

MINUTES OF THE LICENSING SUB COMMITTEE HELD ON THURSDAY, 8 FEBRUARY 2024, 7:00PM – 9:10PM

PRESENT: Councillors Anna Abela (Chair), Barbara Blake 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

None were declared.

5. SUMMARY OF PROCEDURE

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

6. APPLICATION FOR A VARIATION OF A PREMISES LICENCE AT MAMA JUANA RESTAURANT BAR, 420 HIGH ROAD, TOTTENHAM, LONDON N17 9JB (TOTTENHAM CENTRAL)

Upon opening the meeting, the Sub-Committee heard that the applicant had indicated prior to the meeting, that they wished to put forward witnesses to give evidence. The Legal advisor to the meeting stated that as per of the constitution (part 5 Section F), the notice of the submission of any such witnesses required 10 days' notice and this had not been done.

The Sub-Committee declined the request.

Presentation by the Licensing Officer

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

- The application sought to extend the hours of licensable activity, including regulated entertainment, performance of dance and live and recorded music.
- The hours for licensable activity was sought from 08:00 to 01:00 on Thursday and 08:00 to 03:00 Friday to Sunday.

- The supply of alcohol would be from 08:00 to 01:00 on Thursday and 08:00 to 03:00 Friday to Sunday. This would be for consumption on the premises only.
- Additional hours had been requested on for certain days such as Christmas Eve, New Year's Day, Three Kings' Day and Easter.
- The premises had planning permission allowed for use of the premises from 08:00 to 23:00 Saturday and 09:00 to 21:00 Sundays and Bank Holidays. No application had been made to the Planning Authority to extend the hours for the use of the premises.

Presentation by the applicant

Mr Godwin Adjei, representative for the applicant, informed the Sub-Committee that:

- The applicant had informed that she was attempting to make an application and was unsure of the payment process. An email had been received instructing that sum of £239 needed to be paid in order to complete the planning application for the extension of the hours. As of yet the applicant had not completed the application and therefore had not yet submitted it.
- The applicant believed that the incident that led to her business being closed down had not been fair to her, especially when the person who was involved in the incident had been released.
- The applicant had made certain changes to the business including inserting soundproof facilities to ensure that there was no noise emanating from the premises or disturbance to residents.
- There were similar businesses in the area operating beyond the time that the applicant had requested.
- If the business was not allowed to operate the business due to the incident, then this was not fair on the applicant.
- The business was a peaceful operation and had operated for over two years without any incidents
- The incident that happened was an isolated incident and there was no need for a punitive response.
- Plans had been made to increase security so that incidents in future did not happen again.

In response to a question Ms Barrett stated that the Planning position had been highlighted to the applicant at the start of the consultation process, on 9 January and on 13 January 2024.

In response to questions, Mr Adjei and Ms Yesenia Cuevas Ramirez, the applicant, informed the Sub-Committee that:

- On 12 April 2023, there was an argument between a person holding a firearm outside the premises and the person, after the argument, entered the premises. The individual with the firearm followed and this was followed by 'a bit of chaos'. The Police became involved and the man with the firearm was arrested eventually.
- The firearm was not let off during the incident and no one was shot.
- After the incident, the applicant was very nervous and this was why she closed the premises for a while until she attained a greater understanding of her position and then made herself available. She was not aware why the Police wanted to contact her.

- When the applicant was able to communicate with the Police, her normal operating hours had been changed and that was why the premises closed down for a while, not due to the incident.
- Restrictions had been placed on the operating hours.
- The security at the premises had been increased. Two more security people had been appointed to help maintain peace and order. New cameras had also been installed.
- After the incident, the Police was not able to reach the applicant. When the Police spoke to her, she was advised to close the premises for a week for security reasons. She was also asked to restrict her working period. The closing times were changed.
- Before the incident, the applicant used to submit temporary event notices (TENs). After the incident, she was advised that she should not submit any TENs.

In response to a question, Ms Barrett stated that TENs were usually served when a premises user wished to extend the operating hours. It was up to the Police or the Noise Responsible Authority to give a view if it was believed that any of the licensing conditions were impacted on if the event was allowed to go ahead. Since the incident of the firearm on the premises, the Police had taken a view there was a potential for crime and disorder and were entitled to do so. If a notice was submitted within 10 clear working days of the event, a hearing for a temporary event notice could come before the Sub-Committee, but a late TENs submission could be refused by an appropriate Responsible Authority without the need for a hearing.

