

MINUTES OF THE LICENSING SUB COMMITTEE HELD ON THURSDAY 22 SEPTEMBER 2022, 7.00PM - 8.15PM

PRESENT:

Councillors Lester Buxton, Ajda Ovat (Chair) and Nick da Costa

1. FILMING AT MEETINGS

The Chair referred to the filming of meetings and this information was noted.

2. APOLOGIES FOR ABSENCE

Apologies had been received from Councillor Elin Weston and Councillor Lester Buxton was substituting in her place.

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 DISTRICT 22, 83 MAYES ROAD, WOOD GREEN, LONDON, N22 6TN (NOEL PARK)

Presentation by the Licensing Officer

Ms Daliah Barrett, Licensing Team Leader informed the Sub-Committee that:

- The applicant had proposed that recorded music be removed from the application. If the licence was granted, the applicant could still have regulated entertainment between 08:00 to 23:00.
- The applicant had applied for the sale of alcohol from Sunday to Thursday between 16:00 to 23:30 and 16:00 to 00:30 Friday and Saturday.
- The premises would be open from 08:00 to 00:30 Sunday to Thursday and from 8:00 to 01:30 on Fridays and Saturdays.
- Mr Topalli, the applicant, would put himself forward as the DPS.

- The initial application had not specified the use of the outside area and had only taken into consideration the pub and the back area.
- The newly submitted plan now showed the front garden area.
- Representations had been received from Licensing, Noise, Police and residents.
- The applicant was not applying for late night refreshment, but for sale of alcohol only.
- The premises had previously operated as a pub and had applied for regulated entertainment in 2011. Objections were made against the application the time and conditions were added to the licence that was granted by the Licensing Sub-Committee. Noise nuisance and reports of crime had become ongoing issues and the premises was subject to a review application which was heard by the Licensing Sub-Committee in December 2016. The Sub-Committee determined that unauthorised licensable activity had taken place. There had also been a list of complaints received for temporary events held at the premises.

In response to questions, Ms Barrett informed the Sub-Committee that:

- The representations that had been made reflected on the operations that the applicant had implemented at the premises. The representations made had been made from a position of knowledge. Visits or enforcement visits to the premises had been made.
- The newly submitted plan took into account the additional outside area which was to be used. This had not originally been something that responsible authorities were aware would be used during the 28 day consultation.
- The Noise Officer had responded to the newly offered conditions from the applicant. They had reflected that they had ongoing concerns.

Presentation by interested parties

Ms Noshaba Shah, Licensing Officer, informed the Sub-Committee that:

- Licensing did not agree with the length of hours as there were residential properties in the area.
- If the Sub-Committee was minded to grant the application, then the application should be granted with the amendments as outlined in the objection submitted by the Licensing Authority.
- The proposed DPS did not understand how to be responsible trader.
- The application had not originally featured the plans regarding the use of the front of the premises and therefore had not been part of the consultation process.
- The front area should be closed by 21:00 at the latest.
- The application had not outlined if music would be played at the premises.

- Regulated entertainment would be removed from the application but the applicant would be able to play music until 23:00.
- The back area (proposed to be used as a shisha area) was an external area and therefore needed to remain unenclosed by at least 50%. The back area should cease to be used by 10:30pm at the latest.
- The back area should not be in use after 22:30.

In response to questions, Ms Barrett informed the Sub-Committee that the applicant was allowed to play background music at the premises, but the Sub-Committee needed to be mindful that if the application to sell alcohol for consumption on the premises was granted, then the applicant would be able to play music. Although the applicant had applied for the sale of alcohol from Sunday to Thursday between 16:00 to 23:30 and 16:00 to 00:30 Friday and Saturday, the premises would still operate for one hour after the terminal hour for the sale of alcohol on each day.

