

# **MINUTES OF THE LICENSING SUB COMMITTEE HELD ON MONDAY, 30TH JANUARY 2023, 7:00PM – 9:40PM**

**PRESENT:** Councillors Barbara Blake, Lester Buxton and Ajda Ovat (Chair)

**ALSO ATTENDING:** Councillors Dana Carlin and Adam Jogee

## **1. FILMING AT MEETINGS**

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

## **2. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

## **3. URGENT BUSINESS**

There was no urgent business.

## **4. DECLARATIONS OF INTEREST**

None were declared.

## **5. SUMMARY OF PROCEDURE**

The Chair provided a summary of the procedure for the meeting.

## **6. APPLICATION FOR A VARIATION OF A 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:

- This was a variation application seeking to extend the permitted hours for the sale of alcohol from 11:00 to 23:30 Sunday to Thursday and 11:00 to 00:00 Friday and Saturday.
- The applicant had also applied to remove a condition regarding the rear area which had to be closed 22:30 each day. This would be replaced by a condition that stated that the rear area would be closed at 00:00 Sunday to Thursday and at 00:30 on Friday and Saturday.
- Representations had been received from residents and there were no representations from responsible authorities.
- The premises had held temporary events and these were outlined in the report.

- The application had a noise management plan before a hearing for a temporary event notice and some of the wording related more closely to temporary events.
- There were no decibel noise levels specified in the plan.
- The plan stated that it will have DPS noise levels, but they had been no decibel noise levels specified.

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

- The applicant had given seven temporary event notices (TENs), one had originally been objected to but the objection was rescinded following mediation with the applicant's representative.
- Residents were usually notified by writing to inform them about a variation application.

### **Presentation by the applicant**

Mr Bill Donne, representing the applicants, informed the Sub-Committee that:

- There had been an oversight on the previous application that had been granted and the sale of alcohol should commence at 11:00. The current licence allowed for the sale of alcohol to begin at 16:00 each day.
- The intention of the application was so that the premises could open at lunchtimes to sell food, so the applicant would ask that the sale of alcohol be changed to start 11:00 each day. This would fall in line with previous premises licence conditions that had been subject to previous ownership over the years.
- The applicant also wished to remove the conditions limiting the rear of the premises area which currently requested all patrons to leave by 22:30 and to be replaced to state that the rear area should be cleared by 00:00 Sunday through to Thursday and by 00:30 on Friday and Saturday.
- The premises had traded as public house in the past and had a pub licence in the past from the previous 1964 act.
- The premises had been subject to a review application six years ago and additional conditions had been imposed since the review application.
- The premises had been subject to a Licensing Sub-Committee hearing approximately two months ago and the Sub-Committee decided to give weight to the representations and the previous history of the premises and to continue with the limits of the use of the rear area. However, the review application from the past evidenced a catalogue of events and incidents that related to the premises when it operated through to 03:00.
- The applicants had brought the business at a time when the premises had not been licensed for two years and this was because when the previous premises licence holder became insolvent, the licence had lapsed. There had been suspicion that the premises was running without a licence for two years. An investigation was ongoing regarding the issue.
- The applicants had invested a lot of money on acquiring the leasehold property and the premises would serve alcohol and food.
- The applicants had a beer garden which formed the rear area.
- It was unclear if the rear area had been licensed in the past.
- The most recent hearing regarding the premises had representations from Police and Licensing, representatives of which were not present at the meeting to be challenged regarding the allegations made against the premises. Many of the incidents had occurred before the applicant had taken control of the premises and this made it

