

MINUTES OF MEETING Licensing Sub Committee HELD ON Monday, 6th September, 2021, 7.00 pm

PRESENT:

Councillors: Gina Adamou (Chair), Barbara Blake and Luke Cawley-Harrison

ALSO ATTENDING:

Daliah Barrett, Licensing Officer
Michelle Williams, Legal Officer
Noshaba Shah, Licensing Officer
Philip Slawther, Principal Committee Co-ordinator
Ms da Silva , Premises Licence Holder
Ms Sandra Blair, Advocate for Licence Holder
Ms Pooja Raithatha & Ms Sneha Raithatha – Applicants

8. FILMING AT MEETINGS

Noted

9. APOLOGIES FOR ABSENCE

None

10. URGENT BUSINESS

There were no items of Urgent Business

11. DECLARATIONS OF INTEREST

None

12. SUMMARY OF PROCEDURE

Noted

13. APPLICATION FOR A REVIEW OF A PREMISES LICENCE AT GINDUNGO, 2A QUEENS PARADE, BOUNDS GREEN ROAD, LONDON, N11

Daliah Barrett, Licensing Officer, introduced a report which detailed the application and accompanying submissions for a review of the premises licence, as set out in the agenda pack.

The premises had operated as a wine bar under a Premises Licence for years but had received a number of complaints from nearby residents who were adversely affected by noise nuisance. It is also alleged that the venue had operated beyond its permitted hours thereby giving rise to further complaints of noise and disturbance. Council records showed that there were 28 complaints received during 2019. A warning letter was served in 2019 and again on 21st May 2021.

The Committee was directed to page 43 of the pack, which showed a photograph of tickets for an event at the premises on 20th July 2021 which was advertised as taking place until 5am. The Licensing Officer advised the Committee that no Temporary Event Notice (TEN) was issued for this date and consequently the venue went significantly beyond its permitted closing time of midnight. A further application for a TEN was made on 15th August during the course of this review process, which was refused following objections by the Police and the Noise Officer.

The Committee queried the opening hours of the premises as per the license which were 12:00-23:00 on weekdays and 12:00-00:00 on weekends, against the original planning conditions on the hours of operation for the property which were 09:00-23:00. The Licensing Officer commented that any breach of the planning conditions was a separate consideration. Following a subsequent consultation with the duty planning officer, it was confirmed that the hours of operation set out in the planning conditions were 09:00-23:00. However, the Committee should concern itself with the hours of operation set out in the Premises Licence.

In response to a question, the Committee was advised that an application for a TEN was available to anyone, including existing licence holders who wanted to put on an event that went on for later than their permitted hours of operation. In objecting to a TEN application, only the Police and Noise Officer were able to submit objections, this was not something the public could do.

The applicants, Ms S Raithatha & Ms P Raithatha, presented their evidence to the Committee as set out in the agenda pack. In summary, the applicants advised the Committee that they, along with their elderly parents had suffered years of nuisance emanating from the premises, which involved multiple different owners of the business going back over a period of more than ten years. The applicants set out that their home was located above the premises, and they were unduly impacted by excessive noise levels and associated ASB, such as public urination, smoking, arguments and people congregating outside the premises at unsociable hours. It was commented that these incidents went on until very late during the weekends and that this resulted in the family not being able to sleep. The applicants suggested that the premises went beyond its permitted hours of operation with or without a TEN, and it was questioned why TENs were issued, if they allowed loud music until 5am in a residential area. As such, this negated the point of having permissible hours of operation on a licence.

The applicants advised that this was the third licensing hearing that they had attended to make representations, the first being in 2018 when the licence was granted and the second in 2019 when an application for an extension of the licence was refused. It was suggested that they felt like they had been through this process repeatedly and that the pattern of noise and ASB had continued throughout this time. The applicants

advised that their neighbours had also been affected by the noise nuisance and had signed a petition to that effect in support of the previous committee hearing in 2019. However, they did not feel confident enough to appear in person at the Committee due to their limited English.

In response to the applicant's evidence, the Committee sought clarification as to whether they had called the police to complain about the premises. The applicants advised that they had called the police in the past but had been referred to the Noise Officer and had directed their concerns to the local authority instead.

