

# **MINUTES OF THE LICENSING SUB COMMITTEE HELD ON MONDAY, 14TH NOVEMBER 2022, 7:00PM - 8:30PM**

## **PRESENT:**

**Councillors: Ajda Ovat (Chair), Emily Arkell, Lester Buxton**

### **1. FILMING AT MEETINGS**

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

### **2. APOLOGIES FOR ABSENCE**

There were none.

### **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 MISSISSIPI LOUNGE, 114 WEST GREEN ROAD, LONDON N15.(WEST GREEN)**

#### **Presentation by the licensing officer**

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

- The application was for a new premises licence and the application could be found in appendix 1.
- The application was seeking licensable activity for the sale of alcohol and late-night refreshment.
- Should the application be granted, then the applicant would be able to offer live and recorded music under deregulated hours from 08:00 to 23:00 every day.

- The hours that had been applied for could be found on paragraph 1.2 of the officer's report. However, the report should read that late night refreshment had been applied for on Friday, Saturday and Sunday until 02:00.
- Representations had been received from residents and Responsible Authorities. Concerns related to the potential of noise nuisance. Representations also referred to the applicant's existing premises which operated further up the road in the same area. There were concerns regarding the type of patrons that visited that particular premises and there was concern that the same issues would arise as a result of another premises being opened in the area by the applicant.
- The premises had operated as a café in the past and was situated along a terrace of shops with residential units above it.
- There was a planning application in place to extend the premises to the rear area.
- It was not clear if there was an external area to be used for smoking.
- Planning issues had not been finalised according to available information.

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

- The Police representation still stood.

### **Presentation by the applicant**

Mr Halit Ertas, the agent for the applicant and Mr Iko Essumbu, the applicant, informed the Sub-Committee that:

- Some renovation was planned for the premises in order to add a few more tables. The only thing that would be new about the premises was the sale of alcohol, otherwise the use of the premises would generally be the same as it had been in the past.
- The area was a slightly problematic area and the best way to deal with antisocial behaviour was to combat it. The businesses in the area were aware of the challenges, but the operating times for which the applicant was applying was within the hours operated by other licensed premises in the area. Those premises operated until 02:00 or until 02:30. Licensing was aware of this.
- The planning application that had been submitted by the applicant had not been approved or refused. All relevant guidance had been followed.
- No clarity had been provided as to why the application had not yet been approved and the applicant was open to any suggestions to make the premises appear acceptable from a licensing perspective.
- The applicant had a record of paying his business rates, employing people and was generally flexible.
- The property was currently vacant and was creating problems in the area due to its vacancy and could create further antisocial behaviour.

- It was beneficial to the community for the application to be granted.

In response to questions, Mr Ertas and Mr Essumbu informed the Sub-Committee that:

- The applicant had another business in the same road and was aware of other businesses in the area that were allowed to sell alcohol until 02:00.
- The premises that the applicant already operated did not allow the sale of alcohol after 01:00 on Friday and Saturday. The premises closed early in comparison to other licensed premises in the area. It may be the case that a variation application would be submitted to extend the operating hours.
- The applicant wished to be able to operate the premises in line with other licensed premises in the area (at least until 01:00).
- It would be unfair to ask the premises to operate at reduced times as other licensed premises operated late into the night. The applicant was willing to reduce the requested operating hours if no other option was available.

In response to a question from the Sub-Committee, Ms Barrett stated that the premises that was already operated by the applicant had a licence for late night refreshment and supply of alcohol. It's closing times were 01:00 on Friday and Saturday. The terminal hour for the supply of alcohol was 22:30 Sunday to Thursday and on 00:30 Friday and Saturday.

In response to further questions, Mr Ertas and Mr Essumbu informed the Sub-Committee that:

- The applicant was not aware of any noise issues regarding the premises he already operated.
- West Green Road was often busy on the weekends and there were a few licensed premises that sold alcohol until 00:30.
- There had been a few incidents on the road generally including fights.