- appear as if the applicants were irresponsible operators, when in fact, this was not the case. They had a young child to look after, had invested their savings into the business and had not been given enough time at the meeting to address the objections.
- It was understood that a complaint made in the past Saturday. Officers had parked outside the premises in response and did not hear any noise nuisance.
  - The applicants were tasked with creating a noise management plan. This had been submitted to Environmental Protection and it seemed like tacit approval had been given to it.
  - Part of the noise plan was that there were recordings taken in the four key sensitive areas.
  - Mayes Road was a busy road.
  - Every week, the door supervisor was on duty on Friday and Saturday, sound recordings were taken on a machine via an app. Recordings were made every hour in accordance with the noise management plan and the average reading was between 58-61 decibels. 60 decibels was generally the rate of normal speech.
  - Noise nuisance was dependant on the background noise and the area was quite busy and had background ambient.
  - The applicant was actively keeping in accordance with the noise management plan, monitoring the key sensitive areas weekly with records on file. The loudest areas were immediately outside the front door and this reached 62-64 decibels.
  - The applicant was not creating noise nuisance in the nearest noise sensitive areas occupied by residents.
  - The premises was not authorised to play live or recorded music and could only play background music. Although, under the Live Music Act, the applicant could play music until 23:00.
  - A shisha lounge needed planning consent. However, the application that had been submitted for a shisha lounge did not have anything to do with the applicant and related to a previous applicant. The application had been refused.
  - The premises operated as a public house and served alcohol and food and to comply with the no smoking regulations, the business had moved to electronic cigarettes and electronic shisha and was lawful practice indoors.
  - The premises had a menu based around Balkan foods, particularly kebabs.
  - Although residents had a right to enjoy their life in their property, the applicant also had a right to run a business and be given the opportunity to run a business. This was why the extension of the hours was necessary. The premises closing at 22:30 with last orders being taken at 21:30 was very early.
  - There was no evidence to say that the applicant was causing any nuisance.
  - None of the complaints from the previous hearing were justified. There had also been one over the past weekend where a complaint had been made, but had not been validated.
  - The applicant deserved a chance to be able to trade to the hours applied for and move the business forward.

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

- The premises had held seven temporary events without any issues. The rear area was closed at 00:00.

- The applicant was required to submit a noise risk assessment which had been done. Noise management plans were still working documents.
- The noise impact assessment would be revisited based on whatever licence may be granted by the Sub-Committee.
- The noise impact assessment had been submitted weeks ago and a response had not yet been provided. Relevant officers had been consulted and the assessment appeared to be acceptable to officers so some tacit approval had been given. Documents such as event management plans and other such documents were usually subject to review where improvements or deviations needed to be made.
- Considerations of the area including individual resident addresses had been taken into consideration and monitoring had been done by the applicant with residents having been consulted personally.
- There was a retractable roof to facilitate the smoking area. This was in the application and was subject to revision in view of enhancement. Officers had visited in the past weekend to monitor the premises with the roof open and no noise nuisance could be heard.
- As part of the noise management plan, the speakers had been adjusted away from a particularly sensitive area so that sound would be directed away from any possibility of crossing the road.
- In order to make noise recordings, the applicant had a sound recording meter and an app on the phone. The equipment also had GPS in addition to be able to monitor the noise levels.
- It was possible for an individual to stand at the bar at the front and order drinks. The rear area was subject to table service only and therefore was more manageable. Food was served there and therefore had a more restaurant-like atmosphere. It was possible to smoke in the area when the roof was open. The roofing at the premises was 8–9 feet high and there was roofing over the top and aperture for the smoking was over the far side.
- The property backed into an industrial area which was occupied by people, gymnasium and manufacturing companies.
- Page 23 of the agenda papers which listed the opening hours as 00:00 was an error and should read 08:00.
- The kitchen closed at 22:30 and last orders would be 15 minutes before.
- A meeting had been held with security staff on site regarding their objectives. The staff would work on-site at the premises.
- There were normally two members of security staff working with premises. There was normally one on the front door and one inside the premises.
- The applicant was not seeking to extend the hours later into the evening.

In response to a question, Ms Barrett informed the Sub-Committee that the application was seeking to commence the sale of alcohol from 11:00 each day. At present, the sale of alcohol commenced at 16:00 and the applicant was seeking to extend the sale of alcohol so that alcohol would be sold from 11:00 to 23:30 Sunday to Thursday and from 11:00 to 00:30 on Friday and Saturday. The premises would close to the public half an hour after the terminal hour of the sale of alcohol.

