

Report for: Licensing Sub Committee 25th January 2022

Item number:

Title: Application for a New Premises Licence – The Broadway, 266 Muswell Hill Broadway, London N10 2QR

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

Ward(s) affected: Fortis Green

**Report for Key/
Non Key Decision:** Not applicable

1. Describe the issue under consideration

1.1 This report relates to an application for a new premises licence by The Broadway Muswell Hill Ltd.

1.2 The application seeks the following:

Regulated Entertainment: Live Music & Recorded Music

Sunday to Thursday 1100 to 0000 hours

Friday to Saturday 1100 to 0200 hours

Late Night Refreshment

Sunday to Thursday 2300 to 0000 hours

Friday to Saturday 2300 to 0200 hours

Supply of Alcohol

Sunday to Thursday 1100 to 0000 hours

Friday to Saturday 1100 to 0200 hours

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

Hours open to Public

Sunday to Thursday 1100 to 0030 hours

Friday to Saturday 1100 to 0230 hours

Seasonal Variations: Christmas Eve to open one hour longer than ordinarily permitted, with all licensable activities to cease 30 minutes beforehand.

New Years Eve until 03:30 hours on New Years Day morning.

11:00 until 02:00 hours on any Sunday immediately preceding a Bank Holiday Monday.

1.3 The application can be found at - **Appendix A.**

1.4 Representations have been received from:

Responsible Authorities- Licensing Authority RA and the Metropolitan Police. App

B

Representations have been received from 15 residents and a ward member.

Appendix C.

1.5 Recommendation

In considering the representations received and what is appropriate for the promotion of the licensing objectives, the steps the Sub-Committee can take are:

- Grant the application as requested
- Grant the application whilst imposing additional conditions and/or altering in any way the proposed operating schedule.
- Exclude any licensable activities to which the application relates
- Reject the whole or part of the application

Members of the licensing sub committee are asked to note that they may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must be appropriate in order to promote the licensing objectives.

2 Background

- 2.1 The premises is situated along a parade of retail units with residential above and to the rear. The premises had operated as a cafe with the ability to sell alcohol for many years, which then changed into a more alcohol led business as a wine bar and then into a fully fledged nightclub for a number of years. Mr Ioannou the previous licence holder took over the premises in 2015 and had operated it as a nightclub. The premises licence was subsequently reviewed by the Police in 2017 due to ongoing concerns with anti-social behaviour and a failure on the part of the then licence holder to actively manage issues arising and cooperate with the Police in the investigation of incidents. Thereby not upholding or promoting the licensing objectives.
- 2.2 The Police were asking for conditions to be added to the licence, but the LSC after hearing from all parties determined to revoke the Premises Licence. The revocation never took effect as the then licence holder appealed the decision to the Court. On advice from an independent barrister the Council agreed to a number of conditions to be imposed on the licence, which was agreed to be the Magistrates. The conditions imposed put in place a restrictive licence that stopped the licence holder from being to operate as a nightclub and required food to be made available with all alcohol sales after 2300. It also reduced the operating times at the venue. The then licence holder remained closed for a period of time and once he attempted to reopen again under the new conditions it proved difficult for him to do so. He subsequently sold the premises onto the current premises licence holder –The Broadway Muswell Hill Ltd- Mr Savvas Morgan, who transferred the existing Premises licence in February 2020.
- 2.3 The area at Muswell Hill Broadway had been home to a number of late night venues in previous years. It was the main hot spot for crime generation caused by the night time economy in Haringey some years ago but there has been significant change in the area since that time. There were previously 3 late night clubs and a public house as well as a late night kebab premises that operated into the early hours of the morning in this area. All of these venues have had their Premises licence reviewed by the Met Police.
- 2.4 In more recent times, residents have reported incidents of antisocial behaviour in the Area. Some of the concerns raised relate to The Broadway others relate to The Mossy Wells and The Venue N10. Residents have expressed concerns of the patrons using the private car park area at the rear of The Broadway in the residential landscaped area to park cars and congregate and play music once they have left the venue.

