

MINUTES OF THE LICENSING SUB COMMITTEE MEETING HELD ON TUESDAY, 22ND JUNE, 2021, 7.00 - 8.55 PM

PRESENT: Councillor Gina Adamou (Chair), Councillor Reg Rice, and Councillor Viv Ross.

1. FILMING AT MEETINGS

The Chair referred to the notice of filming at 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 NEW PREMISES LICENCE AT ELSIE'S CAFE, 10 PRIORY ROAD, LONDON, N8

Daliah Barrett, Licensing Officer, introduced the report which presented an application for a new premises licence for Elsie's Café, 10 Priory Road, London, N8. It was explained that the application requested a licence for the sale of alcohol on and off the premises from 1200 to 2300 hours on Monday-Sunday, with public access from 0600 to 2330 hours Monday-Sunday. It was noted that the premises were situated on a row of terraces, with residential accommodation above and to the rear. It was added that the premises had a garden and a forecourt area; the forecourt would not be part of the licensable area of the premises but it was part of the demise and would be used by patrons.

The Licensing Officer explained that a number of conditions had been offered by the applicant as follows:

- There shall be no sales of alcohol for consumption off the premises after 2200 hours.

- Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
- The premises licence holder shall ensure that any patrons drinking and/ or smoking outside the premises do so in an orderly manner and are supervised by staff to ensure that there is no public nuisance or obstruction of the public highway.

It was explained that the application carried the conditions offered by the applicant, the majority of which were set out on page 29 of the agenda pack. It was noted that one of the offered conditions stated that the supply of alcohol for consumption off the premises would be restricted to alcohol consumed by people seated in the forecourt area. It was explained that this would prevent home deliveries or takeaway sales of alcohol. It was added that the applicant had agreed that any smoking outside after 10pm would be limited to five people at any one time and that smokers would be encouraged to go to Priory Road.

It was stated that representations had been received from the Licensing Authority and four other persons, including Councillor Dana Carlin, and these were set out in full in the report. It was explained that the representation from the Licensing Authority had now been withdrawn as the applicant had accepted the conditions proposed by the Licensing Authority; these had been circulated to all parties and were as follows:

- The area that forms the forecourt area to the licensed premises is detailed on Plan PL01.
No furniture or other obstruction is to be placed on the land crosshatched orange and blue, measuring 2m by 4.86m, detailed on the plan titled Plan PL01.
Further, the Premises Licence holder is to maintain the above land clear of customers save for those customers immediately accessing or leaving the Premises.
- The licence holder shall ensure that the outside areas of the premises are monitored so as to ensure there is no crime, disorder, public nuisance or obstruction of the public highway.
- The licensee shall implement a policy for dealing with customers who engage in crime or disorder within or outside the premises.
- The licensee shall install monitors within the staff cashier counter areas with live CCTV footage from inside the premises and the forecourt area. Footage to be kept for 31 days and access to footage to be made available on request by Licensing Officers or Police.
- There shall be no entrance to or egress from the rear garden area of the premises (save for in emergencies) by customers, other than by way of the main entrance on Priory Road.

The Licensing Officer noted that, in the last few months, the applicant had installed a barrier around the forecourt area at the premises; pictures showing this barrier had been submitted by the applicant and were included in the agenda pack. It was stated that the barrier had impacted public access on the street but that, following discussions between the applicant and Haringey Council's Legal Team, the barrier had been removed and the issues had been resolved, with plan PL01 within the agenda pack clarifying the pavement area.

It was also noted that the relevant laws and guidance were listed in the report, from section 6 onwards. It was explained that the Committee could grant the licence subject to mandatory and other conditions, exclude from the scope of the licence any of the licensable activities to which the licence related, refuse to specify a person in the licence as the premises supervisor, or reject the application. It was added that the licensing authority's determination of the application was subject to a 21 day appeal period.

