

# **MINUTES OF THE LICENSING SUB COMMITTEE HELD ON THURSDAY, 19 JANUARY 2023, 7:00PM – 9:40PM**

**PRESENT:** Councillors Sheila Peacock, Ajda Ovat (Chair) and Barbara Blake

**ALSO ATTENDING:** Councillor Zena Brabazon

## **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 VARIATION OF AN EXISTING PREMISES LICENCE AT RAKKAS, 365-369 GREEN LANES, LONDON N4 (HARRINAY)**

### **Presentation by the Licensing Officer**

The Licensing Officer informed the Sub-Committee that:

- This was an application to vary the existing premises licence to allow for late night refreshment Sunday to Thursday 23:00 to 23:30 and Friday to Saturday 23:00 to 00:00 (and until 01:00 on New Year's Eve).
- The sale of alcohol would be Sunday to Thursday 11:00 to 23:30 and on 11:00 to 00:00 on Friday and Saturday.
- The hours open to the public would be Sunday to Wednesday 06:00 to 23:30, Thursday 06:00 to 00:00 and Friday to Saturday 08:00 to 00:00.
- There were also changes being made to the layout, in particular, the bar area near to the lounge.

- The application had also requested for the condition listed on 1.3 of the report stating that all outside areas must be closed and cleared of customers by 21:00 and be replaced with a condition stating that “all outside areas must be closed and cleared of customers by 23:30 hours. Adequate notices shall be displayed to inform patrons of this requirement. The premises licence holder shall take appropriate measures to ensure that patrons using any outside areas do so in a quiet and orderly fashion”.
- Representations had been received residents and responsible authorities.
- The application had a list of other businesses which the applicant had stated was in support of the application.
- A previous application for the premises had been considered by the Sub-Committee on 27 July 2021.

In response to questions, the Licensing Officer informed the Sub-Committee that:

- Page 3, section 2.3 of the officer’s report on the additional agenda papers was an error.
- The outside areas and the external areas were considered by Licensing to be the same thing. The shisha area needed to be an open (not an enclosed area) by at least 50%.
- Licensing did try to intervene at times whenever there was a non-compliance of conditions. If non-compliance continued, then the matter would be escalated.

### **Presentation by the applicant**

Mr Duncan Craig, representing the applicant and Mr Garip Toprak, applicant, informed the Sub-Committee that:

- The application did not touch upon regulated entertainment and was not proposing to operate as a nightclub. This was obvious from the hours applied for.
- Supporting documents also demonstrated that the premises would operate as a food-led business.
- The premises would offer a full table service and employ around 53 members of staff. The premises was not a vertical drinking establishment and was a restaurant. The Sub-Committee should treat it accordingly.
- The most recent licence was granted in 2021 and the applicant accepted that there had been occasions where it had been difficult to comply with conditions relating to the rear area of the premises as the terminal hour of 21:00 for the use of the area was seen as too restrictive.
- Officers had advised that a variation application could be made.

- The guidance was clear that conditions of a licence must be appropriate and be capable of being met and that unwarranted or disproportionate conditions should not be imposed.
- Making a decision on an application was a balancing exercise between the licence holder, the premises and the interests of the community.
- There were many people who lived close to the premises who said they did not have any issues with public nuisance and this had not been made clear enough to the Sub-Committee.
- In relation to the survey produced, many people would sign a survey if handed one and the survey that was carried out did not necessarily take into consideration the licensing objectives.
- An enforcement letter had been received by the applicant from the Planning Authority and had been appealed against. The applicant was hoping to engage positively with Planning Authority.
- The parking situation in the area was not straightforward, partly due to the shopping centre which put a two-hour time limit on parked cars, causing people to park erratically.
- Many patrons to the premises did not drive to the premises in any case, parking or patrons driving in was not a large part of the business model.
- There appeared to be other licensed premises in the area that operated until 01:30.
- The applicant was requesting that the hours be extended to 00:00 on weekends and to 23:30 during the week. This way, the condition relating to the outside area would be more achievable for the premises.
- On page 8 of the additional agenda papers, there were licensed premises listed that closed at various hours. One closed at 02:00, one closed at 01:45 and three that closed at 01:30.
- The Sub-Committee needed to arrive at a fair and balanced decision.
- The wording of the condition relating to the outside area was vague.
- The area was a lively part of North London.
- If the condition of was to be worded more clearly, then the Sub-Committee would be right to do so.
- The hearing was a variation application not a review application.
- The applicant wanted to have a good relationship with the community.
- The applicant had stated he was in discussion with Sainsbury's to work out a deal for patrons to be able to park their cars.

