

MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE A

THURSDAY, 14TH NOVEMBER, 2019

Councillors Present: Councillor James Peters (substitute) in the Chair

Officers in Attendance: Cllr Sharon Patrick and Cllr Gilbert Smyth
Butta Singh, Senior Licensing Lawyer
Mike Smith, Principal Licensing Officer
Gareth Sykes, Governance Services Officer

Also in Attendance: Mavya News

Applicant: Bobby Nakum, agent
Kunalkumar Patel

Responsible Authorities: David Tuitt, Licensing

Other Persons:

Luke Elford, solicitor, on behalf of objectors at C1:
Carly Turner, Director JP Cannon Ltd
Caroline Turner, Secretary JP Cannon Ltd
Andy Newman, licensing consultant, on behalf of
objectors at C2

Patel & Sons

Applicant: Bobby Nakum, agent
Mr Patel (Father of the applicant)

Responsible Authorities:

David Hunt, Trading Standards
Police Constable Neil Hunwick, Police
David Tuitt, Licensing

1 Election of Chair

1.1 Councillor James Peters was elected as the chair.

2 Apologies for Absence

2.1. There was no recorded apologies for absence.

3 Declarations of Interest - Members to Declare as Appropriate

3.1 There was no declarations of interest.

4 Licensing Sub Committee Hearing Procedure

4.1 The attendees noted the hearing procedure as set out in the meeting papers.

5 New Premises Licence - Mavya News, 37 Scrutton Street, EC2A 4HU

5.1 The Principal Licensing Officer introduced the new premises licence, as set out in the meeting papers, for Mayva News, 37 Scrutton Street, EC2A 4HU. The application was for the Supply of Alcohol (Off Premises). The officer highlighted that representations from the Responsible Authorities (the Metropolitan Police Service and Trading Standards) had been withdrawn following agreement to amend hours for sale of alcohol to 08:00 to 23:00 daily. The Licensing Authority had made representation based on the grounds of the Prevention of Crime and Disorder, Prevention of Public Nuisance and Licensing Hours. Additional information, submitted by local residents/business objectors had been circulated prior to the meeting (see supplementary papers). Those in attendance noted that the premises was not in the SPA.

5.2 The agent spoke in support of the application giving an overview of what his client was proposing and a brief history of the premises. The agent highlighted how his client had introduced a number of measures on the premises and agreed to a number of additional conditions from Responsible Authority representations, namely conditions 22 to 24. It was noted that the additional condition, condition 21, was to be withdrawn. The agent explained that the premises had no prior history of contributing to the Cumulative Impact (CI) in the area and the undermining of the London Borough of Hackney's Licensing Objectives. The agent re-iterated the number of conditions and measures his client had agreed to and to introduce anymore would be 'overkill' as the premises was a small shop. The agent, referring to the representations made by other person/business had no basis in evidence and were 'purely speculative'. In response to a question from the chair of the committee, the agent confirmed that the shop had been at the site for the past two to three years.

5.3 The committee next heard from the Responsible Authority, the Licensing Authority, who on hearing that the applicant had agreed to a number of additional conditions from the Responsible Authorities (conditions 22 to 24) had withdrawn their representation.

5.4 The committee next heard from other persons speaking in objection to the application. The grounds for their objections was on the grounds of prevention of crime and disorder, public safety, prevention of public nuisance, the protection of children from harm and licensing hours. The other persons outlined their concerns about the proximity of the premises in relation to other nearby licensed premises and what they perceived to be a currently a growing trend of Anti-Social Behaviour (ASB) in the immediate area e.g. drunkenness, noise and public urination etc and how another licensed premises would lead to a cumulative impact in the area and would undermine the licensing objectives. The other persons explained how a rise in ASB-related incidents had had negative impact on a local public house. Another licensed premises in the area would exacerbate the situation further. The other persons highlighted a report that they had commissioned assessing the local impacts of another licence premises in the area, the report had been undertaken by an ex-MPS Borough Commander with over 30 years' experience. They had concluded that granting of such a licence in this area represents a significant risk to the licensing