In response to a request for further information about an incident in which the applicants had gone down to the premises to complain and ask them to turn the noise down, the applicant advised that she went down on her own at 4am and felt intimidated by being confronted by four people. As a result, she was understandably hesitant to do so again.

The licence holder's representative questioned whether there was an issue of prejudice from the applicants towards anyone who wanted to operate a bar/café in this location. In response the applicants advised that this was about excessive noise levels ruining their quality of life and that in that context they would object to anything that had a detrimental impact on their quality of life. The applicants also set out that the noise nuisance had been witnessed by the Noise Officer as per the evidence in the agenda pack. In response to a further question from the licence holder's representative, the Licensing Officer advised that proximity was not a relevant consideration when determining whether someone was affected by noise nuisance.

The Licensing Authority's representative, Noshaba Shah presented the Licensing Authority's submission. In summary, their objections were based on the licence holder's failure to prevent nuisance. There was also evidence that the licence holder had held events without a TEN. In response to a question, the Licensing Officer advised that she did not have any evidence in the pack to suggest that the premises had flouted the lockdown rules during the Covid pandemic.

The licence holder's representative Ms Sandra Blair presented their submission to the Committee. Ms Blair set out that none of the other residents above the premises had complained about the nuisance. The Committee was advised that licence holder had tried very hard to run her business properly and it was suggested that there must be some other way of resolving this issue that did not involve Ms da Silva having her licence taken away. Ms Blair suggested that the applicants should try to sit down with her client to see if an amicable agreement on the way forward could be agreed.

Ms Blair commented that the concerns raised by residents were about noise and that in that context, revocation of the licence did not seem proportionate. The advocate relayed to the panel an instance where the police were called to the premises and when they attended the only person there was the licence holder who was tidying the premises on her own and no noise was present. It was reiterated that the licence holder was trying to manage the venue responsibly and that she had even purchased a noise level regulating machine at significant cost, in an attempt to manage the situation.

Ms Blair advised the Committee that she had visited the premises herself and having been given a demonstration of the volume of the music, she had set the music to what she considered to be a reasonable level and advised the Committee that her client would stick to this volume of music/entertainment going forwards.

In response to a question around sound-proofing, the applicant's representative advised that her client was keen to get sound proofing installed but that it was very expensive and that it was not financially viable for her to do so at present. The licence holder's advocate had suggested to her client that she should speak to the landlord to see if he could help or look into whether there was a grant available for these purposes. The Committee noted that sound-proofing was already a condition on the licence as set at the original hearing in 2018. The premises was also supposed to have a noise limiter in place as per the original application.

The Committee questioned what steps the licence holder had taken to speak to residents and set up a meeting with complainants. In response, Ms Blair suggested that the Ms da Silva was open to the idea but did not feel it appropriate to do so in the run up to a licensing hearing. Ms Blair suggested that she was willing to arrange a meeting personally now that she was involved in the matter.

In response to Ms Blair's assertion that the only issue was noise, the Committee commented that there were a number of other concerns raised by the applicants around ASB and that this suggested that there was a wider problem of the Licence Holder failing to manage the venue properly.

Ms da Silva spoke to the Committee and advised that she was a mother to four children who had invested all of her savings into the business. She was working hard to provide for family and to try and improve their financial outlook. In this context the £20k cost of sound proofing was not affordable at present but she had someone come round to look into it and to provide a quote. The licence holder advised that she couldn't generate the money require without holding late night events and increasing revenues. The venue was an Angolan bar/restaurant and in that culture, people did not go out until 10 o'clock. She could not run a successful business proving licensable activity for only 1 hour. The Licence Holder also advised that in her culture people were generally quite loud when conversing with each other but disputed that her clients would be outside of the venue having arguments.

Ms Da Silva advised that she had met with the mother of the family on two occasions to try and develop a relationship, however on the first meeting she alleged that the mother advised her that the Landlord had mis-sold her the property as it was not suitable for a late night bar. It was suggested that this showed that the residents were opposed to her business from the start. The licence holder commented that she had not had any trouble from other residents and she consequently ascribed and ulterior motive to the objections from the applicants. The Licence holder commented that she felt the complaints may be discriminatory in nature and that she victimised by both the applicants and the Council's Noise service.