In response to questions, Mr Craig and Mr Toprak informed the Sub-Committee that:

- There was no audio on the television screens in the premises.
- Shisha was not a licensable activity.
- There were three premises in the area that had facilities for shisha.
- The busy trading period was between 19:00 – 22:00.
- When officers visited the premises, they were stopped by premises security. The applicant spoke to them and once the officers identified that they were from the Council, the applicant let them into the premises. An individual had tried to run into the premises wearing a face-mask. The individual later had identified himself as a Council officer.
- Security were present for age verification purposes and ensured that the premises operated to promote the licensing objectives.
- It would not be fair to characterise one visit to the premises by officers to how officers were received by the staff when they visited generally.
- There had been reported noise apparently occurring from loud music, shouting, banging and fireworks. However, the applicant did not use fireworks.
- There was no nuisance emanating from the premises.
- There were a number of other licensed premises in the area and further analysis needed to take place, but an assumption could not be made about the premises simply on the occurrences of sound reported and not properly verified.
- In relation to the opening times, the Sub-Committee was invited to extend the opening hours by half an hour as drinking-up-time was technically not a licensable activity.
- The refuse collection had a contract to collect waste five times a week.
- The supporters of the premises lived close by to the premises whereas the objectors the premises lived further away from the premises.
- Many of the issues reported had occurred before the premises had opened. It may be the case that some of the issues had occurred under previous management and possibly related to other premises in the area.
- Phone numbers had been given to residents and the issues raised by objectors appeared to relate to a pub in the corner of the area before the applicant had opened the premises.
- The applicant had recently taken over the premises in July 2021.
- There had been times that the waste collector had not collected the waste at the premises and had reported that they had been restricted by people parking in front of the bins.
- The outside of the premises was monitored by the premises security. He had consulted residents If it was ok for security to be placed on Lothair Road and residents were happy and accepted.
- There had been complaints received (as outline between pages 80-83 of the agenda papers) but not verified.

- The applicant had 36 CCTV cameras, but at the time a request was made for footage, he was unable to access it as he was unable to submit the correct password. The applicant requested for technical support, but an engineer was sent a month later. The emails relating to the issue had been submitted to the Council. The cameras recorded activity 24 hours a day.
- The applicant had explained to officers that it was difficult to comply with some conditions as it was difficult to move people out of the rear area by 21:00 and it was on that basis that officers had been informed that a variation application could be applied for.
- The applicant would understand what their requirements were in the coming future and the purpose of the application was to allow the applicant a clear and fair opportunity to allow the matter to be cleared.
- The conditions imposed on the premises in July 2021 had conditions that were difficult for the applicant to comply with, but if the application was granted it would be difficult for the applicant to say that they did not understand or were unable to comply with the conditions.

### **Presentation by interested parties**

Councillor Zena Brabazon informed the Sub-Committee that:

- She had been a councillor in Harringay ward for six and a half years.
- She had attended many licensing hearings because Green Lanes had restaurants and gaming establishments in the area.
- She had never seen so many objections to a licensing application and this was only for variation application.
- When the application was first submitted, given the history of the premises, the issue of noise and the issue relating to the mezzanine area was central to concerns regarding the application.
- At the advent of the previous hearing, she had been contacted by residents regarding the noise and she encouraged them to call the Noise team to make sure any complaints were logged.
- Much effort had been made to resolve the situation at the premises but would appear to have been unsuccessful.
- The applicant could not simply pick and choose which conditions to comply with.
- The applicant was well aware of the issues around noise as they had been raised in 2021 and it was not acceptable that the residents were subject to noise, light pollution, not be able to use their gardens or enjoy their own their own backyards effectively.
- The design and the location should have been thought about more carefully before being built.

