

## MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE B

TUESDAY, 22ND NOVEMBER, 2016

- Councillors Present:** Cllr James Peters in the Chair  
Cllr Sharon Patrick, Cllr James Peters and  
Cllr Emma Plouviez (Substitute)
- Officers in Attendance:** Emma Perry (Governance Services Officer), Mike Smith (Principal Licensing Officer), David Tuitt (Team Leader – Licensing (Policy and Operations)) and Robert Walker (Licensing and Planning Lawyer)
- Also in Attendance:** Pizza Pilgrims  
Piers Warne, Solicitor  
Tom Elliott, Applicant  
Paola Masperi, Other Person  
Kamal Krishnaratna – Witness of Paola Masperi  
Heath Gascoigne, Other Person

### 1 Election of Chair

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

### 2 Apologies for Absence

- 2.1 There were no apologies for absence.

### 3 Declarations of Interest - Members to declare as appropriate

- 3.1 There were no declarations of interest.

### 4 Minutes of the Previous Meeting

- 4.1 The minutes of the meeting held on 21 July 2016 were agreed as a correct record.

### 5 Licensing Sub-Committee Hearing Procedure

- 5.1 The Chair outlined the hearing procedure, as set out on page 11 of the agenda.

### 6 Premises Licence: Pizza Pilgrims, 136-137 Shoreditch High Street, London E1 6JE

- 6.1 Mike Smith, Principal Licensing Officer, introduced the report. Mike Smith advised that the hours for the supply of alcohol on Sundays had now been reduced to 10:00 – 22:00, to allow for drinking up time. He also referred to the latest version of the plan, which superseded versions detailed on pages 48 and

49 of the agenda. A further submission from an Other Person had also been submitted, in addition to Appendix C1.

- 6.2 In response to a question from the Chair regarding condition 22, the Applicant explained that currently no one could drink outside the premises. There would only be an outside seating area if the applicant was granted a pavement licence, which would be subject to a separate application.
- 6.3 Piers Warne, the Applicant's solicitor, outlined the application on behalf of the Applicant. Mr Warne stated that Pizza Pilgrims was an award-winning pizza restaurant. The application would provide an exceptional premises with planning permission for A3 use, providing around 15-20 local jobs. Following a discussion with the police, the non-standard hours for New Years Eve had been removed and a drinking up time included. Mr Warne stated that it was not a vertical drinking establishment and they were willing to reduce the hours for the supply of alcohol to 23:00, Monday – Saturday, if necessary, and remove the application for late night refreshment. He added that alcohol would be ancillary to food.
- 6.4 Mr Warne confirmed that there would be no regulated entertainment at the venue and there would be a pizza oven only, with no fryers or grills generating any noxious smells. There would be an approximate capacity of 60 patrons at the venue, which had been determined from a fire assessment.
- 6.5 Mr Warne made reference to LP13 – Special Policy Area, Shoreditch (the "SPA"), which stated that where a relevant representation was made to any application within the SPA, the application would be refused unless there were exceptional circumstances. Mr Warne stated that "exceptional" could be viewed as 'not typical' and he stated that the application was for a small restaurant, which would not add to the cumulative impact in the area. Mr Warne highlighted the fact that there were no representations from the police or Environmental Health, who would normally raise any concerns regarding crime and order and cumulative impact.
- 6.6 Mr Warne advised that the Applicant owned a number of other premises, all located within areas of cumulative impact and some with residential units located above, which had not caused any issues. Mr Warne advised that the Applicant always liaised with local residents and had since sat on the Soho Society Residents Association Board. He added that the hours of operation did not exceed other neighbouring licensed premises and stressed the Applicant was a good operator and would raise the standards in the area.
- 6.7 Mr Warne referred to the *Movida v Westminster City Council* court case which dealt with the issue of exceptional circumstances. He believed that a venue could be exceptional for an accumulation of small reasons rather than because of a single, more substantial reason, and he referred to paragraph 33.8 of the Council's licensing policy.
- 6.8 In response to a question regarding the proposed capacity at the premises, it was explained that a fire risk assessment had suggested a capacity of 60 patrons, which the Applicant confirmed would fit comfortably seated within the venue. The Applicant confirmed that soundproofing would be installed over two floors and that a condition could be added to have a condition stipulating that

there shall be no more than 4 people waiting for a table in the designated waiting area.

