

MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE A

TUESDAY, 13TH FEBRUARY, 2018

Councillors Present: Councillor Richard Lufkin in the Chair
Cllr Patrick Moule and Cllr Sharon Patrick
(Substitute)

Officers in Attendance: Mike Smith (Principal Licensing Officer), David Tuitt (Licensing), Justin Farley (Legal Services Officer), and Rabiya Khatun (Governance Services Officer).

Also in Attendance:

Mr Ash- applicant's representative
Mr Peter Conisbee- applicants licensing consultant

Other Persons:

Mr Burr, Mr Lord, Mr and Mrs Ellams, Mr Zackiewicz, Mr Robinson Mr Hall, Mr Bangura, residents from Cadogan Terrace, Wick Road, Buxhall Crescent and Benn Street

Cllr Jessica Webb

1 Election of Chair

1.1 Cllr Lufkin 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 Cllr Patrick declared a non-pecuniary interest for agenda item 5- Ground Floor, 331 Wick Road – advising that she was acquainted with the report author who was her work colleague.

4 Licensing Sub Committee Hearing Procedure

4.1 The Chair outlined the hearing procedure at the meeting.

5 Variation Premises Licence : Ground Floor, 331 Wick Road, E9 5DH

5.1 NOTED the additional information circulated at the meeting.

5.2 Mike Smith introduced the report and outlined the variation application to include films, live and recorded music, two outside areas included in the licensable

area, and the supply of alcohol on and off premises. The licensee had an existing premises licence.

5.3 Mr Smith advised that representations had been received from the Police, Licensing, Environmental Protection and Other Persons, however, the Police and Environmental Protection were unable to attend the meeting. Members noted their written representations.

5.4 Mr Peter Conisbee, agent on behalf of the Licensee outlined the application and advised that the licensee had the lease on the property for over 6 years. The Licensee was aware that the premises was an eyesore and the public nuisance associated with the previous tenant, which the licensee had no connection with. To address these nuisance issues the licensee planned to redevelop the venue. There had been no licensing activities occurring at the premises for many years due to the issues associated with the previous business. The current premises licence was too restrictive for the proposed redevelopment of the building and a variation application had been submitted to include regulated entertainment. The proposal included inclusion of the outside areas with unlimited capacity and acoustic fencing surrounding the outside areas to minimise noise nuisance for local residents. The licensee was a responsible person that had already invested over £2000 on this proposal and had engaged with the responsible authorities and residents to address their concerns. If the variation licence was granted a responsible occupier would be sought to operate the licensed premises. The potential operator would be given training and expected to operate the premises responsibly complying with licensing conditions so that the premises did not contribute to the public nuisance in the area and adversely impact on local residents.

5.5 David Tuitt outlined Licensing's representation to the variation application on the grounds of the prevention of public nuisance. The premises had historically operated as a pub since 1930s and a premises licence had been granted in 2006 with licensable operations ceasing in 2010. A variation premises licence application had been submitted and refused in 2014 and a planning application to convert the building into residential flats had been rejected in 2015 due to concerns relating to public and noise nuisance, pollution and current and future occupiers. The proposed two metre high acoustic fencing was subject to planning approval and no details of the table and seating arrangements had been provided. In addition, the provision of private hire vehicles and taxis would cause a nuisance especially when the tube closed at midnight and patrons relied on taxis to disperse from the areas. Mr Tuitt enquired the off sales and highlighted that the plan of the premises at page 35 of the submitted report was inaccurate and a revised plan needed to reflect the premises away from the kerb.

5.6 The Chair sought clarification regarding the off sales, dispersal plan and premises plan. Mr Conisbee stated that the licensee intended to sell alcohol in the outside areas and not off the premises and therefore requested that the off sales be removed from the application. The dispersal plan included SIA door supervisors being on duty for half an hour after closing hours to encourage people to leave the area by taxi and public transport. It was confirmed that the use of the outside area at the front of the premises had been included in the licensable area but was subject to planning approval.

5.7 The Other Persons outlined their representation to the application on the grounds of the prevention of crime and disorder, prevention of public nuisance, public safety and protection of children from harm. The following points were made: concern was expressed regarding the potential public and noise nuisance in the area from patrons inside and outside the premises, potential noise nuisance escaping from inside the premises while showing films and playing music due to inadequate soundproofing and also from patrons and smokers making noises in the outside areas, noise disturbance from opening and closing external doors and the use of taxis and private hire vehicles near residential properties, the area already suffered from anti-social behaviour including people using the stairs leading to the street for drug use and dealing and people congregating in the area, and due to the limited public transport available from midnight there would be a higher demand for taxis which made the proposed dispersal plan unfeasible.

5.8 Moreover, the location was unsuitable for regulated entertainment as the premises was located within a residential area and within close proximity to an underpass which would cause issues with parking. Residents had formally complained of issues of public and noise nuisance and anti-social behaviour associated to the premises including parties being held on the roof terrace of the premises but no measures had been taken to address these issues, the residents had no confidence in the licensee operating the premises responsibly especially as no action had been taken to address the issues with the existing tenants for many years and the proposed regulated entertainment would attract more people to the area and exacerbate the existing issues and reduce residents' quality of life. In addition, there was no information on the management of these events especially controlling and managing the number of people attending the events and queuing outside the premises. The limited availability of public transport past midnight would make it a challenge to disperse patrons from the area.

