

MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE A

WEDNESDAY, 7TH AUGUST, 2019

- Councillors Present:** Councillor Sharon Patrick in the Chair
Cllr Gilbert Smyth
- Apologies:** Councillor Brian Bell
- Officers in Attendance:** Mike Smith (Principal Licensing Officer), Amanda Nauth (Legal Officer), Butta Singh (Legal Services), David Tuitt (Licensing) and Rabiya Khatun (Governance Services Officer).
- Also in Attendance:** Pizza on Time
Matiullah Azimi - Applicant
- La Spiga Pasta
Fabio Settembre - Applicant
Roberto - Head Chef & Business Partner
Andy Newman- Applicant's Agent
- Luke Elford - Other Persons' Solicitor
Carly Turner – Other Person

1 Election of Chair

- 1.1 Councillor Patrick was duly elected to chair the meeting.

2 Apologies for Absence

- 2.1 Apologies for absence were received from Cllr Bell.

3 Declarations of Interest - Members to declare as appropriate

- 3.1 There were no declarations of interest.

4 Licensing Sub Committee Hearing Procedure

- 4.1 The Chair outlined the hearing procedure at the meeting.

5 Premises Licence: Pizza on Time, 260 Stamford Hill, N16 6TU

5.1 NOTED the additional information circulated at the meeting.

5.2 Mike Smith, Senior Licensing Officer introduced the application and reported that the police had withdrawn its representation following an agreement with the applicant to additional conditions. However, the representation remained from Licensing.

5.3 Matiullah Azimi made the following points in support of the application. The proposed later hours of licensable activities would allow him to generate more business and ensure his business was viable. He operated a pizza takeaway business only with no deliveries, which currently closed at 23.00 hours. There were no other pizza businesses and commercial premises within the vicinity of the premises.

5.4 In response to a questions from Members regarding the opening hours of nearby businesses and CCTV system, Mr Azimi stated that Dixy's closed at 23.00 hours and confirmed that the three staff members at the premises were familiar with the operation CCTV system.

5.5 David Tuitt, Licensing, outlined his representation against the application based on the grounds of the prevention of public nuisance and Council's core hours. He stated that the proposed hours of licensable activity exceeded the hours permitted within the Council's LP3 core hours. The premises was also located in a busy high street area that already experienced late night activity with other business operating beyond 23.00 hours including the Turnpike that closed at midnight.

5.6 Mr Tuitt indicated that if the Sub-Committee were minded to grant the licence that there would be minor amendments to the police's proposed conditions 4 and 6.

5.7 The applicant and Mr Tuitt did not sum up.

5.8 **RESOLVED:** The Licensing Sub-Committee in considering this decision from the information presented to it within the report and at the hearing today has determined that having regard to the promotion of all the licensing objectives:

- The prevention of crime and disorder;
- Public safety;
- Prevention of public nuisance;
- The protection of children from harm;

the application for has been approved in accordance with the Council's Statement of Licensing Policy and the proposed conditions set out in paragraph 8.1 of the report, with the following amendments:

- Condition 4 – To delete the words 'incident' and delete condition 4(g) ' Any refusal of the sale of alcohol'
- Condition 6 – To delete the words 'Designated Premises Supervisor'

and the following additional condition:

- The Licensee shall instruct member of staff to make regular checks of the area immediately outside the premises and remove any litter and bottles emanating from the premises. A final check should be made at close of business.

Reasons for the decision

The application has been approved, with the above additional condition, as the Licensing Sub-committee was satisfied that the licensing objectives would not be undermined.

The sub-committee took into consideration that the Metropolitan Police had withdrawn their representations, and agreed conditions with the applicant in advance of the hearing.

After hearing from the applicant, the applicant's representative, and the Responsible Authority (Licensing), the sub-committee believed that the nature and operation of the premises as well as the premises being located within a commercial area will not adversely impact on the area and local residents.

The sub-committee also noted that the applicant had demonstrated that he had engaged with the Responsible Authorities to address their concerns, no representations had been received from Other Persons and there are no residents living above the premises.

Having taken all of the above factors into consideration the sub-committee were satisfied, when granting the licence that the licensing objectives would be promoted.

6 Premises Licence: La Spiga Pasta, 39 Scrutton Street, EC2A 4HU

6.1 NOTED the additional information circulated at the meeting.

6.2 Mike Smith, Senior Licensing Officer introduced the new premises licence for the supply of alcohol. The supply of alcohol off premises had been removed from the application. Representations from Environmental Protection and the Police had been withdrawn following the applicant's acceptance of proposed conditions. The representation from the Other Person remained.

6.3 Andy Newman, agent representing the applicant, outlined his representation in support of the application. The premises was located outside the special area policy and the hours being sought for the supply of alcohol from 10.00 to 22.30 hours was within the Council's licensing policy. There would be a maximum of 20 covers and alcohol would be served to seated patrons and as an ancillary to food. This was a small Italian independent business serving authentic homemade Roman cuisine. Which was opened by two Italian friends with previous experience of working in licensed premises. The applicant admitted that the two sided board advertising the Pritz drinks had been done in error and that the other side advertising breakfast offer should have been displayed. However this error had occurred when he first opened the business.