In response to further questions, Mr Adjei and Ms Ramirez informed the Sub-Committee that:

- Economically, weekends were a beneficial period for the business as most patrons would attend the premises during that period.
- The applicant had not used the premises outside the licensed hours.
- The live events would only be held once in a while. In any case, soundproofing had been installed at the premises
- The applicant could consider withdrawing live music from the application.
- During the time that the applicant was anxious, there was also a circumstance whereby a neighbour was not able to deliver letters to her. This was during the time that the premises was closed. Some of the applicant's letters went to her neighbour's address. This was partly why the applicant was unable to respond to the Police earlier than she did.
- At the front door of the premises, there would be one security staff standing in front and another security staff inside to check bodies and bags to ensure that no one entering the premises had any weapons.
- During events, if there was a need for more security, there would be up to five security staff appointed.
- On the the day of the incident, there was one security staff present and the premises was about to close. The shutter was down and the man carrying the firearm knocked on the door. The door was then opened as staff members thought it may have been another member of staff. The individual then forced his way in before security could stop him.
- The security staff member called the Police.
- The Police may have tried to contact the applicant, but she was not present at the premises when the Police had arrived. The letter had been sent near the shop, to the neighbour, which the applicant had not received.

- When the applicant received the letter, on 25 May 2023, she subsequently went to Edmonton Green Police station. She was advised to send an email and received a reference number. An email was subsequently sent by her.
- The only time the applicant got back to the Police was when she was told that the Police had been looking for her and she had access to the letter. Previously, she was not aware she needed to contact the Police.

Presentation by the objector

PC Yianni informed the Sub-Committee that:

- The premises was located along a parade of shops on a busy high road with residential premises above it. The opening times for the premises and supply of alcohol were 08:00 to 23:00 Monday to Saturday and 08:00 to 21:00 on Sunday.
- Police did not agree to the requested alterations to the licence as they believed the following licensing objectives would not be upheld; public safety, prevention of crime and disorder and prevention of public nuisance.
- Police believed that the proposed timings would cause or increase negative impact on the community and adversely affect local residents.
- The late finishing times of 03:00 on Fridays to Sundays would have an impact on residents affecting their quality of life.
- The late finishing time of 01:00 on Thursday would affect residents that would have to work the next day.
- The application of late hours when needed could be managed by the use of a TEN. This would have much less of an impact to local residents and would not be a regular occurrence.
- The premises seated around 70 persons, so the dispersal of patrons to the premises at 03:00 could have a risk if not handled correctly. The risk of intoxicated patrons trying to get home safely could also have issues.
- Although there were transport links in the area, there was still a risk of crime and disorder while waiting for transport. There was also a risk of harm to patrons themselves if they were intoxicated as the premises was situated on a very busy high road.
- An incident at the premises occurred on 2 April 2023 at 03:59 when the premises did not have a licence. This incident involved a firearm which failed to fire and a male left the scene. This incident could have resulted in someone losing their life. The terminal hour for the premises on that day was 23:00 and there was no TEN in place for the event.
- After the incident, the Police were unable to get hold of the applicant and contact was only made three and a half months later when the applicant submitted a TENs and the Police made a representation against it.
- A meeting was arranged with the applicant and she attended the police station on the 31 July 2023. Police questioned why she had not answered calls, emails or letters and she stated that she did not answer withheld numbers or listen to her voicemail messages. There was no explanation regarding the letters that had been hand delivered and posted to the premises.
- The responsibilities of the DPS included the day-to-day running of the premises at all times, compliance with the terms of the 2003 Licensing Act and the conditions of the licence.
- The DPS must be easily contactable by any of the Responsible Authorities. The applicant failed to provide this responsibility and the Police felt that the applicant did not take the licensing objectives seriously.

- The applicant had stated that the premises was not open until 03:00 on the night of the incident and that the premises had closed at 01:00 on the night of the incident. The applicant believed there was a TEN in place. This was concerning as the applicant did not appear to know what her premises was doing and her understanding of TENs and licences in general was concerning.
- Police investigation of the CCTV showed that at 03:00, there was a group of people outside drinking and talking. Police were called eight minutes later where a fight broke out outside the premises and a victim had been assaulted. The applicant had lied to Police about the closing time on the date of the incident.
- Since 31 July 2023, the applicant had submitted an additional TEN, not objected to by Police for an event on 2 September 2023. Contact was made with the applicant regarding the importance of the licensing objectives and the event was used to observe the applicant to demonstrate her ability to be a responsible operator, unfortunately this was not proven to be the case.
- Police believed that the applicant had not submitted any TENs recently as she did not want any other incidents at the premises to occur whilst they applied for a variation.