- objectives and should be rejected. The other persons also alleged that the applicant did not have planning permission or hygiene licence from Hackney Council and that there had not been any consultation with neighbours.
- 5.5 In response to a question from Councillor Smyth, the other persons confirmed that there was five licensed premises in close proximity to the applicant's premises. The other persons, specifically those representing a local public house, confirmed that their clientele was a mixture of local residents and workers from nearby offices and in their view the middle of the week was where they experienced the most incidents of ASB. The other persons added that they saw the growing trend in ASB starting from about three to four years ago as a result of new offices opening in the area.
- 5.7 In response to a question from the other persons, the chair of the committee was of the view that the issue of drunk persons entering the public house and causing a public nuisance was a private matter for the public house to resolve.
- 5.8 The agent for the applicant replied to the comments from the other persons by suggesting that it was an attempt by the public house to stifle competition. The agent re-iterated that the premises was not located in a SPA and there was no evidence to back up the objections to his client's application. The agent refuted the claims that his client did not have planning permission or a hygiene licence from the council citing that neither the council's planning nor public health departments had made representations at the meeting in objection to the application. The agent added that in terms of consultation a notice had been prominently placed on site and there had also been notice placed in the local press, which was compliant with council policy. The client also added that his client did have a waste contract in place. The agent was of the view that views heard at the meeting today were tantamount to protectionism for the existing businesses to stifle competition. The agent added that in his view the growing trend in incidents of ASB in the area, were a result of the on sales of alcohol from the existing licensed premises in the area.
- 5.9 The chair of the committee reminded the attendees that the council's Licensing Policy 11, regarding CI, did not only apply to premises within the SPA.
- 5.10 A brief discussion ensued between the agent and the senior licensing lawyer where the latter explained that following acceptance by his client of additional condition 23 condition 21 could now be removed. The agent also explained that his client was seeking to now sell alcohol because of business pressure and changes in the demands of customers entering the premises. The agent confirmed that his client understood condition 7 that all alcohol would be in sealed containers.
- 5.11 In response to a question from the chair of the committee, the other persons replied that their concerns were not allayed by the applicant's acceptance of various additional conditions.
- 5.12 In response to a question from the chair of the committee, the agent replied that his client would not accept a time limited licence.

- 5.13 In response to a question from Councillor Patrick, the agent re-iterated that his client was registered in terms of planning permission and council hygiene policy.
- 5.14 In response to a question from Councillor Smyth, the agent re-iterated that his client was applying for this licence for the off sales of alcohol because of changing business needs and growing demand from customers. The agent added that as far as he was aware his client had a good working relationship with nearby licensed premises such as the local public house.
- 5.15 In response to a question from the other persons and the senior licensing lawyer, the client confirmed that Closed Circuit Television (CCTV) installed outside at the premises would cover across the road. The agent added that it was accepted that CCTV had its limitations but the system in place at the premises was of a good High Definition quality.
- 5.16 In response to a question from the chair of the committee, the other persons replied that there were some local residents nearby but a high percentage of the clientele drinking in the area were from the local offices. The other persons added that the local public house saw a mixed trade and that there was three tables and eight to nine chairs outside their premises.
- 5.17 In their summary the other persons re-iterated their concerns about the application and how another licensed premises would exacerbate the CI in the area. They emphasised how the area was already suffering from a high proportion of incidents of ASB and that the applicant had not taken steps to allay their concerns. They recommended that the application be rejected.
- 5.18 The agent summed up by re-emphasising the number of additional conditions that his client had agreed to and that the representations made by other persons against the application were not based on evidence but more assumption. They were perceived as being merely frivolous and vexatious. The agent added that his client had taken all the right steps to be fully compliant with Hackney Council policies.

The Decision

The Licensing Sub-Committee in considering this decision, from the information presented to it within the report and presented at the hearing today, from the applicant, the Responsible Authorities and Other Persons, 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 a new premises licence has been approved in accordance with the Council's licensing statement and paragraph 8.1 of the report, with the following amendments:-

- The opening and licensable activity (off- sales of Alcohol) hours to be from;

Monday to Sunday – 08:00 to 23:00 hours

- Condition 11 to be amended, to read:

All alcohol shall be sold in sealed containers. They shall not be opened or consumed in, or within, the immediate vicinity of the premises

- Condition 21 to be deleted

Reasons for the decision

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

In making this decision the Licensing Sub-Committee has taken into consideration that the Responsible Authorities (Licensing, the Metropolitan Police Service and Trading Standards) had withdrawn their representations following agreement with the applicant as to the amended hours for the sale of alcohol along with the additional conditions being imposed. It was also noted that the only remaining representations were that of a local business and a resident who resides close to the premises and works at the local business.