- 6.9 In response to a question regarding condition 16, the Applicant stated that he was unsure why that was there and he was happy for this to be deleted. The Applicant also agreed to an amendment to condition 21, if granted, to specify that only one drink would be permitted per person whilst waiting.
- 6.10 The Applicant made reference to the company's alcohol policy, reproduced on page 53 of the agenda, which could be amended accordingly if required. He added that there would be a host on the door to seat patrons, as well as managing the outside area. It was believed that the measures being taken to manage the venue would promote the licensing objectives.
- 6.11 David Tuitt, Licensing Team Leader, outlined his representation. David Tuitt referred to LP13 – Special Policy Area, Shoreditch and believed that the application would add to the cumulative impact in the area, with a correlation to crime and anti-social behaviour. He stated that the main problem areas in the SPA were between midnight and 3am and that a quarter of licensed premises in the borough were located in Shoreditch. The reduction of hours had been acknowledged, however he still believed that granting the application could add to the cumulative impact.
- 6.12 Paola Masperi, Other Person, outlined her representation. Ms Masperi stated that her objection was not personal to the applicant or their business, however she strongly opposed the application. Ms Masperi also believed that granting the application would add to the negative cumulative impact of licensed premises in the SPA. Ms Masperi did not believe that there were any exceptional circumstances to warrant granting a premises licence and added that there were already 45 other licensed premises within a 200m radius of the application site.
- 6.13 Ms Masperi raised concerns regarding the number of people visiting the premises, which she believed could be up to 120 per hour given the quick turnaround of tables. This could lead to overcrowding on the pavement outside the premises, in an area that was already strained with people being forced onto the roads. She did not believe that the pavement could take the strain of another premises being granted a licence. She made reference to the photo included on page 76 of the agenda highlighting this issue and questioned how these patrons would be managed.
- 6.14 Ms Masperi believed that the application would undermine the licensing objectives and bring more people into an already saturated area, as well as adding to the existing problems surrounding anti-social behaviour and noise nuisance. She stated that residents already felt surrounded and that the granting of one more premises licences in the area would tip the balance.
- 6.15 The Legal Officer explained that if the application was refused, the venue could be operated as a pizza restaurant up to 23:00, but with no supply of alcohol or conditions attached as proposed. Ms Masperi explained that she still believed the application should be refused as conditions could not control patrons outside of the venue. The Chair asked the Other Person to clarify whether his concerns were regarding the proposed sale of alcohol or there being another

- pizza restaurant. In response, Jimmy Couppis confirmed that his concerns were with the proposed combination of both the sale of alcohol and pizza in the SPA.
- 6.16 Mr Gascoigne, Other Person, outlined his representation. Mr Gascoigne stated that he had lived in the area for the past five years and had witnessed a number of changes during that time. Mr Gascoigne recognised the importance of boosting the local economy, however he believed that the application undermined the licensing objectives and would add to the cumulative impact of licensed premises in the area. He stated that the premises would have a high footfall resulting in an increase in the number of people congregating on the already tight pavement area. He also had an issue with the alcohol licence being applied for and did not feel that the proposal was exceptional in any way.
- 6.17 Mr Gascoigne believed that granting the application would undermine the public safety, prevention of crime and disorder and prevention of public nuisance licensing objectives. Mr Gascoigne confirmed to the Chair that he would prefer that the premises operated as a restaurant without a licence to sell alcohol.
- 6.18 Mr Krishnaratna then addressed the Sub-Committee as a witness. Mr Warne confirmed that he had no objection to Mr Krishnaratna making submissions. Mr Krishnaratna echoed the other persons' representations regarding the increased problems with footfall and public nuisance should the application be granted. He explained that the area suffered from the effects of cumulative (negative) impact and he told the Sub-Committee that people often congregated in the doorway to the building in which he lives, blocking access and that people also urinated in it. He did not consider the application to be exceptional warranting it being granted.
- 6.19 In response to concerns regarding the potential increase in footfall, the Applicant advised that he expected that the average dwelling time per person would be around 45 minutes. On a good week he expected that the venue would attract between 350 - 400 people per day maximum, with an average of around 2,100 covers per week.
- 6.20 Mr Warne added that the issue surrounding the public highway surrounding the premises was a police issue to manage and there were review mechanisms in place if the venue was found to not be adhering to the licensing objectives and conditions on the licence. He did not believe that licensing the premises would increase the number of people in the area and therefore add to the cumulative impact.
- 6.21 In response, the Other Persons referred to the other licensed premises in close proximity to the venue which caused noise nuisance to local residents. They believed that the location of the other premises operated by Pizza Pilgrims were different to this area and that the business model would not work in this particular location. The Other Persons were not satisfied by any of the conditions put forward by the applicant, as they did not believe that they could appropriately address the issues associated with patrons coming and leaving the premises.
- 6.22 The Chair queried what measures the Applicant proposed in order to alleviate the concerns raised by the Other Persons. In response, Mr Warne stated that the Applicant was a good operator and that it was difficult to manage people

