

LICENSING HEARING SUB COMMITTEE 30TH JANUARY 2023

26th January 2023

District 22
83 Mayes Road
Wood Green
London
N22 6UP

EXECUTIVE SUMMARY

Summary of application

Permitted Hours

- 1) To extend the permitted hours for the sale of alcohol by retail to commence from 11:00 hours each day.
- 2) To remove the following condition:

Conditions on the area at the back of the premises:
The back shisha area to be closed at 22:30 each day.
- 3) To be replaced with:

The back shisha area to be closed at midnight Sunday to Thursday; and on the Friday and Saturday trading session until 00:30 hours the following day.

Background

The premises was formerly known as the Duke of Edinburgh PH an was originally built at least by 1919 and was licensed under the Licensing Act 1964. This licence then transferred over to the new licensing regime under the Licensing Act 2003. At some stage an application to vary the premises licence and much later operating hours were granted.

In December 2016 the premises licence was taken to review and the committee's decision was to severely curtail the times that the licensable activities were permitted. My understanding was that the owners at the time were operating until the early hours in the morning and the management team were ineffective in running the premises.

The review bundle provides evidence of copious warning letters sent to the owners regarding crime and disorder, anti-social behaviour and noise complaints. The owners and management appear to have ignored the warnings.

Since 2017 the business has had numerous owners and the Licensing Officer has informed me that the premises licence had lapsed for a period of two years.

My Client's, District 22 Ltd purchased the leasehold interests in mid 2022, and applied for the grant of a new premises licence for the sale of alcohol by retail.

The matter was contested and came before the Licensing Sub-Committee in September 2022 where the members decided to impose the curfew of 22:30 hours in the rear garden area, which is now the subject of this application to vary the premises licence.

The decision by the Licensing Sub-Committee is now under appeal at the Magistrates Court.

Appeal to the Magistrates Court-Grounds

1) The imposition of an onerous condition in respect of the closure of the area located at the rear of the premises identified as the Shisha area at 22:30 hours each day.

2) That the Chair of the Licensing Committee failed to adhere to the procedures as advised previously to us by the Council's Principal Committee Co-Ordinator by imposing a five-minute time limit on presenting the facts of the case, and then revised the limit to ten minutes.

The appeal is based on the following points:

- The time limit denied my advocate adequate time to present our case comprehensively and to address, clarify and challenge any concerns that Committee may have had.
- That both the Police and the Noise Team whom had submitted representations were not present at the meeting and therefore their observations could not be challenged.
- That the Licensing Committee (LC) placed too much weight on the representations from local residents who complained about the potential of a noise nuisance.
- That the LC failed to take into account the report from the noise team confirming that there was little or no evidence in respect of noise nuisance when visiting the premises.
- That the LC gave too much weight to the fact that premises had been taken to review six years ago when under the control of a different owner and trading under the name of the Duke of Edinburgh Public House.
- That the LC failed to take account of the Licensing Act 2003 S182 of the guidance under 10.10 in respect of proportionality when imposing a requirement that the rear area be clear of all patrons by 22:30 hours and the financial damage it does to the operation of the business.

District 22-Style of Operation

The business operates as a modern public house with a stylish restaurant and bar with table service and vertical drinking at the main bar. The music played is of a chill out vibe and background in volume. There is no dance floor.

The beer garden area to the rear of the premises is essentially a very well decorated garden area with subtle internal lighting. There is a retractable roof that allows a cigarette smoking area to be accommodated. In adverse weather conditions the roof is fully enclosed.

There is a comprehensive menu that has traditional South Balkan fayre including lamb kebabs, skewered meats and salads throughout the day, with daily specials provided by the kitchen team.

There are a number of small music speakers that have a direction towards the floor and away from adjacent properties.

Planning Permission

E cigarettes and E Shisha fall outside of the Health Act 2006 regulations and therefore no planning consent is required to use the beer garden.

Representations

It is worthy to note that there are no representations from the Responsible Authorities. There are four representations from residents. Two residents live on the other far side of the busy Mayes Road and the other two dwell in Coburg Road. Mr Barnes representation in particular are numerous, historic and not substantiated by the noise team. He has not provided actual evidence of a noise nuisance caused by the use of the rear beer garden area.

Temporary Notices

As stated in the hearing bundle, Mr Jashari, the DPS, has made use of seven Temporary Event Notices since the premises licence was granted to open to the same times as applied for in the Variation without any incidents occurring.

In Conclusion

We would ask the members of the committee to take into account the evidence when making their decision. The responsible authorities have not made representations. The residents have expressed concerns about the potential of anti-social behaviour that might occur. The main building is already licensed to the times applied for in the evenings.

A condition of the current licence is that there is a noise management plan in place. The management take hourly readings and place on record on a Friday and Saturday at the appointed noise sensitive residents premise with acceptable levels of noise given the background levels.

Of course we recognise that granting the licence as applied for would mean overturning a decision made by your peers only a few months ago. However this is now subject to appeal based on the grounds outlined in this document.

Bill Donne

Licensing Consultant