The Sub-Committee was then addressed by residents. Mr Robert Bayley informed the Sub-Committee that:

- He had lived in the area for many years. The people that lived behind the premises were mainly elderly people with families and children. There were many people that lived in the area.
- There were 12 properties opposite his home and there were about 30 people that had been directly affected by the premises and many of them went to work and school. They went to bed at around 23:00 or 00:00 and would wake up around 06:00 to 07:00. The activities of the premises would tread into the routine.
- It was important for an individual's mental health to get 7–12 hours of sleep per day and it was important that this not be disturbed.
- Although the premises had put up a sign requesting that patrons leave quietly and that security staff would monitor the perimeter of the premises, there was no reason why security staff would be able to monitor and manage the area beyond the perimeter of the premises.
- The front area would be occupied by 10 smokers and this would cause noise. After 00:00, noise carried much further into the area and therefore the premises should close no later than 23:00. No additional time should be given for patrons to be able to leave, the premises should simply close.
- The application did not appear to address the ongoing problems in the back of the premises and the interference that was coastal residents. Noise levels were expected to rise as this had happened in the past and the Sub-Committee should consider the volume of the music that could be played at the premises.

Mr Bryan Barnes informed the Sub-Committee that:

- The issues with the premises had been going on for the last nine years.
- The noise disturbance in the area had not been addressed. There were many elderly people that lived on the road including his mother who was 84 years old and she would have to hear people coming out of the premises at 02:00.
- Residents had a right to private life and wanted their rights to be respected. Councillors had a duty of care along with the owners to ensure that processes were carried out to uphold the licensing objectives.
- Over 72 complaints had been made to the Council regarding noise issues.
- If the application was granted, then licensing activity should be excluded for a period of six months to ensure that the applicant would be able to follow proper procedures.
- He had managed licensed premises before and knew how to manage them. There had been mistakes made by premises staff. Premises staff were fully aware of the problems but were not addressing them despite having had time to do so.
- Complaints had been raised about the premises in the second week of July and nothing at the premises had improved.
- The sound of the music travelled upwards into the residential area.

The Legal advisor at the meeting informed that the Sub-Committee would not have the power to suspend licensable activity for a period of six months on a newly granted licence.

In response to questions, Ms Barrett informed the Sub-Committee that the premises had previously been known as the Duke of Edinburgh in 2005 and had applied in 2011 for later operating hours. Residents were not generally provided with logbooks but were advised to keep diaries of any incidents occurring. Residents were also not provided with sound monitors. Noise complaints could be submitted via the phone line and officers would investigate to establish if there was a noise nuisance.

Mr Sheik Subrattee informed the Sub-Committee that:

- The applicant's submission had not inspired any confidence.
- Prior to the licence having been applied for, all necessary procedures should have been taken and had not been carried out.

Mr Charlie Ward informed the Sub-Committee that:

- It was not clear how the Planning and Licensing regulations overlapped.
- Noise issues had been going on for ten years and nothing appeared to be being done to improve the situation.
- He supported the other objections made by residents.

Presentation by the applicant

The applicant's representative, Mr Bill Donne, informed the Sub-Committee that:

- The premises would have two directors.
- There had been some procedural errors made by the applicant's licensing agent and attempts had been made to recognise the concerns of the local residents and the responsible authorities who had submitted representations.
- A revised set of conditions had been submitted and mostly reflected proposals that had been submitted by environmental protection. However, the applicant did not concur with the operating hours that had been proposed by the Licensing Authority.
- The premises was originally named the Duke of Edinburgh in 1900 was authorised to sell alcohol under the 1964 act which was then later transferred to a premises licence in 2005.
- The old premises licence, when the premises was known as the Matisse Bar and Lounge operated between 10:00 to 23:30 every day with a further 30 minutes for the premises to remain open. The late-night refreshment applied for was between 23:00 and 23:30.
- In the previous two years, the premises had not held a premises licence. The previous operators had a licence that had become solvent and during the 28-day consultation period and no application was made at the time.
- The premises now had new owners and as part of the financial transaction, the premises would be registered to the two directors that were present at the Sub-Committee.
- The revised operating schedule included the revised plan which included the use of the part of the building located in Mayes Road and it was an extremely busy road. There were also other licensed premises in the area that were open until 02:00 and 03:00.
- Although it was possible for the applicant to be able to provide regulated entertainment (such as recorded music) in the scenario that the premises was allowed to sell alcohol for consumption on the premises, alternative conditions could be agreed with the applicant.
- The playing of background music was not a licensable activity and could not be considered regulated entertainment unless there was dancing or music was played that could be heard louder than ordinary conversation.
- The applicant could agree to a condition whereby no music would be played from 22:30 at the front of the building as long as the condition was not imposed in the back area.
- The cause of statutory nuisance related to the decibel (dB) level of noise that affected residents.
- The Antisocial Behaviour (ASBO) team had visited the premises, had stood outside it and was not able to hear any of the noise directly outside the building or that which had been depicted by the representations made which stated that noise could be heard from across the road.