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once they had left the venue. The Applicant believed that his other premises in Dean Street provided an appropriate comparison, as it was located on the corner opposite a pub. This premises also had a host on the door and CCTV in that vicinity had improved crowd control in the area.

- 6.23 Councillor Patrick was concerned that it was a successful business and would therefore attract people into the area to visit the premises. In response, Mr Warne explained that the business was award-winning and therefore people in the area may wish to visit it. It was expected that the venue would attract local people who lived and worked in the area. He did not feel that footfall alone was a sufficient reason to refuse the application. He added that the operator was not responsible for people once they had left the premises and referred to the conditions regarding the management of the outside area and referred to paragraph 2.20 of the statutory guidance.
- 6.24 Further discussion took place surrounding condition 22, not permitting glass, drinks or open containers outside the premises, except for the designated outside seating area. It was explained that the designated outside area would only be able to be used if and when a pavement licence was submitted and granted. The Applicant stated that this was not fundamental to the application.
- 6.25 Further discussion took place surrounding the pavement area and the Other Persons indicated that this area was busy from early evening. The premises was previously a shoe shop which was easier to manage and did not cause neighbouring residents any nuisance once it closed for the day. The Other Persons added that if granted, there would be three licensed premises in very close proximity, all closing at similar times.
- 6.26 In closing remarks, the Other Persons queried whether the Applicant had considered opening a pizza restaurant that didn't sell alcohol.
- 6.27 Mr Warne stated that there would be limited alcohol sales at the venue and referred to the conditions in place, specifying that the sale of alcohol was ancillary to food. There was no evidence of any issues surrounding the other venues operated by the Applicant, the majority of which were located in strict SPAs. Mr Warne referred the Sub-Committee to the judgement in *Brewdog v Leeds City Council* and read out extracts. Mr Warne stressed that the premises would be a restaurant and not a bar and would cause marginal disturbance to local residents.
- 6.28 **RESOLVED that:-**

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; and
- The protection of children from harm;

the application be refused in accordance with the Council's Licensing Policies LP4, LP5 and LP13.

The Sub-Committee having heard from the applicant, the Licensing Authority and local residents, believed that granting the application would undermine the licensing objectives, in particular the prevention of public nuisance.

The Sub-Committee had regard to the representations in respect of LP13, in particular the reasons and circumstances asserted by the applicant, which they believed to be exceptional warranting the grant of the application. However, the Sub-Committee, was not satisfied that these grounds, taken individually or collectively, were exceptional to warrant the application being granted.

The Sub-Committee also considered the concerns raised, both in writing and at the hearing, from local residents who live in close proximity to the premises, regarding the negative impact associated with licensed premises in the Shoreditch SPA. The Sub-Committee accepted the concerns raised regarding the specific location of this premises within the SPA, which they believed suffered from acute problems of cumulative impact arising from the concentration of licensed premises. As such the Sub-Committee felt that by granting the application this would inevitably result in more people drinking in the SPA and in turn increase disturbance to local residents. The Sub-Committee did not believe there were any appropriate conditions, which would prevent the licensing objectives from being undermined.

Given the reasons set-out above the Sub-Committee, having regard to LP13, believed that the application was not exceptional, as they believed that granting this application would not promote the licensing objectives, particularly the prevention of public nuisance.

**7 Variation of Premises Licence: Station Place, 3a Blackstock Road, London N4 2JE**

7.1 The application was withdrawn and approved under delegated authority.

**8 Premises Licence: Forest Road Brewing Co., Railway Arch 355, Westgate Street, Hackney, London E8 3RL**

8.1 The application was withdrawn and approved under delegated authority.

**9 Temporary Event Notices - Standing Item**

9.1 There were no Temporary Event Notices.

**Duration of the meeting:** 7:00 – 9:15pm

**Signed**

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**Chair of Committee**

**Contact:**

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