### **Presentation by interested parties**

Mr Bryan Barnes, resident, informed the Sub-Committee that:

- The applicant would be informed about the history of the premises.

- The rear area of the premises had been subject to issues in the past.
- On three occasions, he had complained about noise regarding the premises.
- He was able to hear noise and voices from customers. As he had not heard noise from the area in some time, it was possible that the roof was open.
- He had submitted a complaint on 28 December 2022, but was not aware of the temporary events held by the applicant.
- The noise level in the road nearby had decreased. This resulted in the noise activities from the premises being more audible.
- The road nearby was occupied by older people and was not an appropriate area for the premises.
- Cars could be heard revving and on one occasion six people took a long time to get into a car and made loud noises with the car before and during their departure.
- He would ask that the area where noise could be heard be resolved.
- His noise complaints coincided with when the applicant held temporary events.
- Fireworks had been let off on 24 December 2022 from the premises.

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

- On one occasion he had called the Police when an individual had threatened him in the last 12 months.
- Residents were able to hear the noise in the area.
- Whenever the applicant held a temporary event, the area was subject to noise problems, including the days leading up to the event.
- From October 2022, there had been a gradual increase in issues relating to the premises.
- Consistent sounds of music could be heard from the premises.
- There should be more respect to the older people who lived in the area.

At this point in the proceedings, Ms Barrett stated that it was not yet clear if a proper background noise assessment had been completed. Mr Donne stated that the applicant was simply monitoring the way in which noise could be reduced. Mayes Road and Coburg Road were busy roads there was an industrial estate directly behind the premises. The applicant would only trade until 00:00, not until 03:00 and this could have an effect on background ambient noise. A nightclub could reach noise levels up to 85 to 100 decibels, but 60 decibels was an ordinary level of noise.

Mr Sheikh Subrattee, resident, informed the Sub-Committee that:

- The rear area was an important area, but the applicant had not soundproofed the area.
- The soundproofing should be done on the inside because that was where the noise had been originating.
- He would not have complained if there was no noise.
- He had lived in the area for many years and other operators had occupied the premises, but had now left.

Mr Charlie Ward, resident, informed the Sub-Committee that:

- The Sub-Committee had heard a previous application at another hearing. This was held three months ago, it was long, detailed and fair and took into consideration the applicant's and residents views. A licence was subsequently granted with conditions.
- The application had been submitted over a month ago.
- There had been no time to evaluate how the premises had operated.
- The premises had only operated during the winter months which was typically a quiet period.
- The premises should be monitored over a longer period of time, particularly during the busier months of the year.
- Mayes Road during the day did have busy periods with Coburg Road and an industrial estate located close by. There was traffic, footfall and building work. However much of this would dissipate after 19:00 and the area would revert to a quiet residential area.
- The only extraneous noise after that time would come from the premises and would not be cancelled out by traffic.
- He lived directly opposite the premises.

In response to questions from Members, Mr Ward and Mr Subrattee informed the Sub-Committee that:

- Soundproofing was worthwhile investment and it did not appear that the applicant wished to spend money on installing it.

At this point in the proceedings, Ms Barrett clarified that the rear area would be used until 00:00 Sunday to Thursday and until 00:30 on Friday and Saturday.

In response to further questions, Mr Ward and Mr Subrattee informed the Sub-Committee that:

- The use of the rear area would have an adverse impact on the local community and the applicant was not a member of the local community.
- If the use of the area went on until 00:00, then it would take until 01:00 for patrons to leave the premises.
- Mr Ward stated he had not been given contact details to be able to contact the resident.

At this point in the proceedings, Ms Barrett clarified that residents had been provided with contact details. Mr Donne stated that he had been provided with contact details to residents and a contact number had been given to them.

In response to further questions, Mr Ward and Mr Subrattee informed the Sub-Committee that:

- Mr Subrattee had made ten complaints over the last three months. He spoke to the Nuisance and Nuisance team on ten occasions and had visited him on one occasion.
- Mr Ward was unable to hear any noise from the rear area where he lived.
- The premises had several owners in the past and there was a general reluctance to increase operating hours.