- 2.5 Members will note from the letters of representation that a lot of the concerns raised has been around the operation of a late night venue or club in the area and the appropriateness of such an establishment in what is being viewed as a predominantly residential area. The venue has been in this area for many years and whilst some residents do not approve of late night venues in the area this in itself is not a valid reason to refuse a licence. Representations must be relevant and, in the case of 'other persons' must not be frivolous or vexatious.
- 2.6 The Licensing Authority has communicated with Ms Bianca Morgan since The Broadway started to operate but has not had any communication with Savvas Morgan- the current named DPS and the proposed DPS for this new application. Complaints received from residents or concerns raised by the Out of Hours Officers have been referred and discussed with Ms Morgan directly in order to request a response on how the concerns raised would be dealt with or mitigated to address the licensing objectives.
- 2.7 The premises has Planning permission since 1968 to operate as a restaurant but required to ensure that no noise nuisance should emanate from its use that would affect nearby residents.
- 2.8 In September 2021 a new Premises Licence was granted to 272 Muswell Hill Broadway. The matter received representation from residents and RAs, the LSC therefore determined the application with the following timings:

Supply of Alcohol

Sunday to Thursday 1000 to 2230 hours

Friday and Saturday 1000 to 2330 hours

Recorded Music

Sunday to Thursday 1000 to 2230 hours

Friday and Saturday 1000 to 2330 hours

Provision of Late Night Refreshment

Friday and Saturday 2300 to 0000 hours

The opening hours of the premises:

Sunday to Thursday 1000 to 2300 hours

Friday and Saturday 1000 to 0000 hours

- 2.9 The Mossy Wells, which is situated almost facing 266 Muswell Hill Broadway N10 has the following hours:

Provision of Late Night Refreshment

Monday to Wednesday 2300 to 0030

Thursday and Sunday 2300 to 0100

Supply of Alcohol

Monday to Wednesday 0900 to 0030

Thursday and Sunday 0900 to 0100

New Years Eve licensable activities from the start of permitted hours on 31 December until the start of permitted hours on 1 January.

St. David's Day, St. Patrick's Day, St. George's Day and St Andrew's Day, an additional hour with seven days prior notice and agreement with the police.

Statutory Bank Holiday weekend periods and for Thursday before Good Friday an for Christmas Eve an additional hour.

On occasions of local, national or international significance or for charitable events, limited to twelve per year, the terminal hour will be extended by one hour, with fourteen days prior notice and agreement with the police.

The opening hours of the premises:

Monday to Wednesday 0700 to 0100

Thursday and Sunday 0700 to 0130

3 Licensing Policy

- 3.1 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.
- 3.2 The objective of the licensing process is to allow for the carrying on of retail sales of alcohol and the prevention of public nuisance, prevention of crime and disorder, public safety and protection of children from harm. 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.
- 3.3 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.
- 3.4 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.
- 3.5 This Licensing Authority in determining what action to take will seek to establish the cause of concern and any action taken will be directed at these causes. Any action taken to promote the licensing objectives will be appropriate and proportionate.
- 3.6 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

- 3.7 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.
- 3.8 In cases Members should make their decisions on the civil burden of proof, that is the balance of probability.
- 3.9 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.
- 3.10 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.

4 Licensing hours

- 4.2 Where relevant representations are made, the Council will consider the proposed hours on their individual merits. Notwithstanding this, the Council may require stricter conditions in areas that have denser residential accommodation to prevent public nuisance. The Council will endeavour to work with all parties concerned in such instances to ensure that adequate conditions are in place. The Council may restrict the hours that certain premises can offer alcohol for sale for consumption off the premises for preventing crime, disorder and nuisance.

5 Powers of a Licensing Authority

- 5.1 The decision should be made with regard to the Secretary of the State's guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the Policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal / challenge is increased.
- 5.2 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.

6. 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".

6.1 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

7 Use of Appendices

Appendix A - New Application.

Appendix B – Responsible Authorities Representations

Appendix C – Other persons representations.

Background papers: Section 82 Guidance

Haringey Statement of Licensing policy