The concerns relating to the local business (a pub) were carefully, considered, alongside the amended application and it was felt that the impact of any pre-loading of drinks could be adequately assessed by the imposition of the onerous condition requiring the applicant to clearly and permanently mark all containers of alcohol sold from the premises, under the licence, with the trading name, address and post code of the premises. Furthermore, it was felt that any possible negative impact of the applicant's proposed operation on their business (i.e. on the pub) could be negated by more effective management measures for their premises, should this become necessary.

The Licensing Sub-Committee also took on board the applicant's responses to the representations made by the applicant's agent, as to it possibly stifling another business, of a similar but somewhat different nature, from operating during reasonable hours of the day and that by refusing the application or restricting it any further would, in effect, be tantamount to protectionism for certain types of businesses, as opposed to the promotion of the licensing objectives.

Having considered all the factors and arguments presented, the Licensing Sub-Committee felt that the amendments to the application would, as outlined above, adequately ensure that the licensing objectives would be promoted having considered the concerns raised within the two remaining representations.

6 Premises Licence Variation- Patel & Sons, 101 Great Eastern Street, EC2A 3JD

- 6.1 The Principal Licensing Officer introduced the application which was a premises licence variation for Patel and sons, 101 Great Eastern Street EC2A 3JD. The proposed variation was for the supply of alcohol (off Premises). Committee members noted that representations had been made from the

Thursday, 14th November, 2019

Responsible Authorities including Trading Standards, on the grounds of prevention of public nuisance, from the Police on the grounds of prevention of crime and disorder, public safety, prevention of public nuisance, the protection of children from harm and licensing hours. The Licensing Authority had also made representations on the grounds of on the grounds of the prevention of crime and disorder, prevention of public nuisance and licensing hours. The committee also noted that there had also been a written representation from other persons on the grounds of prevention of crime and disorder, public safety, prevention of public nuisance, the protection of children from harm and licensing hours. It was noted that the premises was in the Shoreditch SPA.

- 6.2 The agent for the applicant began acknowledging that a previous premises licence, which permitted off sales of alcohol from 08:00 to 01:00 daily was revoked by Licensing Sub-Committee in 2016 following a review application submitted by the Licensing Authority. The current license had been granted on 14 June 2018. The premises recently had two inspections from Trading Standards on the 21 April 2018 and the 29 August 2019 and they had found to be no reported issues. The agent explained that this application had been made because of a hike in rent so his client had no choice or either close the shop. The applicant had suggested a number of additional conditions including having Security Industry Authority staff on the premises and the installation of a serving hatch after a certain time.
- 6.3 In response to a question from the chair of the committee, the agent replied that his client had not discussed previously with the Responsible Authorities these suggested additional conditions. The chair of the committee suggested to the responsible authorities that they wish to adjourn to consider these new additional conditions, however the Responsible Authorities took the view that an adjournment was not necessary.
- 6.4 A brief discussion then ensued between the agent and the senior licensing lawyer about the impact of the application on the cumulative impact (CI) in the area and the licensing objectives. The senior licensing lawyer reminded the agent that it was up to him and his client to seek legal advice and to demonstrate how the application did not contribute to the CI in the area.
- 6.5 The committee heard from the responsible authorities. The Licensing Authorities explained their concerns about the application on the grounds of its location in the Shoreditch SPA and therefore its impact in relation to Licensing Policy 10 (LP10). This area had been identified as suffering from the negative cumulative impact of the concentration of licensed premises in the area. The additional three hours applied for through the application could have a negative impact on the area and the council's licensing objectives. The Licensing Authority accepted that SIA staff on the premises may go some way to mitigating some of the negative impact in the area. They were not convinced that the installation of some form of serving hatch would make a difference.
- 6.6 The committee next heard from Trading Standards who made their representations because of concerns about the area in which the premises are situated and the number of licenced venues in the near locality. There was also issues around pre loading before attending venues and the purchase of extra alcohol when leaving venues.