The Licensing Officer advised the Committee that she had made clear from the initial licensing application in 2018 that the venue was not suited to being a late bar due to its location and proximity to residential properties.

The Chair thanked all for attending and advised that the Committee's decision would be available within five working days.

RESOLVED

The Committee carefully considered the application for a review of the premises licence, the representations of the residents, the Licensing Authority, the Environmental Health (Noise) Team and the licence holder, the Council's Statement of Licensing Policy, the Licensing Act 2003 and the Licensing Act 2003 s182 Guidance.

Having had regard to all of the evidence and representations the Committee decided that it was appropriate and proportionate to revoke the premises licence.

Reasons

The premises are located in a parade of shops in Queen's Parade, Bounds Green Road, London N11. The premises are on the 1st floor of 2 Queens Parade with a commercial unit below and residential premises above.

This was the third time that this Premises Licence had come before the Committee. The Licence was granted in March 2018 following a committee hearing at which issues about noise nuisance were raised. Conditions were imposed on the licence to prevent the premises being a source of public nuisance and at the time the licence holder undertook to install sound proofing once the premises had been established.

In November 2019 the licence holder applied for a variation to the extend the operational hour to 5 a.m. There were objections and the matter came before the Licensing Sub Committee which heard evidence that the licence conditions were being breached and residents were being subjected to loud noise at all times of the day and night which was adversely affecting their quality of life. The application was refused.

This review application has been brought by residents who are being adversely affected by the operation of the premises.

The Committee heard evidence from the residents that they, along with their elderly parents have suffered years of nuisance emanating from the premises. Their home is located above the premises, and they are unduly impacted by excessive noise levels and associated ASB, such as public urination, smoking, arguments and people congregating outside the premises at unsociable hours. These incidents carry on until very late during the weekends and this results in the family not being able to sleep. The licence holder has been operating beyond the permitted hours of the licence with or without a Temporary Event Notice and messages to the telephone number given to residents for complaints are not responded to.

According to the Licensing Authority there were 28 complaints about the premises in 2019 and the noise team have recorded 19 noise complaints since October 2019 some of which have been witnessed. The breaches by the licence holder include breaches of the noise conditions and operating outside of permitted hours (without a TEN). This year the licence holder received verbal and written warnings about a statutory noise nuisance on 21st May 2021 and another nuisance was witnessed again on 16th July 2021 with action pending.

The license holder informed the Committee that she had invested all of her savings into the business and was working hard to provide for her family, in this context the £20k cost of sound proofing was not affordable at present. She advised that she couldn't generate the money require without holding late night events and increasing revenues. The venue was an Angolan bar/restaurant and in that culture, people did not go out until 10 o'clock. The license holder had purchased a noise level regulating machine at significant cost, in an attempt to manage the situation. It was suggested that the complaints from residents were personal rather than a reflection of a genuine nuisance. The licence holder said she was prepared to work with residents to reduce the disturbance being caused to them.

The Committee considered that the licence breaches and lack of engagement with complaints were clear evidence of poor management.

The Committee noted the installation of the sound limiting equipment, but this appears to have been ineffective. The sound-proofing was not affordable for the license holder and the Committee doubted that even if it was installed it could completely eradicate the nuisance being caused by noise generated by music because of the close proximity of the premises to the residential properties.

In accordance with her own submissions to the Committee the licence holder was not making sufficient attempts to turn down the music and in her submissions attributed ulterior motives to the complainants. The Committee were of the view that she was in denial about the public nuisance being caused to residents. The assurances given by the licence holder at previous hearings had not led to promotion of the licensing objectives and the Committee therefore had no confidence in her ability to promote the licensing objectives.

Whilst the Committee was satisfied that poor management was responsible for the public nuisance it was also satisfied that a contributing factor was the unsuitability of the premises to be run as a late night bar because of its proximity to residential premises.

In light of all of the above, the Committee decided that the public nuisance licensing objective could not be promoted by imposing further conditions and suspension would also not be an effective measure, given that this was the third time that the public nuisance issues with the premises were being considered by the Committee and the breaches were continuing.

The Committee therefore decided that it would be appropriate and proportionate to revoke the premises licence.

14. NEW ITEMS OF URGENT BUSINESS

N/A

CHAIR: Councillor Gina Adamou

Signed by Chair

Date