- The noise nuisance had been compounded by cars, slamming doors, raised voices and anti-social behaviour.
- There were many emails written to the Noise team regarding noise being heard at 01:00 in the morning.
- There was a concern that the premises overlooked the homes of people and given the history of the premises, the failure to comply with conditions, endless effort by the enforcement officers, meetings held with the enforcement officers, she would ask that the application be refused because there was no evidence that the applicant had complied with either the original licensing conditions or the efforts by the Council in the last several months to get the applicant to comply with the conditions. This had caused great upset to the residents in the area who were entitled to have a peaceful life.

Ms Jennifer Barrett and Mr Festus Akinboyewa, Noise and Nuisance Officers, informed the Sub-Committee that:

- Part of their duties included investigating, noise nuisance and licensing offences.
- They objected to the application.
- The number of times the premises needed to be investigated due to complaints from local residents was high. The premises continued to breach the conditions of the existing licence.
- If the application was granted, noise issues and public nuisance would increase.
- The Council had received around 21 complaints within ten months.
- Every time the premises had been visited, public nuisance issues had been raised.
- The existing licence has a condition that the external area should not be used after 21:00, but the licence holder continued to use the external area even when warnings had been issued and emails had been sent.
- The premises continued to breach the conditions of the licence, so if the application was granted, the problems would increase.
- The applicant had mentioned other licensed premises in the area, but many of the premises had never been subject to complaints.
- Many of the other licensed premises were purely restaurants and did not offer shisha.
- If a premises needed to be visited on a regular basis, it would appear that something needed to be done about it.
- The security at the door always tried to prevent officers from entering the premises whenever a visitation was made.
- Whenever officers attended any premises, officers displayed their badge and would explain the reason why they were visiting. This would usually be enough for the security staff to know that officers were visiting in order to do their jobs.

- Premises staff appeared to attempt to resist enforcement officers from doing their work.
- A request had been made for CCTV footage, but this had never been submitted.
- A large number of complaints had been received from local residents and a large number of visitations have been made. Officers had witnessed shisha smoking in an enclosed area.
- The application had the potential for the public nuisance to increase and for the Council to continue to receive noise nuisance complaints.
- The applicant was having difficulty being able to comply with the existing conditions on the licence and therefore there was little confidence that the applicant would be able to comply with the new conditions of the licence.
- Officers visited the premises for a meeting and took the time to explain the conditions of their premises licence to the applicant.
- Other premises in the area were generally meeting the conditions of their licence.
- They objected to the application being granted.

Mr Andy Cheatle, resident, informed the Sub-Committee that:

- He was a long-term resident of the area.
- It was the residents who were suffering the consequences of the issues at the premises.
- The scale of the premises made matters worse.
- The business was now many times bigger than its predecessor and this increase in size amplified the harms being experienced by residents.
- The rear of the premises stretched across four units at the back and included a mezzanine floor.
- The plans provided seating for about 100 people at the rear of the building and another 100 at the front of the building.
- Noise generated in the area had to go somewhere.
- The noise went outside because there was no sufficient sound proofing at the premises.
- The windows were usually open, especially during the warmer months and therefore the noise cascaded down the road.
- One of the things that came across from the application was that there was nothing in it which actually addressed any of the points raised by residents.