In response to questions, PC Yianni and PC Jones informed the Sub-Committee that:

- There was a letter sent on 25 May 2023 that was hand delivered to the premises.
- Police attended the premises on 11 April 2023 to conduct an investigation. The premises was shut and there was no one there. A letter was delivered three times to the premises with emails and phone calls made from that date onwards.
- The suspect regarding the firearm incident was arrested later, a long time after the incident had occurred and the suspect was still on bail for that incident. He had been arrested for possession of a firearm with intent to endanger life and attempted murder.
- The premises was visited frequently by the Police - five times in total.
- The letter was hand delivered through the shutters. The shutters had a letter box and Police were able to put it through there, but no one was ever seen at the premises to be able to be spoken to.
- A recent TEN submitted by the applicant was objected to by Police, because Police were unable to make contact with the applicant. When the applicant received the refusal, she finally made contact with the Police.
- The one event held at the premises occurred on the night of the incident. There was no TEN in place for the event.
- When the applicant arrived to the meeting with the Police, she had stated that she closed the shop on that night, but Police investigations from the CCTV demonstrated otherwise. The shutters were open at 03:00 and the premises was open. There were patrons outside drinking and talking at 03:00.
- The applicant visited the police station on 31 July 2023. The applicant had claimed that she had gone to Wood Green police station with a letter in hand to ask about it. She had gone to the front desk and they had not understood what she was asking. The reason she later got in contact with the Police Licensing was because they had objected to the TEN. She then spoke to PC Jones via her nephew on the phone and a meeting was then arranged where he was able to attend the police station.
- The applicant had made an attempt to go to the police station, but this was some time after the event. It was not until a month and a half later. Attempts were made to work with the applicant rather than submit a review application. However, if an incident

involving a firearm was to occur at a premises, the operator would normally attempt to contact the Police the next day.

- For the licence not to have been reviewed, Police had demonstrated a level of tolerance.
- During the incident, an attempt was made for the firearm to be discharged, but the mechanism had jammed. The individual then fled the scene.
- There had been ongoing discussions with the applicant about the premises and regarding the TEN on 2 September 2023. Since then, there had not been any further engagement.

To summarise, Mr Adjei stated that the application should be granted, based on economic considerations and the steps that the applicant had taken to address concerns of about noise and security. With the competition that the applicant had in the area, it would be very difficult for the business to be financially viable if she was only allowed to work in restricted times during the weekends.

To summarise, PC Yianni stated that the applicant had struggled to uphold the current conditions already in place. The Police had tried to engage with her and sympathised with her business, but she had not proven that she could uphold the licensing conditions. The Sub-Committee was urged not to grant the application, but to let the Police and Licensing monitor the premises. If the applicant could run the premises correctly and uphold all licensing conditions, then, in the future, there would not likely be any problems.

At 8:31pm, the Sub-Committee withdrew to consider the application.

RESOLVED

The Licensing Sub-Committee carefully considered the application for a variation to the premises licence for Mama Juana Restaurant Bar, 420 High Road, Tottenham, London N17 9JB (“the Premises”). In considering the application, the Committee took account of the London Borough of Haringey’s Statement of Licensing Policy, the Licensing Act 2003, the Licensing Act 2003 section 182 Guidance, the report pack and the applicants and objectors written and oral representations.

Having considered the application and heard from all the parties, the Sub-Committee decided to reject the application to vary the licence.

Reasons

The Sub-Committee gave serious consideration to the submissions by the Applicant and to the concerns raised by the objectors. The current conditions in place were deemed appropriate and proportionate and would ensure that the licensing objectives were promoted.

The Sub-Committee noted that the Police were concerned about matters relating to an incident that had taken place on 2 April 2023 where a suspect attempted to discharge a firearm, this had resulted in the suspect being arrested for possession of a firearm with intent to endanger life and for attempted murder (“the incident”). The Police stated that they had attempted to contact the Applicant to discuss matters relating to the incident but she failed to

respond to them for 3 months; the Police had attempted contact by telephone, email, and had visited the premises and left letters at the premises for the Applicant.

The Sub-Committee had regard to the representations made by and on behalf of the Applicant; she stated that she had felt nervous following the incident and that there may have been communication issues as English is not her first language. The Sub-Committee balanced this against the representations made by the Police. Along with matters relating to the incident, the Police were concerned of the risk to public safety; the premises is close to residential properties and noise from the premises might impact residents. The Sub-Committee were satisfied that there would be a risk of intoxicated persons leaving at 3am on the busy high road which could result in them harming others or themselves.

The Sub-Committee were satisfied that the conditions of the licence had not been adhered to on the date of the incident, as the premises had been open after the prescribed hours. The Sub-Committee were satisfied that this failure to adhere to conditions risked the Prevention of Crime and Disorder licencing objective not being upheld.

The Sub-Committee found it of concern that the Applicant did not respond to the Police initially and only made contact, (on her account) after around one and a half months. The Sub-Committee resolved that a responsible Designated Premises Supervisor ('DPS') would have engaged with the Police earlier as she has a duty to be a single point of contact with Police, the Local community and Local authority in respect of any issues concerning the premises.

The Sub-Committee resolved that if the application were to be granted there could be a failure to promote the licensing objectives of the Prevention of Crime and Disorder and the Prevention of Public Safety.

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

There were none.

CHAIR: Councillor Anna Abela

Signed by Chair

Date