In response to a question from the Sub-Committee, Ms Barrett stated that there have been complaints regarding the business operated by the applicant regarding noise nuisance, loud music and noise from patrons. There had also been complaints about the premises operating beyond its permitted hours.

In response to further questions, Mr Ertas and Mr Essumbu informed the Sub-Committee that:

- The applicant wanted to ensure that the licence was granted before carrying out any renovations at the premises. In the case of the licence not being granted, it may be the case that the nature of the business would have to change.

- If the licence was granted, it would take two months for the premises to open so that the premises could be properly prepared.
- The tables would be located inside the premises. There would be no patrons sitting outside.
- The applicant would not operate the premises in the same way he operated his existing business. The premises would have patrons simply eating and drinking. No music would be played.
- The applicant was not applying for the playing of live music and it would be unfair to use the rules of deregulated hours against him.
- The premises generally was not big enough for people to go outside and smoke. If people wanted to smoke, they would have to go onto the main road.
- The applicant would not allow noise to reach the residential areas upstairs and soundproofing would be in place so the residents were not disturbed.
- Security personnel would be in place. The applicant wished to operate the premises professionally and wanted to be able to protect the residents from any noise nuisance.
- There would be mitigation put in place to ensure that noise nuisance did not occur. The premises would employ staff and so there would be a number of staff in place to observe any potential nuisance. Signs would be put up ensuring that patrons were aware that residents lived close by and that they needed to leave the premises quietly. Staff would also interact with patrons to let them know that there were residents in the area and that they needed to leave quietly.
- The applicant had worked with Licensing, Police and Noise Officers in the past to ensure that noise nuisance would not take place and this demonstrated a positive attitude towards working with responsible authorities.

### **Presentation by interested parties**

Mr Amir Darvish, Noise Officer, informed the Sub-Committee that:

- He rejected the application for a premises licence operating until 02:00. This was based on the layout of the premises as it was so close to residential homes.
- There had been public nuisance resulting from the existing business that the applicant operated.
- The construction of the premises had not yet been completed.
- The music and noise was likely to travel towards residential units.
- The applicant had not explained how he would mitigate noise nuisance.
- He stood by the representation he made.
- It was important to bear in mind the residents that lived in the area.
- It was important to have a balance between the premises operating its business and the residents' right to have peace and quiet in their homes.

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

- He was happy to communicate with the applicant regarding the requirements that would need to be put in place to mitigate noise nuisance.

The applicant was recalled to address matters arising. In response to further questions, Mr Ertas and Mr Essumbu informed the Sub-Committee that:

- The proposals for soundproofing had been put in place as a result of the planning application that had been submitted and the Planning department had requested soundproofing.
- The applicant wished to run a professional business and wished to be able to meet with responsible authorities to ensure that there was minimal risk of noise nuisance.
- There would not be any music played at the premises.

To summarise, Miss Barrett stated that the licensing objectives needed to be upheld and promoted including prevention of public nuisance.

To summarise, Mr Darvish stated that the panel needed to bear in mind the layout of the premises and the close proximity of residents nearby and how they may be affected if the licence was granted.

To summarise, Mr Essumbu and Mr Ertas stated that the premises was not a particularly large premises and the applicant was simply trying his best to run the business. The applicant was prepared to do everything in his means to address residents' concerns including installing soundproofing. Once the licence was granted, there would be no recorded or live music being played. The premises would simply serve food and drink. The applicant would ensure that residents' needs would continue to be met. The applicant had done community and charity work and was aware of the challenges in the area. He understood the concerns from the responsible authorities. Not granting the licence would have a negative effect in the area as an unoccupied premises would likely to lead to more nuisance and crime.

At 8:13pm, the Sub-Committee withdrew from the room to consider the application.

## **RESOLVED**

The Licensing Sub Committee carefully considered the application for a new premises licence at Mississippi Lounge, 114 West Green Road, London, N15. 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 applicants and objectors written and oral representations.

Having considered the application and heard from all the parties, the Committee decided to **REFUSE** the application.