To summarise, Mr Subrattee stated that the applicant had been given leniency regarding their activities at the premises. He would continue complaining if things did not improve. The area had enough bars and restaurants and was not appropriate for such activities.

To summarise, Mr Donne stated that this was an application to vary the licence in two parts. Firstly, to grant the permission for the sale of alcohol to commence from 11:00 each day instead of the current commencement hour of 16:00. The second part of the application was the use of the rear area and the applicant had asked to extend the use of it by removing a condition concerning the use of it. The application was not an increase overall in hours. The premises would still run as it did under the current licence, but the applicant was requesting that the condition relating to the rear area be removed. There was no evidence or sound recordings as to why the application should be refused, just a catalogue of complaints which had not been validated. The most recent incident was on in the past Saturday, when officers turned up to the premises and heard no noise nuisance. Officers had spent 35 - 40 minutes on the premises. In relation to soundproofing, there had been a large amount of development at the premises. The photographs displayed solid walls on the outside of the premises. There area had decoration, soundproofing and the aperture relating to the smoking area was over the far side, away from the noise sensitive area of the premises. The applicant was committed to not causing a nuisance and had created a noise risk assessment. The applicant had taken regular recordings over the weekends when security was present at the premises and this showed an acceptable level of decibels. There were four residents that had submitted representations. One of the residents was a continuous complainer. The premises had previously traded as a nightclub until 03:00, but currently, the premises ran a different style of operation. It was a restaurant bar and a lounge bar. The applicant had invested in soundproofing and it would appear that it had been effective. Another resident, had reported that he had no cause for complaints and was not affected by the premises and was simply joining in objecting to the application. The premises had been a public house for over 100 years and had always been a licensed premises. He would ask the Sub-Committee to consider the evidence and that residents had not produced any evidence of existing problems. There had not been any correspondence from the Noise and Nuisance team to say that the premises was at risk of a noise abatement notice. The Police, Licensing, Environmental Protection and any of the other responsible authorities had not objected to the application. The premises had conducted seven temporary events matching the hours applied for and no issues had been raised. This was clear evidence that the premises was not causing a problem operating the business in the manner in which it did.

At 8:36pm, the Sub-Committee adjourned for a short recess. The Sub-Committee resumed at 8:41pm. The Sub-Committee later adjourned to consider the application at 9:09pm.

## **RESOLVED**

The Licensing Sub-Committee carefully considered the application for the variation of an existing premises licence at District 22, 83 Mayes Road, Wood Green, London, N22 6TN. 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:

1. REFUSE the application to remove the condition “Conditions on the area at the back of the premises: The back shisha area to be closed at 2230 each day”.

For the avoidance of doubt the application to extend the hours to midnight on Sunday to Thursday and 0030 Friday and Saturday for the back shisha area is refused.

2. GRANT the application to “To extend the permitted hours for the sale of alcohol by retail to commence from 1100 hours each day for consumption ON the premises”.

## **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 clear to the Committee that primary licensing objective being considered was that of the issue of the creation of, or an increase in Public Nuisance through noise nuisance created by the Premises.

The earlier opening hours being requested did not seem to create any strong objections. The main objections came in relation to the potential for noise nuisance late into the evening if the back Shisha area hours were extended.

The Committee did note the point made by the Applicant that no other responsible public body had raised objections and the complaints came from repeat local residents. However, the Committee did not accept that complaints should not be given weight because they were repeat complaints, as Local Authorities routinely advise people to raise complaints and issues where they arise.

The Committee found the objectors as credible witnesses who gave cogent evidence of the noise nuisance suffered by local residents. The documentary evidence listed complaints made, and even though noise officers did not attend on all occasion- complaints were nevertheless made. Complaints were made of loud music, loud talking and cars being revved in the area by the applicant’s clientele. As it is open air, the noise carried when there were large numbers of people in the shisha area.

