

**MINUTES OF THE SPECIAL LICENSING SUB-COMMITTEE A
THURSDAY, 28 MAY 2009**

representation had also been submitted by local councillors and David Lammy MP. The representations addressed the issues of non-compliance by the premises in the past and the late hours applied for on Fridays and Saturdays.

In response to a question from the Committee regarding the location of Rutland Gardens, from where a letter of representation had been sent by a residents association, Ms Barrett confirmed that this was some distance away from the premises. Ms Barrett also confirmed that the LCSP was aware that a number of premises in the area had licences to operate until 0200hrs.

In response to a question from Mr Dadds, the applicant's representative, Ms Barrett confirmed that the licence application had been received on 17th April 2009.

Derek Pearce, Noise Team Enforcement Officer, presented the noise team representation. Mr Pearce reported that the representation took into account the history of non-compliance by the premises in relation to nuisance caused by noise and odour. Mr Pearce reported that the premises had carried out work on the extraction system, and confirmed that a visit had been made by the Council on 6 May 2009, at which it had been identified that the extraction system was not causing a nuisance. Mr Pearce reported that there had been no instances of non-compliance by the premises in the past 6 months. The noise team had proposed in its representation a number of conditions to mitigate any nuisance caused by noise or odour, and these had been accepted by the applicant.

The Committee asked Mr Pearce whether it would be possible to enforce the applicant's suggestion whereby the premises would remain open until 0300 but with no admittance or re-admittance after 0200. Mr Pearce responded that it would be possible to observe the entrance to the premises between 0200 and 0300 as an indication of whether new customers were being admitted. It was clarified that a licence for the provision of late night refreshment would be required until 0300 on Fridays and Saturdays on the basis of the revised hours offered by the applicant, as meals would be being served between 0200 and 0300.

In response to a question from Mr Dadds, Mr Pearce responded that he was broadly content that the licensing objectives would be met if the proposed conditions were enforced, although there was a potential issue with the noise from the extraction system if a licence were granted to 0300, which might need further consideration.

The applicant's representative, Mr Dadds, emphasised that it was essential for the application to be judged on its merits. Mr Dadds confirmed that the applicant had a contract for waste collection and that refuse was collected daily. Mr Dadds advised the Committee that the representations from councillors and the noise team had not objected to the premises opening to 0200 and that the local resident and the Council were satisfied with the work that had been carried out on the extraction

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system. It was suggested that a condition should be added that the system be maintained regularly to ensure that it remained in good working order. Mr Dadds stated that there would be no significant variation in ambient noise between 0200 and 0300 and that if the licensing objectives were being met at 0200, then they would still be being met at 0300. It was reported that on Fridays and Saturdays only those patrons already inside the premises at 0200 would be permitted to remain on the premises after that time, and that this should be imposed as a condition on the licence. It was reported that a closing time of 0300 would ensure the gradual dispersal of patrons on those nights, and that a CCTV system was in place to help to monitor the policy of no admittance after 0200. Mr Dadds advised the Committee that the capacity of the premises was only around 20 persons, so it would only be a small number of patrons in the premises until 0300.

Mr Dadds advised that the decision of the Committee must be based solely on the Licensing Objectives. The Committee was advised that the applicant had demonstrated willingness to comply with any licence conditions, fully understood the consequences of non-compliance and was focussed on ensuring that the licensing objectives were satisfied. Mr Dadds submitted that those representations that did not relate to the experience of a named local resident in the vicinity of the premises were not valid and should not be taken into consideration. Mr Dadds also advised the Committee that the Licensing Act did not permit the imposition of blanket opening hours on an area. The Committee was advised of recent case law, the ruling from which was that Licensing Sub Committees could base their decision only on the substantive evidence before them, and Mr Dadds reported that no evidence had been presented at the hearing that would lead to the conclusion that the licensing objectives would be breached by the granting of the licence.

In response to a question from the Committee about the duty to balance the rights of local residents and the duty to judge a case on its merits, Mr Dadds advised the Committee that they could only take into account the concerns of residents if these had been submitted as representations, which could then be considered within the context of the licensing objectives.

In response to a question from the Committee, the applicant confirmed that their refuse contract was with Enterprise. The Committee sought clarification of the status of representations submitted by councillors, and the Licensing Officer clarified the circumstances under which councillors could make representations in their capacity as councillors, as opposed to their personal capacity as local residents affected by an application.

The Committee asked about the presence of the applicant at the premises, and was advised that the applicant would generally be on the premises on a daily basis but that a nominated staff member would be in charge of the premises when he was off-site. The Committee asked about the wording of the notices to be displayed on the premises to ask customers to leave quietly, in response to which Mr Dadds advised that the applicant would be happy for the wording to be agreed with the

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Council. The Committee asked the applicant whether he would be willing to comply with the conditions imposed on the licence, and the applicant responded that he was willing to comply and wished to work in partnership with the responsible authorities. In response to a question regarding the number of people residing above the premises, the applicant responded that he only knew that there were two flats above the premises and had no further information on this.

In conclusion Mr Dadds requested that the Committee grant the licence, as the licensing objectives would be met by the conditions, and reported that granting opening hours until 0300 on Fridays and Saturdays would not undermine the licensing objectives. The applicant was willing to comply with all conditions on the licence and fully understood the consequences of failure in this regard. Mr Dadds advised the Committee that local residents did have recourse to the process of reviewing the licence at any time, in the event that any problems arose, but reported that this would not be needed as there would be no breaches of the licence conditions by the applicant.

RESOLVED

The Committee was minded to grant the premises licence, however the Committee modified the hours requested as follows:

Provision of Late Night Refreshment:	Sun – Sat	2300 – 0200
Opening Hours:	Sun – Sat	0700 – 0200

The Committee took into account the written and oral representations of Mr Pearce as the responsible authority and echoed his concerns that later opening hours could lead to further nuisance from noise from the extractor system and also noise from patrons leaving the premises after this time.

The Committee imposed the conditions contained within the operating schedule together with those agreed by the applicant with the responsible authority, namely the Noise Team, and noted their representations that the premises close no later than 0200, together with the remainder of the representations.

The Committee imposed a further condition that the extractor fan have a maintenance schedule whereby the owner is to ensure that it is maintained and certified as in good working order annually. A further condition was that the wording of the signs advising customers to leave quietly be agreed with the noise team, such signs be prominently displayed and specifically in full view of patrons exiting the premises. A closed sign was also to be prominently displayed from 2am on the entrance door of the premises.

The Committee reminded all, including the responsible authorities and residents, that, should problems come to light in relation to failure to adhere to the Licensing Objectives by the applicant, the licence can be called in for review in the usual manner. A premises licence was granted

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	and it was hoped that in the spirit of the Licensing Act, the applicant ensures full compliance with all requirements.	
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Cllr JAYANTI PATEL

Chair