- In respect of anti-social behaviour, a noise management plan had been created and this could be agreed with Environmental Protection.
- Action had been taken regarding the repositioning of the speakers and noise was now inaudible to the buildings nearby and adjacent to the premises.
- Security staff would be employed on Friday and Saturday and would wear body worn cameras and high-visibility jackets. They would be responsible to ensure a safe and quiet dispersal of patrons. The terminal hour for licensable activity would be 23:30 Sunday to Thursday and 00:30 on Friday and Saturday.
- The applicant would request 60 minutes of drinking up time as best practice. The drinking up time that was commonly used was 20 minutes for pubs and 30 minutes for clubs. However, 60 minutes would allow patrons to finish their drink and their conversations and to disperse in different periods of time over the 60 minutes. Patrons dispersing at exactly the same time was not a good idea.
- Consumption of alcohol was not a licensable activity. Licensing had alleged that the premises had been in breach of licensing regulations due to patrons being on site after the end of a temporary event, but there had been no breach of regulations as patrons were within their rights to consume alcohol after the terminal hour of the sale of alcohol and this was not a breach of regulation.
- The revised conditions were appropriate and proportionate.

In response to questions, Mr Donne, informed the Sub-Committee that:

- The change in opening hours to an earlier hour indicated an intention for the premises to open for breakfast and mid-morning snacking. If the application was successful, then another application may be submitted at a later to vary the sale of alcohol so that alcohol could be sold from 11:30.
- The proposals put forward by the Police was disproportionate in relation to the requirements of the applicant to uphold the licensing objectives. Furthermore, in relation to downloading video footage, most CCTV footage could do recorded playback whilst still continuing to record. In the event that footage needed to be downloaded, this would take more time and the live recording would need to be stopped. If such a request was made, it was best to allow the applicant the opportunity for the footage to be uploaded onto a USB stick to be provided the following day.
- The back area consisted of a pub garden which did not have very high walls but was very thick and some of it was covered.
- The removal of the playing of recorded music from the licence meant that there was no chance for the applicant to create a noise nuisance. This was why the applicant was looking to implement conditions whereby there should be no noise nuisance at the nearest noise sensitive property. It was normally good practice to include such a condition. The condition could read that there should be no noise than 60 dB at the nearest noise sensitive premises.
- The applicant wanted to work in partnership with residents. The applicant had been recommended to have a dedicated phone line that the duty manager would carry and any issues reported would be actioned by the duty manager.

- Buying a commercial business property was not as simple as buying private property. The applicant was keen to get into the business and the outgoing operator was keen to dispose of the assets. As a matter of caution, they were both appointed directors of the company so that any remaining business that was required to be dealt with did not fall on a party who was not an appointed director. The previous operator had now resigned as director.
- The previous director of the premises was not involved with the business.
- He was disappointed that the ASB team was not at this meeting to answer questions. There had been a lot of misunderstanding regarding the temporary event held at the premises and the allegations made regarding breach of licensing regulations. When the ASB team visited the premises, there were still patrons present, but the sale of alcohol had finished before the terminal hour for the sale of alcohol and the consumption of alcohol was not a licensable activity, regardless of the time.
- The previous director had resigned on 9 August 2022. The main directors had removed him as a director. One of the current directors had been made a director on 17 September 2022, but had been involved in the business months earlier.
- The complaints made regarding the temporary events held at the premises had not been substantiated by the ASB team.
- A noise limiter had been installed at the premises and the premises had particular recording points. Noise testing was best done by professionals and the applicant would ensure that testing would be done in noise sensitive areas and a plan would be devised to assist with any issues. Plans would have to be written and be agreed by Environment Protection.
- Security staff would be able to intervene with incidents beyond the perimeter of the premises as there was a certain responsibility on the premises licence holder to uphold licensing objectives.
- SIA staff undertook five days of training to ensure that they were qualified and were unlikely to get involved with any incidents by themselves.
- He had been advised that Mayes Road was busy by premises staff.

