny Beach, closed at 00:00 on Saturday and Sunday and at 23:00 Monday to Friday.
- Even if the application was granted, the applicant could not make use of the licence until it had received adequate planning permission.

Presentation by interested parties

Mr Willer da Costa, resident, informed the Sub-Committee that:

- The premises was practically located in a residential building and if the licence was granted, then he and his family would not be able to sleep until 03:00 or even until 05:30.
- The bar was literally below the bedroom where the noise emanated, even from the coffee machine.
- Noise also emanated from the television at the premises particularly during opening and closing times.

- Chairs could be heard being dragged around in and out of the premises.
- The noise from patrons was loud and the noise could be heard from 05:30.
- In the event that the licence was allowed to expand, it was likely that this would be difficult for him and his family.
- His family's mental health was suffering due to lack of sleep.
- It would be useful to have some barriers to protect patrons from blocking the front door to his home.
- He and his family simply wished to be able to sleep and lead normal life, but would otherwise wish the applicant a successful business.

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

- There had been a considerable amount of noise made by the premises during the times the premises was not supposed to be operating. This had gone on for some time.
- He used to speak to the applicant and have a good relationship with him until one particular Sunday evening when the premises had operated until 02:00. At the time, he had explained to the applicant that he had been woken up due to the noise. The applicant pointed to his licence and asked him not to contact him anymore.
- The potentiality of being able to get a full night's sleep was like playing a lottery.

At this point in the proceedings, in response to a question, Ms Barrett stated that no temporary event notices (TENs) had been issued for the premises and it was never the case that the licence holder was able to operate beyond its permitted licensed hours.

In response to further questions, Mr da Costa informed the Sub-Committee that:

- The front area was not 'roped off' but had to tables and chairs in the area.
- Sometimes mothers would occupy the area with children and prams.
- The premises had a big television which was turned on at around 06:00 and it would be turned up very loudly. There was also music that was played and noise would also emanate from the coffee machine. The noise including the music went on into the evening.

At this point in the proceedings, Ms Barrett stated that the premises also operated as a shisha lounge. The applicant had applied for planning permission for new canopy covers. It was not clear what the canopy covers were meant for and what was being done at rear of the premises in relation to the shisha area.

Presentation by the applicant

The applicant, Mr Mirjan Gradica and his agent, Ms Emine Fezal Yurdakal informed the Sub-Committee that:

- The messages that had been submitted by the objector should not be shared unless it was at the discretion of all parties involved.
- The messages demonstrated that the applicant was responding to Mr Da Costa's messages, informing him of events occurring at the premises.
- Some of the events mentioned in some of the text messages never occurred.
- The noise issues that could be heard was emanating from another premises nearby.
- The complaint made regarding the use of the shisha garden was not relevant as the issue was not regulated under the Licensing Act. In any case, the applicant had complied with the 50 per cent rule as the garden had not been enclosed over 50%.
- If the application was granted, it would avoid the obstruction of the front door and reduce noise levels.
- The applicant wished to work with the local community and had spoken to neighbours regarding the application and had submitted the documents demonstrating 16 residents who were in support of the application.
- They had only been one complaint in relation to the application and other residents in the area were aware of the application.
- The applicant was only aware of complaints regarding the premises on 17 December 2021 and was not aware of any other complaints. No action or visitation had been taken or made to the premises. If the applicant had been made aware of any issues, then additional precautions would have been taken.
- The applicant understood the issues relating to public nuisance and in order to assist with the issues, signs would be put up to inform patrons leave quietly. Patrons would also be assisted by premises staff to leave quietly after 23:00.
- Staff would be trained in relation to noise and patrons would be supervised.
- The premises would display the manager's telephone number at the front of the premises so that if there were any noise issues, then the applicant could be contacted directly. A complaints procedure would also be in place.
- With the new arrangements in place, the applicant would be able to manage and uphold the licensing objectives.
- The applicant wished for the licence to be granted as sought, but if not, then the applicant could consider reducing the operating hours so that the terminal hour for licensable activity would be 01: 00 Sunday to Thursday and until 02:00 Friday and Saturday.

In response to questions, Mr Gradica and Ms Yurdakal informed the Sub-Committee that:

- Some of the proposed events at the premises had not gone ahead.

- The issues with the movement of the chairs had been resolved as patrons had been told to keep the chairs in place. Barriers could also be put in place.