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6.4 Luke Elford, representing the Other Persons outlined his representation against the application based on the grounds of crime and disorder, public nuisance, the protection of children from harm and cumulative impact. The applicant had been operating licensable activities without a premises licence and Other Persons had witnessed breaches of the Licensing Act 2003 in relation to the supply of alcohol on 17, 19 and 26 July 2019. Concerns were expressed regarding the applicant's behaviour and as experienced operator he should have been aware that the supply of alcohol was a breach. This also demonstrated the applicant's lack of understanding of the licensing legislation and concerns of upholding the promotion the licensing objectives.

6.3 The Chair sought further clarification regarding the three alleged incidents of the supply of alcohol. Mr Elford confirmed that Mr Ward had witnessed the sale of a Heineken beer served with a meal on 17 July 2019. Ms Turner witnessed the supply of alcohol on 19 July and a board advertising the sale of alcoholic Spitz drinks on 26 July 2019. They believed that there had been repeated incidents of the supply of alcohol without a licence.

6.4 Mr Settembre responded that on 17 July 2019 an alcoholic drink had been served to a customer and accepted this had been a mistake. He confirmed that on 19 July 2019 that there had been no supply of alcohol to its customers and on 26 July 2019 the two sided board, advertising a breakfast offer on one side and Spitz drink on the other side, had mistakenly been left on the side displaying the Spitz drink however he assured the Sub-Committee that no alcoholic drinks had been supplied to customers on that day. Mr Newman added that the applicant accepted his mistake on 17 July 2019 and apologised for serving the alcohol. It was clarified that on 26 July 2019, a staff member had placed the board on the wrong side and the applicant refuted any allegation of the sale of alcohol on that day.

6.5 Members enquired about the remaining years on the lease, consultation with residents and operation of business. Mr Settembre replied that there were 2 years remaining with an option to renew the lease and that he had met two residents that had been concerned regarding the previous licence application submitted for a wine bar. The premises was divided into two sections with a kitchen in the middle and two entrances. An area had operated as a restaurant for nine months serving freshly made pasta meals and in future would be serving good quality wines with meals. The other area operated as a takeaway/ delicatessen. They had intended to submit an application in February 2019 but the business had grown and they had been busy.

6.6 Cllr Smyth asked the Other Person if there had been any issues since the business had opened. Mr Elford stated that there had been no issues arising from the restaurant however, concern was expressed regarding the sale of alcohol and if the licence were granted that the applicant would not trade as a restaurant. Ms Turner added that she did not have confidence in the applicant and his business partner to comply with the licensing conditions as they should have applied for a temporary event notice (TEN) if they had intended to supply alcohol at the premises. Ms Turner confirmed that she had never dined at the applicant's restaurant.

6.7 Mr Newman emphasised that the applicant and his business partner were good operators applying for a premises licence to sell alcohol and admitted to one mistake made on 17 July 2019, this was their first business and they were still learning and many of the allegations could not be corroborated with evidence. Mr Settembre confirmed that he had visited The Old King's Head.

6.8 The Chair enquired whether the Council had received any complaints of any breaches. Mr Smith confirmed that the Council had not received any complaints of breaches except those outlined at the hearing.

6.9 The Chair referred the applicant to Ms Turner's witness statement, which included five dates of the alleged sale of alcohol including 29 and 30 July. Mr Settembre clarified that some of the drink offers had been misunderstood and that they had supplied non- alcoholic drinks that could have been mistaken for alcoholic drinks.

6.10 Mr Elford stated that if the Sub- Committee was minded to grant the licence he wanted to propose additional conditions to promote confidence in the operators.

6.11 In response to questions from the Chair seeking further clarification regarding the application, Mr Newman confirmed that there was no designated seating area.

6.12 The hearing adjourned at 20.35 to enable the applicant to consider the proposed conditions submitted by the Other Person's representative and the hearing reconvened at 20.45 hours.

6.13 Mr Newman indicated that proposed condition 2 was similar to condition 17 within the pack but the applicant preferred condition 17. The applicant rejected proposed condition 5. Mr Newman highlighted that the applicant had proposed a further condition that 'there will be a maximum of 20 seats for the supply of alcohol.' to address the concern regarding capacity.

6.14 Cllr Smyth asked if there had been any issues with the premises for eight months prior to the breaches that occurred from July 2019. Mr Elford confirmed that there had been no issues with the operation of the premises as an unlicensed business. Mr Newman added that there had been no issues or complaints received when the applicant had operated under the five TENs outlined within the report.

6.15 The Chair noted the illegal sale of alcohol at the premises. Mr Newman stated that Mr Settembre admitted to the sale of one beer without a licence, which had been a mistake and was remorseful for this. This was the applicant and his partner's first business venture and they would now be taking professional training and advice to ensure no further mistakes were made, and now wanted to move forward. There would be no negative cumulative impact as the maximum capacity was 20 covers.

6.16 Mr Elford summarised that he lacked confidence in the operators to manage the premises responsibly as multiple breaches of the Licensing Act 2002 had already occurred. The granting of the application would be perceived as rewarding bad behaviour.

6.17 **RESOLVED:** The Licensing Sub-Committee in considering this decision from the information presented to it within the report and at the hearing today has determined that having regard to the promotion of all the licensing objectives:

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- Prevention of public nuisance;
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7 Temporary Event Notices - Standing Item

7.1 There were no temporary event notices.

Duration of the meeting: 7.00 - 10.00 pm

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Cllr Sharon Patrick Chair of Sub Committee

Contact:

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