In response to questions from the Committee, the following responses were provided:

- It was confirmed that any deliveries or takeaway orders of alcohol would constitute an off sale. The application requested a licence for off sales but the proposed conditions submitted by the applicant offered to restrict off sales to people seated in the forecourt area.
- Marcus Lavell (Solicitor for the applicant) explained that the application sought on and off sales and noted that there had been a typographical error in the proposed conditions. It was stated that the proposed, draft conditions were meant to replicate the previous conditions of the old premises licence with three new conditions but that three conditions with alternative wording had been mistakenly included on page 30 of the agenda pack. It was highlighted that these three conditions should be replaced with the three conditions at the start of the document on page 29. Michael Watson (Agent for the applicant) apologised for this complication and asked the Committee to disregard the incorrect wording.
- The Licensing Officer noted that it had not been clear that this application was seeking a licence for online deliveries and that the Licensing Authority might have proposed additional safeguarding conditions relating to deliveries, such as customer and age verification. The Committee noted that online deliveries were usually subject to additional conditions and that these would likely be required if the applicant was seeking to have online deliveries.
- Marcus Lavell enquired whether the Licensing Officer had any suggested conditions and it was confirmed that the Licensing Officer could circulate some proposed conditions.
- It was confirmed that the forecourt area would be entirely within the demise of the building and no pavement licence would be required, provided that the public highway was kept clear for public access.
- Councillor Dana Carlin enquired which areas would be licensed and what was being referred to when the 'premises' was being discussed. Marcus Lavell clarified that the building included the forecourt and garden but that the licensable area would only apply to the building and the garden. It was noted that the forecourt would not be a licensed area and that any sales of alcohol on the forecourt would constitute off sales. It was explained that this was good practice as additional conditions and controls were applicable for off sales.

The Committee received representations from objectors:

- Councillor Dana Carlin noted that she had lived in the area since 1994 and that this was a quiet parade of shops, with the area being very quiet at night. She added that there were residential properties above the premises, on Linzee Road, and at the end of Nightingale Lane that backed onto the premises. Councillor Dana Carlin stated that it would be important to ensure that the external areas at the premises did not lead to nuisance for residents; she supported the conditions

proposed by the Licensing Authority and suggested that any conditions should be tightly drafted to ensure compliance.

- It was noted that the applicant had installed a fence around the forecourt in March-April 2021. Councillor Dana Carlin stated that this had blocked a public right of way and had included a banner advertising the space as a beer garden which had caused significant concerns for residents. It was commented that the fence was only removed after a Council notice was issued.
- It was noted by Councillor Dana Carlin that there was a statement in the agenda papers that the applicant had tried to contact her. She stated that the applicant had contacted councillors but that this had concerned the fence rather than the premises licence application and she had received no other contact from the applicant. Councillor Dana Carlin stated that local residents had some concerns and it was not felt that they had been shown a lot of regard by the applicant.
- Councillor Dana Carlin noted that she was not opposing the grant of a licence on the premises. She reiterated that she supported the conditions proposed by the Licensing Authority, that any conditions should be tightly drawn to ensure compliance, and that the public right of way should be retained.

In response to questions from the Committee, the following responses were provided:

- It was noted that some of the representations stated that the applicant had been uncooperative and dismissive of the local community. It was enquired whether this had improved. Councillor Dana Carlin commented that she had not received any recent contact from the applicant. She noted that she had concerns as it had taken some time to resolve the right of access issues.
- Marcus Lavell and Councillor Dana Carlin both stated that they could provide additional photos of the fencing that had been installed at the premises. The Committee understood that this issue had been resolved and was not part of its decision. Marcus Lavell expressed concerns that the representation from Councillor Dana Carlin argued that the applicant was not trustworthy because of issues around the fencing and he believed that an additional photo would be useful.
- The Legal Officer clarified that additional photos would constitute late evidence and should be agreed in consultation with all parties. It was noted that these photos would not relate to licensable activities or the licensing objectives and the Committee would have to consider whether the photos would assist in this decision. The Committee considered that, as the position had been resolved and as the issue did not relate to the decision in this case, there was no reason for the photos to be submitted as additional evidence.

The Licensing Officer circulated the following proposed conditions in relation to the delivery of alcohol to all parties and these conditions were agreed by the applicant:

- Residents are not caused nuisance or disturbed by any delivery service providers, drivers do not congregate on residential roads.
- Toilet facilities are provided for drivers at the premises.
- All delivery services are provided in a courteous, safe, and respectful manner.
- All deliveries are provided in accordance with the law on road use, parking and licensing, that is no vehicles to be parked on the footway.