At 7:40pm, the Sub-Committee adjourned to address a technical issue. The Sub-Committee resumed at 7:47pm.

Ms Barrett stated that the operating hours on Sunday at the premises for the supply of alcohol was until 21:30. The closing time for the premises was at 22:00 and fell outside the period for late night refreshment. Although the shisha smoking was not part of the application, if patrons were being served alcohol or even a cup of hot water after 23:00, the premises would need a licence to offer that service.

To summarise, Mr da Costa stated that if the application was granted, it was likely that neither he or his family would not be able to have any sleep or peace in his home.

To summarise, Mr Gradica and Ms Yurdakal stated that the coffee machine did not make any significant amount of noise and did not operate until 02:00 or 03:00 in the morning. The applicant had maintained the premises for three years. There had only been complaints submitted from one resident and he wished to help resolve issues with that resident. The applicant understood concerns regarding public nuisance and wanted to work with the local community and was happy to reduce the operating hours Monday to Sunday until 01:00 and Friday and Saturday until 02:00.

At 7:55pm the Sub-Committee adjourned to consider the application.

RESOLVED

The Licensing Sub Committee carefully considered the application for a variation of the existing premises licence for Jani, 31 Westbury Avenue, Wood Green, London, N22 6BS. In considering the application, the Committee took account of the London Borough of Haringey's Statement of Licensing Policy, the Licensing Act 2003, section 182 Guidance, the report pack, the additional papers submitted by the Applicant and the applicant's and objectors' written and oral representations.

Having considered the application and heard from all the parties, the Committee decided to refuse the application for a variation of the premises license and attach further conditions to the existing premises license.

The existing Licence continues as follows:

Licensable activities authorised by the License:

Supply of alcohol
Late Night Refreshment

The times the License authorises the carrying out of licensable activities:

Supply of Alcohol

Monday to Saturday 1100 to 2330 hours
Sunday 1100 to 2130

Late Night Refreshment

Monday to Saturday 2300 to 2330

The opening hours of the premises:

Monday to Saturday 0800 to 0000

Sunday 0800 to 2200

Where the License authorises supplies of alcohol whether these are on and/or off the premises:

Supply of alcohol for consumption ON the premises.

The following conditions are imposed to promote the four licensing objectives in addition to the mandatory conditions on the existing premises license:

1. The License holder must place rope barriers with metal poles on either side of its frontage to ensure neighbours access to their front doors are not obstructed.
2. No noise generated on the premises after closing or before opening from its television, 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.

Reasons

The Committee gave serious consideration to the submissions by the applicant and to the concerns raised by the objector. The Committee was satisfied that the application to vary the licence should be refused, but that the existing license can continue with the above conditions which are appropriate and proportionate to ensure that the licensing objectives were promoted.

The Committee note that the premises were directly below a residential apartment which was severely impacted by the noise emanating from the premises.

It was found that the License holder had been in breach of the existing license, by:

- for a time operating without a DPS in place, which was only rectified once brought to their attention,
- Not applying for a TENs when carrying on licensable activities beyond the existing permitted hours.
- The committee found that the Objectors complaints were credible, having taken into consideration the applicants responses to questions asked, and that noise nuisance had emanated from the premises occurring at both, early hours of the morning before opening and late in the night after closing- when the premises was not supposed to be operating, which impacted significantly on the quality of life of the neighbours and resident.
- The Committee found that noise nuisance, which was beyond reasonable emanated from the premises, even at normal opening hours which impacted the Objectors quality of life as the resident's bedroom was directly above the premises.

Notwithstanding the above and noting that a DPS was in place now and that proposals had been made for refresher training of the DPS and members of staff it was felt appropriate to allow the existing Licence to continue.

The Committee was keen to ensure that public nuisance does not continue and was not caused to nearby residents by noise or obstruction from customers and the above appropriate additional conditions have therefore have been added to the licence to promote the licensing objective of the prevention of public nuisance.

The Committee noted the current existing mandatory conditions on the License and the additional conditions proposed above and felt that they were appropriate and proportionate in promoting the licensing objectives.

Appeal Rights

This decision is open to appeal to the Magistrates Court within the period of 21 days beginning on the day upon which the appellant is notified of the decision. This decision does not take effect until the end of the appeal period or, in the event that an appeal has been lodged, until the appeal is dispensed with.

7. NEW ITEMS OF URGENT BUSINESS

CHAIR:

Signed by Chair

Date