To summarise, Ms Shah stated that although she agreed with the newly proposed the hours for the sale of alcohol, the back area of the premises should have a terminal hour of 22:30 at the latest and the front space should be closed by 21:00. No music should be played in the external areas.

To summarise, Mr Bayley, Mr Subrattee, Mr Barnes and Mr Ward stated that they opposed the application and stood by their objections. Every time the premises has changed owners, the premises appeared to continue its operations just as before. Residents had been let down by the premises and its previous owners time and again. There were residents in the area that suffered from mental health problems and the area was a residential area. The premises should not be allowed to have a licence until the applicant had demonstrated that they were responsible owners.

To summarise, Mr Donne stated that the licensing policy suggested that the needs of local residents needed to be balanced against commercial interests. The European Human Rights

Act stated that the needs of the local community had the right to privacy but also the right of the applicant to earn a living. It was difficult to comment on what had occurred at the premises under the previous ownership. The premises had a history and had always been a public house. There had also been a planning application that had been refused as the basis of the application was to change its use. A total of 26 objectors at the time had said that they wanted it to still be used as a pub. He would ask the Sub-Committee to grant the licence so that the premises could continue to be a pub. However, the application was a balanced application to address any concerns as the revised conditions should be sufficient enough to ameliorate any concerns and to remove any noise complications in addition to meeting the commercial needs. It was important to note that noise on the premises was only relevant if the noise was affecting residents in the area including those that were noise sensitive premises. This could vary at different times of the night. He disagreed with the Licensing Officer and felt it was unrealistic to suggest that no music should be played in the outside and the rear of the premises. The commercial business that had been there for over 100 years and should be allowed to continue. He recognised the concerns of residents and premises staff would do the utmost to ensure that there was no statutory noise nuisance should the application be granted.

At 8:43:pm, the Sub-Committee adjourned to consider the application.

RESOLVED

The Licensing Sub Committee carefully considered the application for a new premises licence for District 22, 83 Mayes Road, Wood Green, London, N22 6TN (NOEL PARK). In considering the application, the Committee took account of the London Borough of Haringey's Statement of Licensing Policy, the Licensing Act 2003, section 182 Guidance, the report pack, the additional papers submitted by the Applicant and the applicants 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 subject to the following conditions to promote the licensing objectives.

The Licence is granted as follows:

Operating times:

Supply of Alcohol

Sunday to Thursday	16:00 to 23.30 hours
Friday & Saturday	16:00 to 00:00 hours

Hours open to the public:

Sunday to Thursday	08:00 to 00:00 hours
Friday & Saturday	08:00 to 00:30 hours

Conditions & Terminal hour for use of the front area of the Premises

Monday to Sunday

21:00 hours

Smoking area in front of the premises to be limited to 6 persons.

All patrons occupying the area outside the front of the premises to go indoors by 21:00 hours everyday

Door Supervisors:

Door Supervisors must be present from 21:00 hours Friday to Saturday until close of the business and/or until all patrons have dispersed, whichever is the latter.

Conditions on the area at the back of the premises:

The back shisha area to be closed at 22:30 each day.

Noise management Plan- Controlling Noise Emissions

- The Licence Holder shall devise and implement fully a Noise Management Plan to be agreed
- in writing by the Noise and Nuisance Team. The Plan should detail all noise control measures to be implemented. This should be informed or devised by an expert in acoustics and provided no later than 28 days after the issues of the licence.
- Music played at the premises shall be limited to background level only until the approved noise control measures as outlined in the Noise Management Plan are implemented.
- All external doors, windows and the retractable roof shall be kept closed at any time when regulated entertainment is taking place.
- No nuisance shall be caused by noise coming from the premises or by vibration transmitted through the structure of the premises.
- All speakers should be mounted on anti-vibration mountings to prevent vibration transmission of sound energy to adjoining properties.
- The regulated entertainment licensable activity shall conclude 30 minutes before the premises is due to close to prevent excessive noise breakout as the premises empties.