- A record of orders shall be kept which shall include the customer's name & address. In accordance with data protection regulations, this log shall be made available to Police and local authority officers on request.
 - (a) The delivery of alcohol shall be made only to a residential or business address, which the customer uses in a residential or official capacity. The delivery of alcohol shall not be made or completed to a person in a public place (street corner, park, bus stop, etc.).
 - (b) All customers shall be contacted in writing (e.g. e-mail or text or App Notification) to notify them that an order has been placed, with the date, and if possible approximate time, of the expected delivery.
 - (c) Couriers delivering orders shall keep records requiring signature upon delivery in a form that can be captured and fed back to the licence holder.
- If the recipient of a delivery of alcohol appears under 25 years of age, recognised photographic identification will be requested before any intoxicating liquor is handed over. Acceptable proof of age shall include identification bearing the customer's photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.

Councillor Rice noted that there was no reference to Covid-19 within the delivery conditions and asked that this was included. The Licensing Officer explained that reference to social distancing measures could be included in the wording of conditions.

Nevena Ivanova and Karl Ivanova (Applicants), Michael Watson (Agent), and Marcus Lavell (Solicitor) introduced the application. Marcus Lavell confirmed that the applicant was happy to agree all of the proposed delivery conditions, including appropriate social distancing measures, and added that these all constituted best practice.

Marcus Lavell explained that the applicants had invested everything they had in the premises which had been bought from insolvency. In line with government guidance and in order for the business to survive, they wanted to make use of the forecourt. Marcus Lavell stated that, following the instalment of the fence, local authority officers had made statements that the area was not the applicant's land and was on the highway which was not a sound legal position. He commented that the applicants had disagreed and the Council had now conceded that the applicant was correct in that their land extended to the rear of the bus shelter on the pavement. The Legal Officer stated that the Council did not dispute the fact that the land was in private ownership but considered that it had 20 years' dedication as public highway under the Highways Act.

Attention was drawn to the pictures provided by the applicant in the agenda pack. Marcus Lavell highlighted that the differences in paving on the street demonstrated which areas were maintained publicly and which were maintained at the expense of private owners. It was also noted that the veterinary centre had previously repaved its land and installed bollards to prevent parking. Marcus Lavell explained that the fencing installed by the applicant had left an area of 1.6m for public passage and that the Council's position was that the public right of way should have amounted to 2m.

Marcus Lavell stated that the actions of the applicant had been aimed to save the business with lawful outdoor dining and, although the area used was 40cm more than agreed with the local authority, the applicant had not demonstrated disregard for the rules or recklessness. He noted that neither the applicant's nor the Council's interpretation of the pavement area had been tested but that the applicant had agreed to the 2m right of way in order to end the matter and to be able to commence trading. It was highlighted that the issue had been resolved and relevant conditions had been put in place.

In relation to any noise or anti-social behaviour issues in relation to the outdoor areas, Marcus Lavell noted that no noise complaints had been received since the business had started operating. It was explained that use of the outdoor areas was required for the business to survive. Marcus Lavell confirmed that none of the outside areas would be used after 10pm and considered that there were sufficient conditions to ensure the promotion of the licensing objectives. It was added that the applicant had removed the fencing on the forecourt area as soon as the local authority notice was received.

In response to questions from the Committee, the following responses were provided:

- It was clarified that Nevena Ivanova would be the Designated Premises Supervisor (DPS).
- It was explained that late night refreshment related to serving hot food and drink between 11pm and 5am. It was confirmed that the application was not seeking the ability to provide late night refreshment.

In response to questions from objectors, the following responses were provided:

- It was confirmed that the applicant had taken over the business on 23 February 2021. Marcus Lavell noted that the applicant had bought the business from insolvency.

The objectors were invited to summarise. Councillor Dana Carlin noted that she had nothing further to add.

In summary, the representatives of the applicant stated that all of the relevant issues of this case would be decided by the Licensing Sub-Committee based on the promotion of the licensing objectives. Marcus Lavell noted that the proposed and new conditions would ensure that the licensable activities on the premises were appropriately controlled. In relation to the use of the outside area and the public realm, he hoped that his arguments had demonstrated that the applicant's actions were not malicious and highlighted that the matter had now been resolved.

At 8.40pm, the Committee adjourned to consider the application.

RESOLVED

The Licensing Sub Committee carefully considered the application for a new premises licence for Elsie's Café, 10 Priory Road, London, N8. 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 applicant's and objectors' written and oral representations.

