

Report for: Licensing Sub Committee – 22 June 2021

Title: Application for a New Premises Licence at Elsie’s Café, 10 Priory Road, London, N8.

Report authorised by: Daliah Barrett, Licensing Team Leader, Regulatory Services.

Ward(s) affected: Hornsey

Report for Key/ Non Key Decision: Not applicable

1. **Describe the issue under consideration**

- 1.1 An application has been submitted by Ms Nevena Ivanova for a licence to allow for the sale of alcohol at 10 Priory Road, N8. Representations against the premises licence application have been received from residents and from Responsible Authorities. The matter is put to the Licensing Sub-Committee for determination at a public hearing.
- 1.2 The application seeks the following:

Supply of Alcohol

Monday to Sunday 1200 to 2300 hours

Christmas Eve and New Year's Eve 1200 to 0100 hours

Supply of alcohol **ON** and **OFF** the premises.

Hours open to Public

Monday to Sunday 0600 to 2330 hours

Christmas Eve and New Year's Eve 0600 to 0130

- 1.3 The premises is situated along a row of terraced shops with residential accommodation above. There is a rear garden and a front forecourt area also shown on the plan submitted. Whilst the application is not seeking the ability to offer licensable activity from the forecourt it is part of the overall demise of the premises and will be used to seat patrons who can consume food and drink in this area.
- 1.4 In respect of this the applicant as offered the following conditions specifically for the forecourt area: New conditions
1. There shall be no sales of alcohol for consumption off the premises after 22:00 hours.
 2. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
 3. 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.

- 1.5 With regard to the rear area the applicant has proposed the following conditions: The use of the rear of the premises will be restricted to no later than 10pm every day, Including Christmas Eve and New Year's Eve.
- 1.6 Representations have been received against this application from 'other persons' and Councillors (Appendix 2) and from the Licensing Authority (Appendix 3).
- 1.5 As such, in accordance with the legislation the Licensing Authority must hold a hearing to consider the application and any relevant representations. The Sub-Committee is asked to consider the content of this report and appendices, together with any oral submissions given at the hearing, and determines the application.

2 Background

- 2.1 The premises has operated as a café previously with a Premises licence that permitted the sale of alcohol. The previous licence has lapsed due to the holder becoming insolvent and the new lessee at the premises has had to apply for a new licence. The application sought is not requesting any reduced hours for the use of the external areas.
- 2.2. The forecourt area has been a cause for concern in recent months as Ms Ivanova erected a barrier around the area which greatly reduced the public access across this area. After some communication the barrier was removed but Ms Ivanova disputes the area to which she is entitled to use under the lease.
- 2.3 Haringey Legal Team engaged with the landlord to help clarify the situation. The area was measured and a plan was produced, showing the dedicated public right of way. This was clarified to be an area of 2 metres from the back of the bus shelter. Whilst the paved area could be used for tables and chairs, the area shown in orange on the plan needed to be kept clear as a public right of way.

3 Relevant Representations

- 3.1 The representations from Residents (Appendix 2) cite the potential for noise and anti social behaviour late into the evening that will adversely impact on residents.
- 4 All the responsible authorities have been consulted about this application. They are as follows:
The Licensing Authority
The Metropolitan Police
The London Fire and Emergency Planning Authority
Planning – The planning consent restricts operation hours to 9am -11pm
Health and Safety (includes Building Control)
Noise Environmental Health

Food Environmental Health
Trading Standards
Child protection
Public Health.

5. The applicant has offered measures in the operating schedule of the application that they say address the promotion of the Licensing Objectives. These can be found at Appendix 1.

6 Licensing Officer comments

- 6.1 The following information is intended to advise Members of the relevant aspects of the Statement of Licensing Policy, guidance issued by the Secretary of State, legislation and good practice. Members may depart from the Council's Policy and or Section 182 Guidance provided they consider it appropriate to do so and provide clear reasons for their decision.

- 6.2 The Committee will also wish to be aware of the guidance issued under section 182 of the Licensing Act 2003. Licensing is about regulating the provision of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Licensing Act 2003. The terms and conditions attached to various permissions are focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.

- 6.3 It is the Licensing Authority's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.

- 6.4 In considering licence applications, where relevant representations are made, this Licensing Authority will consider the adequacy of measures proposed to deal with the potential for public nuisance and/or public disorder having regard to all the circumstances of the case.

- 6.5 Where relevant representations are made, this authority will demand stricter conditions with regard to noise control in areas that have denser residential accommodation, but this will not limit opening hours without regard for the individual merits of any application. This authority will consider each application and work with the parties concerned to ensure that adequate noise control measures are in place. Any action taken to promote the licensing objectives will be appropriate and proportionate.

- 6.6 Also The Licensing Authority may not impose conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of the hearing that it is appropriate to impose conditions to promote one or more of the four licensing objectives. Therefore conditions may not be imposed for the purpose other than promoting the licensing objectives and in some cases no additional conditions will be required.

- 6.7 In cases Members should make their decisions on the civil burden of proof, that

is the balance of probability.

6.8 Members should consider in all cases whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.

6.9 The Government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff. The Councils Licensing policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.

7 Options:

7.1 The Authority must, having regard to the application and the representations, take such steps (if any), as it considers appropriate for the promotion of the licensing objectives.

The steps are:

In determining this application the Sub-Committee may take any of the following steps as it considers appropriate for the promotion of the licensing objectives, namely:

- To grant the licence subject to such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers appropriate for the promotion of the licensing objectives.
- To exclude from the scope of the licence any of the licensable activities to which the application relates.
- To refuse to specify a person in the licence as the premises supervisor.
- To reject the application.

For the purposes of the Licensing Act 2003 the conditions of the licence are modified if any of them are altered or omitted or a new condition added.

8 The licensing authority's determination of this application is subject to a 21 day appeal period or if the decision is appealed the date of the appeal is determined and /or disposed of.

9. Other considerations

Section 17 of the Crime and Disorder Act 1998 states:

"Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the

need to do all that it reasonably can to prevent crime and disorder in its area”.

9.1 Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life.
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to a fair hearing.
- Article 10 – Freedom of Expression

10 Use of Appendices

Appendix 1 – Application document

Appendix 2 – Representation from residents

Appendix 3 – Representations from Licensing Authority

Appendix 4 – plan clarifying pavement area

11 Background papers

Section 82 Guidance

Haringey Statement of Licensing Policy