5.9 Cllr Webb emphasised that the premises had never operated as a local pub and the premises being located within a residential area made it unsuitable for regulated entertainment. The proposal would attract more visitors into the area exacerbating the existing public nuisance and parking issues already experienced in the area.

5.10 In response to a question from Cllr Moule, Mr Lord confirmed that the area was a designated controlled parking zone and parking was restricted until 18.30 hours.

5.11 In response to the concerns raised by Other Person and points of clarification from Members regarding the fencing, addressing residents' complaints of public nuisance including anti-social behaviour, whether there was a demand for the proposed venue, maximum capacity for the outside areas and the dispersal policy, Mr Ash clarified that the outside area at the front of the premises included the area up to the bollards and the outside areas would be surrounded by a two metre high fence. The public nuisance associated with the premises could only be addressed by re-developing the entire premises and making it more upmarket in order to attract responsible occupiers. The applicant had researched the market and there was a demand for this particular venue in the borough. Mr Conisbee confirmed that the maximum capacity for ground floor was 250 but no capacity limit would be set for the outside areas until the acoustic report had been submitted. Finally, the outside areas/beer gardens would close at 22.00 hours and the front of the premises would be

a designated taxi point to encourage controlled and orderly dispersal therefore minimising nuisance in the vicinity.

5.12 Mr Farley, Legal Services confirmed that any fencing above one metre on the highway was subject to planning permission.

5.13 The Other Persons expressed concern that the complaints relating to anti-social behaviour at the premises had not been addressed whilst the premises had been operating without licensable activities, no information had been provided of the new occupiers and the adverse impact on residents and the area from patrons not dispersing from the area due to limited public transport from midnight. To address Other Persons concerns Cllr Patrick proposed that the outside area at the front of the premises could close at 20.00 hours and door supervisors could remain for one hour after closing to assist with dispersal.

5.14 Mr Conisbee responded that the SIA door supervisors would remain at the premises until all patrons had left. The earlier proposed closing time for the outside area would adversely affect business in the summer. Mr Ash assured the Sub-Committee that the licensee had learnt from his mistakes and was a responsible and successful landlord that had successfully managed approximately five licensed premises within London without any issues. The licensee had invested in the re-development of the premises and would now lease the property to responsible occupiers.

5.15 The Other Person asked about these other licensed premises. Mr Ash stated that he could not disclose details of the other venues.

5.16 With regard to the dispersal policy and capacity at the venue, Mr Tuitt responded that due to the minimal public transport provision most of the dispersal would be by foot and therefore contributing to public nuisance and the maximum capacity would have to set following the fire assessment.

5.17 In their closing remarks, Mr Tuitt expressed concern at the potential rise in public nuisance if the licence was granted and issues with the current dispersal plan. The Other Person expressed concern at the submitted proposal and that residents did not have confidence in the licensee.

5.18 Mr Conisbee emphasised that the licensee was a responsible person that had 30 years' experience in the managing licensed premises and would vet any new occupier and ensure that training was provided so that the new operator could comply with the licensing conditions minimising issues of public nuisance.

Decision

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 be refused in accordance with Licensing Policy LP4 and LP5 within the Council's licensing statement.

Reasons for the decision

The Licensing Sub-Committee, having heard from the licensing authority and other persons, and responses given by the applicant believed that granting the variation application was likely to result in the public nuisance/crime and disorder licensing objectives of being undermined.

The Sub-committee heard from other persons' that they did not have confidence in the applicant as a result of the running of the premises for non-licensable activities. The applicant's response was to explain that the only way to resolve these non-licensable issues was to re-development the whole premises and occupy the same with good occupiers.

The Licensing Sub-committee asked questions of the applicant regarding their proposals for the premises which included two outside areas which would require acoustic fencing the details of which were not available.

The Sub-committee therefore asked questions regarding the capacity limits for the outside areas, but the applicant's representative said that he could not give details regarding the same until the acoustic report had been completed.

The Sub-committee was provided with a dispersal policy, which was considered by the licensing authority who in closing said that the policy should be discussed with them as public transport was very poor resulting in dependence on private hire vehicles and taxis.

The Licensing Sub-committee had already heard from other persons' the noise disturbances they already experience from people using private hire vehicles and taxis.

The Sub-committee also heard from other persons and responsible authorities about other concerns regarding the proposed operation at the premises, but were not provided with detailed information and measures to address the same.

The Licensing Sub-committee were also surprised that the applicant did not bring any proposed DPS or persons with experience of managing one of the applicant's other licensed premises so that information could be given to the Sub-committee regarding the measures and steps that could be taken to ensure the operation of the premises did not undermine the licensing objectives.

On balance, the Licensing Sub-committee were not therefore satisfied that the applicant had proposed adequate measures to address the issues arising from the use of the premises as a music venue nor any confidence that the applicant would adhere to the same with their previous experience of not doing enough to resolve existing problems with the premises.

The assurances given by the applicant's representative were considered, but the Licensing Sub-committee noted that the representative on the application form was not the representative at the hearing.

6 Premises Licence : Yellow Warbler, 9 Northwold Road, N16 7HL

6.1 The application was withdrawn.

7 Temporary Event Notices - Standing Item

7.1 There were no temporary event notices.

Duration of the meeting: 7.00 - 10.15 pm

Signed

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Chair of Committee

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