## REASONS

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

The Committee had very serious reservations about the ability or preparedness of the Applicant to be able to combat the potential anti-social behaviour or noise nuisance that will arise from the premises if the application was granted.

The Committee felt that the Applicant had not taken seriously or with sufficient concern the objections raised by residents as detailed in the representations received. Objections had been raised by Residents reporting public urination, night time violence, abusive behaviour, shouting and large gatherings near the bars in the area and noise late into night at premises across the road run by the Applicant. The Police also reported anti-social behaviour and street drinking. The Noise & Nuisance officer reported the receipt of numerous complaints of noise and ASB at another premises run by the Applicant across the road. The Applicant stated that he ran another premises across the road which had not received complaints. This was disputed.

The Applicant's response by way of his e-mails to the Licensing Officer was initially dismissive of those concerns informing the LO that the ASB was not within his control and such matters can be reported to the relevant authorities. The Committee did note that during the hearing the Applicant acknowledged there would be potential ASB if the license was granted and did seek to allay residents' concerns, however, no concrete plans or suggestions were made as to how that could be achieved. There was no attempt to engage with Residents' concerns.

The Committee further noted that although the Applicant acknowledged the potential of noise nuisance from later opening hours and the Committee noted that the Applicant stated they would not be playing music (although it would be automatic if the License was granted), the Applicant himself made no proposals to combat that noise nuisance. It was noted the Committee made recommendations such as obtaining a sound acoustic report, implementing any recommendations and installing sound proofing into the Premises and the Applicant agreed to such proposals. However, it was very evident that that was not forthcoming from the Applicant himself either in the Application proposal or in the meeting, but rather only reluctantly agreeing to it.

It was further noted, by the Applicant himself that sound insulation had been installed in his other Premises across the street but that had not stopped the anti- social behaviour. Most significantly the Committee noted that the Premises were not even in a state ready to be granted a Licence. It was noted there is a pending planning application.

Where it was suggested that the conditions proposed by the Police be accepted- the Applicant again dismissed that suggestion. The Committee again felt this was evidence of the Applicants lack of concern for objections from residents, the Police and noise nuisance officer.

When the Applicant was questioned about the need for SIA's or number of smokers, the responses were vague and simply a reiteration of the Applicants position that if he had to appoint an SIA he would do so- it was not a part of his initial application. The Applicant stated there were no planned smoking facilities, which was particularly unsatisfactory as this was not credible especially where there is a licensed premises selling alcohol with later opening hours. The Committee again felt there was a lack of planning and forethought in the application.

The Committee also noted that the Applicant was late to the meeting, and throughout there were various technical issues relating to his and his Agent's IT connections. This was not a factor in the decision by itself but it was noted that this was as serious matter with a statutory hearing where serious objections had been raised. As such appropriate measures should have been taken to make proper representations. The Committee again felt this demonstrated that the Applicant did not take the objections or the process seriously and so had doubts about his ability to manage the premises in line with the licensing objectives.

The four primary objectives of the Licensing Act 2003 are the prevention of crime & disorder, public safety, prevention of public nuisance & protection of children from harm. The Committee felt that application in its current format would breach these objectives and even if it was granted there was significant risk of an increase in public nuisance and risk to public safety.

It was noted this is a dense area with residential homes. Having taken into consideration all the Objections as well as the Applicants and his Agents representation and in the round taking into all factors it was felt that it was not appropriate to grant this License.

The Committee seriously considered whether, in the event it were to grant the application, the licensing objectives could be met by way of imposition of further conditions. The Committee concluded, given the above factors it was unlikely that any further conditions would mitigate against the risk of harm to the licensing objectives which would result from the extension of operating hours.

The Committee considered granting reduced hours but for the reasons given above concluded that, given the sensitive location and complaints in which the premises is situated and given the risk of harm to licensing objectives, it was not appropriate to grant the license.

### **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 none.

CHAIR: Councillor Ajda Ovat

Signed by Chair .....

Date .....