Having considered the application and heard from all the parties, the Committee decided to grant the application for a new premises licence with the conditions set out below.

Operating times:

Hours open to the public:

Monday to Sunday 0600 to 2330 hours

Christmas Eve and New Year's Eve 0600 to 0130

Supply of Alcohol:

Monday to Sunday 1200 to 2300 hours

Christmas Eve and New Year's Eve 1200 to 0100

Supply of alcohol for consumption **ON and OFF** the premises

The Committee imposed the following conditions:

THE PREVENTION OF CRIME AND DISORDER

1. The licence holder shall ensure that the outside areas of the premises are monitored so as to ensure there is no crime, disorder, public nuisance or obstruction of the public highway.
2. The Licence holder shall implement a policy for dealing with customers who engage in crime or disorder within or outside the premises.
3. The Licence holder shall ensure all employees are trained and have received the necessary training and qualifications.
4. A digital CCTV system to be installed in the premises complying with the following criteria:
 - (a) Cameras must be sited to observe the entrance doors from inside.
 - (b) 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.
 - (c) monitors must be installed within the staff cashier counter areas with live CCTV footage from inside the premises and the forecourt area.
 - (d) provide a linked record of the date, time, and place of any image.
 - (e) Provide good quality images - colour during opening times.
 - (f) Have a monitor to review images and recorded quality.
 - (g) Be regularly maintained to ensure continuous quality of image capture and retention.
 - (h) Staff will be trained in operating the CCTV.

- (i) Digital images and footage must be kept for 31 days and access to be made available on request by Licensing Officers or Police.
 - (j) 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.
 - (k) Copies must be available within a reasonable time to Police on request.
5. An incident log shall be kept at the premises, it will be in a hardback durable format handwritten at the time of the incident or as near to as is reasonable 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
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
6. Signage will be displayed informing customers CCTV is in operation.

PUBLIC SAFETY

7. Fire alarms will be installed and a dispersal policy will be in place.
8. Signs will be displayed notify customers of entrance and exit points and Food Safety.
9. An electronic security system will be in place.

THE PREVENTION OF PUBLIC NUISANCE

10. There shall be no sales of alcohol for consumption off the premises (including the forecourt area) after 22:00 hours.
11. Alcohol consumed in the forecourt and the rear garden areas shall only be consumed by patrons seated at tables.
12. The use of the forecourt and rear garden area of the premises will be restricted to no later than 10pm every day, including Christmas Eve and New Year's Eve.
13. There shall be no entrance to, or egress from the rear garden area of the premises (save for in emergencies) by customers, other than by way of the main entrance on Priory Road.
14. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff to ensure that there is no public nuisance or obstruction of the public highway.

15. After 10pm, the licence holder will direct smokers to the front of the premises, on the busy Priory Road, limiting them to 5 persons at any one time.
16. The area that forms the forecourt area to the licensed premises is detailed on Plan PL01. The forecourt area is not to be fenced off and no furniture or other obstruction is to be placed on the land crosshatched orange and blue, measuring 2m by 4.86m, detailed on the Plan PL01.
17. The Premises Licence holder is to maintain the above mentioned crosshatched land clear of customers save for those customers immediately accessing or leaving the Premises.

Prevention of nuisance from deliveries

18. Residents are not caused nuisance or disturbed by any delivery service providers.
19. The licence holder must ensure drivers do not congregate on residential roads.
20. Toilet facilities are to be provided for drivers at the premises.
21. All delivery services must be provided in a courteous, safe and respectful manner.
22. All deliveries are to be provided in accordance with the law on road use, parking and licensing including that no vehicles to be parked on the footway.
23. A record of delivery orders shall be kept which shall include the customer's name & address. In accordance with data protection regulations, this log shall be made available to Police and local authority officers on request:
 - (a) The delivery of alcohol shall be made only to a residential or business address, which the customer uses in a residential or official capacity. The delivery of alcohol shall not be made or completed to a person in a public place (street corner, park, bus stop, etc.).
 - (b) All customers shall be contacted in writing (e.g. e-mail or text or App Notification) to notify them that an order has been placed, with the date, and if possible approximate time, of the expected delivery.
 - (c) couriers delivering orders shall keep records requiring signature upon delivery in a form that can be captured and fed back to the licence holder subject any social distancing measures in place at the time.