Control Noise from Patrons

- Notices will be prominently displayed at the exit requesting patrons respect local residents and leave the area quietly.
- Staff and Door Supervisors shall actively monitor and control patrons queuing, leaving and entering the premises to ensure they leave the area quickly and quietly. Staff and Door
- Supervisors shall actively discourage loitering or waiting outside the premises after closing.

- The Licence Holder shall conduct regular assessments (externally and around the full perimeter) of the noise coming from the premises whilst it opens for business and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents.
- A written record shall be made of those assessments in a logbook kept for that purpose and shall include, the time and date of the checks, the person making them and the results including any remedial action. This record must be made available at all times for inspection by council officers.
- The Applicant will provide a dedicated hotline for residents to raise any complaints with the premises/business owners.

The following conditions are imposed to promote the four licensing objectives:

1. **General – all four licensing objectives (b,c,d,e):** A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

A CCTV system will be installed at the premises covering the entrance, the external area and all internal areas.

An incident log shall be kept at the premises and made available on request to the Police or an authorised officer of the Local Authority

All staff members engaged, or to be engaged, on the premises shall receive full training pertinent to the Licensing Act Staff Training regarding the 4 x License Objectives.

2. **The prevention of crime and disorder:**

(i) A digital CCTV system recommended to be installed in the premises complying with the following criteria:

(a) Camera(s) must be sited to observe the entrance doors from both inside and outside.

(b) Camera(s) on the entrance must capture full frame shots of the heads and shoulders of all people entering the premises i.e. capable of identification.

(c) Camera(s) must be sited to cover all areas to which the public have access, excluding toilets if on site.

(d) Provide a linked record of the date, time of any image.

(e) Provide HD digital quality images in 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) Member of staff trained in operating CCTV at venue during times open to the public.

(i) Digital images must be kept for 31 days. 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.

(ii) An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or 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) any faults in the CCTV system
- (f) any visit by a relevant authority or emergency service

The premises shall operate a zero-tolerance policy to the supply and use of drugs.

Anyone who appears to be drunk or intoxicated shall not be allowed entry to the premises and those who have gained entry will be escorted from the business immediately.

3. **Public safety:** There shall be no vertical drinking at the premises. Table service only.

The premises will have a refusal book or electronic system to record all refusals of sales, this must be made available to the police and local authority officers upon reasonable request.

The Business will have a fire and health and safety risk assessment.

4. **The prevention of public nuisance:** Deliveries and waste collection will be done within the times recommended by the Local Council

During the hours of operation, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.

Clear and legible notices will be prominently displayed at the exit to remind customers to leave quietly and have regard to neighbours

5. **The protection of children from harm:** A challenge 25 policy will be in operation at the premises with operate signage on display throughout the premises.

All staff members engaged, or to be engaged, on the premises shall receive full training pertinent to the Licensing Act, specifically regarding age-restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs. This shall take place every 6 months.

All such training is to be fully documented and signed by not only the employee but the person delivering the training. Training records shall be kept at the premises and made available upon request to either Police Officers or an authorised officer of the Local Authority.

REASONS

The Committee gave serious consideration to the submissions by the applicant & their representative, and to the concerns raised by the objectors again both of which were made in writing and orally.

It was noted that there had been complaints about breach of License regulations concerning these premises over a number of years. However, it was noted those complaints did concern previous owners. It was also noted that there was a new management team and that they had put forward proposals to alleviate those concerns and complaints. In some instances the Committee has gone beyond those proposals and added further restrictions as detailed above in terms of timing and closing hours, which also seeks to balance the concerns of both the applicants and objectors.

It was noted that the applicant would ensure security staff would be present, that a noise management plan would be agreed with the Environmental Protection Team. They had made those proposals themselves and had also agreed the Police recommendations. This demonstrated to the Sub-Committee a willingness to engage with the issues and concerns raised.

The Committee's decision in respect of the hours granted for opening, alcohol sales and the restriction on the activities at the front and back of the premises, along with the noise conditions proposed take into consideration the objections raised.

With the resulting grant the Committee is of the view that an appropriate balance has been struck between the wishes of the applicant, the objections of local residents and the overriding licensing objectives with the conditions proposed.

7. NEW ITEMS OF URGENT BUSINESS

There were no items.

CHAIR: Councillor Ajda Ovat

Signed by Chair

Date22/09/2022.....