- The activities from the rear of the premises probably contributed to the noise, but there was also noise from the back of the premises and noise from customers arriving returning to their cars in local roads. It was clear that they were patrons of the premises as they had been asked and were followed down the road.
- At weekends, during the course of the day, some people went to the Sainsbury's in the area or played softball, but the vast majority of people who were there and parking were visiting the premises.
- Smoke and cooking odours from the restaurants and chimneys was still a problem.
- Empty bottles were left nearby and litter would be left overnight on the on the fences, gardens and other places.
- In terms of parking, on the frequently asked questions part of the business' website, it stated that parking in local roads was free after 18:00 and that alternative parking was available at parking at the shopping centre.
- The parking area was small and therefore people were double parking, parking in front of drives and blocking and damaging other cars.
- The premises had a two-hour table policy. Patrons need to be on time and therefore patrons would get there early and preoccupied the area. This could be quite intimidating for other people and residents who often crossed the streets to avoid them.
- Car crime, muggings and burglaries in the area had all increased since March 2022.
- Drug dealing and use of nitrous oxide canisters occurred in the local roads.
- When the cars were taken out of the parking area, they would accelerate down local roads to higher than average speeds.
- The commercial waste bins had been present in the area for a long time, but in mid-December 2022, they had been brought back inside where they belonged.
- None of the conditions relating to patrons clearing the rear area by 21:00, no noise emanating from the premises, fumes causing a nuisance and lighting at the rear of the premises had been followed.
- Lighting and the use of the rear of the premises had carried on beyond 23:00, including until 02:00 and 03:00.
- The premises was much more than a restaurant. The business' own website referred to it as a restaurant and lounge with 'show-stopping' cocktails with shisha, and live entertainment, as well as food. The image of the premises projected itself more as a nightclub.
- The premises was generally bigger than other restaurants in the area and this changed the atmosphere in the local area for the worse.
- The rear of the premises had open windows which were close to homes in the area.
- It was not clear what the relationship was between the premises and one of the homes in the area. The applicant had explained to him that he used it as an office and for staff use.



- An extension for the use of the rear of the premises by two to three hours would exacerbate the harm which was already being experienced by local residents.
- Granting the licence could be seen as the Sub-Committee condoning the unlawful practices of the premises.
- The Sub-Committee should refuse the application and retain and enforce the existing licence conditions.

In response to questions, Ms Jennifer Barrett and Mr Ankinboyemwa informed the Sub-Committee that:

- No measurements of noise at the premises had been taken. The assessment of noise was considered to be subjective and based on what residents would be able to tolerate.
- The premises had a lot of patrons and this would generate noise.
- The outside area was generally open.
- A sound limiter would only be impactful if there was the opportunity to completely enclose the external area or sound was limited in the external area.
- No complaint had been received regarding the premises after 23:30.

In response to questions, Councillor Brabazon, Mr Andy Cheatle, Ms Nicola Pollock, Mr Joel Hanley, Mr Laurence Honderick, Mr Ian Sygrave and Ms Deborah Potts, residents, informed the Sub-Committee that:

- Noise could be heard from the premises even when all the windows and doors were closed.
- Music could be heard in the background, noise of cars and patrons congregating could also be observed.
- The noise from the premises was extremely loud.
- Noise could be heard from patrons up to 23:00, particularly during the summertime.
- The sound occurred from people, live music, amplified music. There had been people whooping and cheering.
- A lot of noise could be heard from the garden side of the road.
- The noise emanated from the premises.
- There had been occasions where noise had come from another licensed premises, but this was at a much lower rate.
- Mr Cheatle had spoken to the management at the premises on several different occasions, before raising the issue with the Council.

- Councillor Brabazon had not visited the premises but had written on behalf of residents to the Noise team.
- Page 52 of the agenda papers listed discussions that were held with the manager at the premises in March, May and July 2022.

In response to a question, Mr Toprak stated that Mr Cheattle had visited the premises and reported a car parked in front of his home and thought that it was a patron had left it there. There was no clear evidence that the car had been left by a resident.

To summarise, Councillor Brabazon stated that residents had spoken about their experience and had recorded their experiences in considerable detail. The response from the applicant had been poor and the use of the rear area had exceeded the terminal hour of 21:00 far later into the night.

To summarise, Ms Jennifer Barrett and Mr Akinboyewa felt the application should be refused due to the potential of rise in public nuisance as it was not clear how the applicant would be able to manage the conditions if the application was granted.

To summarise, Mr Cheattle stated that there was nothing in the proposal from the applicant which addressed any of the harms and issues which had arisen at the premises. The variation would only exacerbate existing problems. The application should be refused.

To summarise, Mr Craig stated that he wanted the applicant to be treated reasonably. The applicant simply wanted a licence that reflected the area in which the premises was situated and a set of conditions that was proportionate and capable of being met and still promote the licensing objectives. There were a number of local residents who had expressed positive views of the premises and would contradict some of the comments that have been made. However, the applicant wanted a good relationship with the local community and wanted to operate a licence that did not set up the business to fail or be restricted in a disproportionate way. He would ask the Sub-Committee to consider the application in two parts. First of the extension of the hours in general terms, for licensable activities and secondly in respect of the condition to the rear of the premises. He would invite the Sub-Committee to grant both parts of the application accordingly.