Prevention of nuisance from noise / vibration

24. The entrance door will be fitted with a self-closing device and staff required to ensure that it is not propped open, where necessary adequate and suitable mechanical ventilation will be provided to public areas.

Structure borne noise

25. All speakers are mounted on anti-vibration mountings to prevent vibration transmission of sound energy to adjoining properties.

Sound limits

26. Music that is played should be background music only.

Outside Areas

27. No music will be played in, or for the benefit of patrons in external areas of the premises.

28. No form of loudspeaker or sound amplification equipment is to be sited on or near the exterior premises or in or near any foyer, doorway, window or opening to the premises.

29. Signs shall be displayed in the external areas of the rear garden and forecourt requesting patrons to recognise the residential nature of the area and conduct their behaviour accordingly.

30. The management must reserve the right to ask patrons to move inside the premises or leave if it is felt that they could be disturbing neighbours.

31. Signs displayed in the rear garden area of the premises shall inform patrons that use of the area is not permitted past 10pm on any day.

Deliveries and collections

32. Deliveries and collections associated with the premises will be arranged between the hours 08:00 and 20:00 so as to minimise the disturbance caused to the neighbours.

33. Glasses will be collected from the rear garden area at the beginning of the day rather than at closing time when neighbours in close proximity might be unduly disturbed.

34. Empty bottles and non-degradable refuse will remain in the premises at the end of trading hours and 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.

Plant and machinery

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

Dealing with complaints

36. A complaints book will be held on the premises to record details of any complaints received from neighbours. The information is to include, where disclosed, the complainant's name, location, date, time and subsequent remedial action

undertaken. This record must be made available at all times for inspection by council officers.

Patrons entering/exiting premises

37. When the premises turn out, staff shall supervise patrons and ensure they leave in a prompt and courteous manner, respecting the neighbours.

Prevention of nuisance from litter

38. Adequate receptacles for use by patrons will be provided. The positioning of the receptacles will be agreed with the licensing officer.

Prevention of Nuisance from Odour

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

Prevention of nuisance from light

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

41. Security lights will be positioned to minimise light intrusion to nearby residential premises.

THE PROTECTION OF CHILDREN FROM HARM

42. All relevant staff will be regularly trained in the prevention of underage sales including knowledge of the law and guidance on how to assess age and recognise acceptable ID.

43. Written records will be kept of staff training confirming they have understood the legal requirement.

44. A refusal register will be kept.

45. The licensee shall insure the 'Challenge 25' policy will be implemented.

46. Alcohol may only be sold to individuals over the age of 18 with valid proof of identification with one of the following:

- A valid passport
- A photo driving license issued in a European Union Country
- A proof of age standard card system
- A citizen card, supported by the Home Office

47. If the recipient of a delivery of alcohol appears under 25 years of age, recognised photographic identification will be requested before any intoxicating liquor is handed over. Acceptable proof of age shall include identification bearing the

customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.

Informative

The Committee notes that, although it has granted the opening hours from 6am to 11.30pm Monday to Sunday as applied for, the license holder's planning consent restricts the hours of operation from 9am to 11pm and the licence holder will not be able to lawfully operate in contravention of their planning permission. The Committee recommends that the licence holder resolves this issue with the Planning Department.

Reasons

The Committee gave serious consideration to the submissions by the applicant and to the concerns raised by the objectors. The Committee was satisfied that the licence should be granted and that the above conditions were appropriate and proportionate and would ensure that the licensing objectives were promoted.

Although the premises are in a parade of shops, they are in close proximity to residential premises. The Committee was keen to ensure that a nuisance was not caused to nearby residents by the noise from customers and delivery drivers, noise from cars and from within them and noise from motorbikes. Appropriate conditions have therefore been added to the licence to promote the licensing objective of the prevention of public nuisance, to include the use of the forecourt and the rear garden area ceasing at 10pm.

The reference to the plan PL01 and conditions relating to the use of the forecourt area should ensure that no obstruction or other public nuisance is caused by customers using the forecourt area.

The Committee acknowledged that the applicant had accepted a number of conditions suggested by the Licensing Authority and had also proposed a number of conditions themselves to address some of the resident concerns.

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 no new items of urgent business.

CHAIR: Councillor Gina Adamou

Signed by Chair

Date