As it is an open shisha area, which already created noise nuisance, increasing the hours to later at night past midnight and with the potential for another hour of dispersal time, noise disturbance could last until 1-2am in the morning. Furthermore, it was noted the last order for food would be 10.30 so the proposed increased hours would be purely for alcohol consumption and so the potential for nuisance behaviour could increase.

The Committee noted that the noise management plan submitted was not the most recent version, and that a further one had been supplied to the Licensing Authority. However, the Committee could not accept without expert evidence that noise levels were 60-61 decibels or even that those were acceptable levels of noise. There was no information to provide to substantiate that information and was not part of the noise management plan. It was noted the Applicant was taking steps by using its own monitors and apps- but again this was not independent information.

For the reasons given above this application is partly granted in respect of the earlier hours but refused in respect of the later hours at the back shisha area.



## **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. APPLICATION FOR A VARIATION OF A PREMISES LICENCE AT LOUNGE, 34 HIGH STREET, LONDON N8 (HORNSEY)**

At the start of the hearing, Ms Daliah Barrett, Licensing Team Leader, informed the Sub-Committee that the applicant wished to submit additional papers. Furthermore, a plan had been submitted with the application and it was a requirement of the under the Licensing regulation that the plan submitted should be reflective of the premises. Licensing had received some additional photographs from the applicant displaying work that had been carried out to the garden area of the premises, so a structure had been built in the garden area that was not displayed on the plan that was submitted for the application. Nothing was mentioned on the application about the area either, so as a result, none of the interested parties to the application were aware of the structure. The regulations had not been followed as the correct plan had not been submitted.

The Legal advisor to the meeting stated that the plan was displayed on page 148 of the agenda papers and was no longer reflective of the actual condition of the premises. In effect, the application had not been made correctly.

In response to a question, Mr Simms, representing the applicant, stated that the late submission of documents included a noise impact assessment and this had been received from a noise acoustic company on 27 January 2023 and had been signed by the company on that date. In relation to the some of the images of the premises, these had been computers generated CGI images of the premises would look. The architect had completed the drawings and had completed a 3D walk-through of how the premises would look in its final form. In relation to the structure at the rear of the premises, a meeting had been held with the Planning Authority and the applicant needed to submit a planning application. The back of the premises had a cover. The garden area had no cover or shelter and a shelter had been built. A minor variation could be submitted to include the shelter. A shelter had been built so that patrons did not get exposed to bad weather.

The Legal advisor stated that under Section 23 of the Licensing Act 2003 (Premises licences and club premises certificate) Regulations 2005, the plan needed to show various elements. This included the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises, the location of points of access to and egress from the premises; in a case where the premises was to be used for more than one licensable activity, the area within the premises used for each activity; fixed structures (including furniture) or similar objects temporarily in a fixed location. The plan was not reflective of the application and did not comply with the relevant legislation.

Ms Barrett stated that a Planning Officer had been visited the premises and had emailed the enforcement matters that he wanted the applicant to address. The additional structure in the rear area had been made without planning permission. Had the various responsible authorities in residents had known that the outside area was going to be built on and be used for licensable activities they would have been able to consider it.

Mr Simms stated that the issue related to a wooden structure placed at the rear of the premises, there had been no change to boundaries, access or egress to the premises. There was no real impact on the application.

Ms Barrett stated that the noise impact assessment did not cover the rear area and would have had an impact on residents.

At 8:51pm, the Sub-Committee adjourned to consider the application. The Sub-Committee reconvened at 9:07pm.

**RESOLVED:**

The Sub-Committee having considered the information having come to light at the start of the hearing and having heard from the Licensing Officer and the Legal Officer and having taken points of clarification from the applicant and having noted that the plans submitted with the application on page 148 not being correct or reflective of the current status of the premises and as such in contravention of section 23 of the Licensing Act 2003 (Premises licences and club premises certificate) Regulations 2005, the Sub-Committee decided to adjourn the matter to allow the applicant to submit a proper and correct application.

**8. NEW ITEMS OF URGENT BUSINESS**

There were no items.

CHAIR:

Signed by Chair .....

Date .....