At 9:11pm, The Sub-Committee adjourned to consider the application.

## **RESOLVED**

The Licensing Sub Committee carefully considered the application for the variation of an existing premises licence at RAKKAS, 365-369 GREEN LANES, LONDON, N4 (HARRINGEY). 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 and additional papers, 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 made by the applicant & their representative, and to the concerns raised by the objectors both of which were made in writing and orally.

It was very apparent to the Committee that for an application for a variation of an existing License there was an unusually large number of objections from local residents in the immediate vicinity of the premises. As a result, separately a review of the License had already been instituted and is pending. Complaints and objections were received from residents many of whom attended the hearing, the noise enforcement team, local Councillors and the Licensing Authority who had also objected to the application.

In considering the licensing objective of preventing public nuisance, it was found that since the License was granted there had been, and continues to be severe issues around noise nuisance, primarily coming from the Shisha area at the rear of the premises. The application had sought an increase in the hours for the supply of alcohol by one hour and opening hours by approximately an additional 30 minutes. However considering that even under its current hours and licensing conditions the premises owners could not control the noise nuisance, it was not thought credible that the owners could control the public nuisance with longer hours.

Evidence of the noise nuisance was given by the objectors, as well as impeccable records of the noise nuisance and disturbances which were evidenced at pages 52-54 and throughout the pack of papers. The Noise enforcement team officer noted that there had been 21 complaints within 10 months all related to the outside Shisha area. Furthermore, the premises owners had been obstructive when officers had attended to investigate on numerous occasions. The Committee took into account the explanation given by the Applicant for delay on such visits or refusing access, but did not find the explanations credible.

The Committee noted that the noise complained of consisted, loud voices, shouting, whooping, which could be heard many up to 100 yards away by neighbours on either side. It had been particularly bad during the summer when people's windows were open and noise carried. Of particular concern was that although the current License allowed for the outside area to be used up to 9pm, the noise complaints occurred both prior to and after these hours sometimes until the early hours of the morning.

It was also worrying that the planning regulations were being breached in the use of the Shisha area which is supposed to be 50% open, but is enclosed. It is noted the planning regime is separate, but it nevertheless showed a further disregard for the rules, which was having significant impact on one of the licensing objectives. The Committee took note of the explanation given by the Applicant about the misunderstanding and apparent confusion about the term "outside area" "external area" or "rear of the premises" as an explanation for why the shisha area was being used in the way it was. The Committee recognised that the Applicant did make a valid point about the clarity of the terms, but overall felt that the Applicant was in reality aware of the conditions meant, and had that been an issue the applicant could have appealed the original licensing decision when it was first granted.

The Committee noted there was a pattern of obstructive behaviour from the Applicant for example, denying access to noise enforcement officers or not providing CCTV footage when requested to do so. There was furthermore, no attempt to address the residents' concerns about the noise nuisance in the application- no plans or proposal put forward.

The Committee did take into account and balanced the information from the Applicant with other information. It was noted some written evidence of support for the application was

provided, but none had attended the hearing due to not having met the deadline requirement to speak at the hearing, to give verbal support. The Committee also noted there were complaints about rubbish and parking issues. On balance, the Committee accepted the applicant's submission that it could not be proven that those issues arose solely as a result of the activities at Rakkas.

The Committee noted the applicant's submission that Green Lanes was a busy area and other premises had later licenses. However, as is clear each license application has to be treated on its own merits and the vast majority of complaints related to Rakkas.

However, taking all the information in the round, 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 further noted that to grant the application in the face of what appeared to be overwhelming evidence of breaches of the existing licence condition, in connection with the licensing objective of preventing a public nuisance would have been to condone and reward rule breaking.

The Committee considered granting the application with more stringent conditions, but for the reasons given above concluded that the Applicant was unlikely to keep to such conditions.

### **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 no items.

CHAIR: Cllr Ajda Ovat

Signed by Chair .....

Date .....