- 6.7 The police in their representation explained how they objected to the application firstly because of the premises location in the Shoreditch SPA and the high concentration of licensed premises in the area. They were also concerned that the hours applied for were outside core licensing hours as set out under the council's licensing policy. An off license selling alcohol to 02:00 hours in the morning would exacerbate further those incidents of alcohol-associated ASB in the area. The police were of the view that the applicant was unwilling to work with them on this application. They were of the view that SIA staff on the premises would not be of much help. The police explained that inebriated persons on entering the premises and being told they could not purchase alcohol, because it was outside the licensed hours, were unlikely to be reasonable and could lead to an altercation.
- 6.8 The applicant replied that those issues associated with the premises 18 months ago were nothing to do with them and related to the previous owners.
- 6.9 The agent explained that he had attempted to contact the police regarding this application, but due to being in hospital, there had been some miscommunication.
- 6.10 In response to a question from the chair of the committee, the police and trading standards re-iterated their concerns about the sale of alcohol in the early morning. There was particular concern about the negative impact on children going to school in the morning. The police confirmed that there was reported incident in December 2018 at the premises of the underage sale of alcohol. The agent replied that since the start of 2019 the premises had been visited by the police five times without any reported incidents.
- 6.10 The chair of the committee explained that there had been written representations from other persons in objection to the application. There were concerns expressed about how the application would 'increase disorder, nuisance and noise' in the area.
- 6.11 In response to a question from the chair of the committee about Licensing Policy 10, the agent replied that his client was fully compliant with the policy explaining that the number of additional conditions they had put forward would help to mitigate the CI in the area. The applicant did not deny that there were issues in the area but they had offered to put in a number of measures, compliant with council policy, but the wider issues in the area were out of the applicant's hands. The chair of the committee replied that it was the role of the committee to ensure that any application coming before them did not contribute negatively to the CI in the Shoreditch SPA. The senior licensing lawyer re-emphasised to the applicant that they needed to demonstrate how they were not contributing to the CI in Shoreditch SPA. The agent replied that his client had clearly demonstrated that he had not for the reasons previously explained.
- 6.12 In response to a question from Councillor Smyth, the agent replied that this client could not agree to place sticky labels on all alcoholic bottles and cans because of the huge cost implications involved particularly in relation to labour.
- 6.13 In response to a question from the senior licensing lawyer, the applicant understood the concerns raised because of where their premises was located

in the Shoreditch SPA, however, they had measures in place, such as CCTV and were cooperative with the responsible authorities.

- 6.14 A brief discussion ensued about the reported incident at the premises in December 2018. The applicant replied that he was not involved in the business at that time. The agent added that the premises license would be passed to his client. The police added that, regarding the afore mentioned incident, the premises had been open for one hour and ten minutes after its designated closing time.
- 6.15 Following further discussion with the responsible authorities, the chair of the committee suggested to the applicant again would they be willing to put labels on alcoholic bottle and cans. The agent replied that his client could not accept this because of the additional costs involved. The agent explained that his client had taken all the necessary steps to be compliant and also had suggested a number of additional measures e.g. SIA staff on site and a serving hatch.
- 6.16 In respond to a question from the chair of the committee, the police confirmed that it was illegal to drink on the streets in Shoreditch but only police officers and Police Community Support Officers, not SIA staff, could direct individuals to empty the alcoholic drinks. It was understood that SIA staff only had limited powers within the premises where they were working.

The decision

The Licensing Sub-Committee in considering this decision from the information presented to it within the report and presented at the hearing today, from the applicant and the Responsible Authorities, it 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 to vary the premises licence has been approved in accordance with the Council's licensing statement and paragraph 8.1 of the report, with the following amendments:-

- The opening hours of the premises, Monday to Sunday, be 08:00 hours to 02:00 hours
- The supply of alcoholic sales, Monday to Sunday, be 09:00 hours to 00:00 hours

Reasons for the decision

The application to vary the premises licence has been approved, with the above amendments, as the Licensing Sub-Committee were satisfied that the licensing objectives would not be undermined.

Thursday, 14th November, 2019

The Licensing Sub-Committee took into consideration that the applicant, following their amended application, was simply looking to open the premises for longer and had amended the application to remove their request to have longer licensable hours, which the majority of the Responsible Authorities were content with given the existing and additional conditions. As such, the sub-committee were satisfied in approving the amended application the licensing objectives would not be unduly undermined.

7 Temporary Event Notices - Standing Item

7.1 There were no Temporary Event Notices (TENs) for consideration at the meeting.

Duration of the meeting: 19:00 – 21:35 hours

Signed

.....

Chair of Committee, Councillor James Peters

Contact:

Governance Services Officer:
Gareth Sykes
Tel 020 8356 1567