

MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE A

THURSDAY, 13TH SEPTEMBER, 2018

Councillors Present: Councillor James Peters in the Chair
Cllr Sophie Conway and Cllr Caroline Woodley

Officers in Attendance: Mike Smith (Principal Licensing Officer), Butta Singh (Legal Officer), Amanda Nauth and Anisah Hilali (Legal Services), Channing Riviere and David Tuitt (Licensing), and Rabiya Khatun (Governance Services)

Also in Attendance: Best American Pizza
Farid Millad – Licensee
Abdul Wahid – Licensee’s brother
Len Furlong – Legal representative

1 Election of Chair

1.1 Councillor Peters was duly elected to Chair the meeting.

1 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 **RESOLVED** that the minutes of the meeting, held on 13th June 2018, were approved as an accurate record.

5 Licensing Sub Committee Hearing Procedure

5.1 The Chair outlined the Licensing Sub-Committee hearing procedure.

6 Application for Review of Premises Licence: Best American Pizza, 16a, Pitfield Street, N1 6EY

6.1 The additional information circulated at the meeting including a witness statement was noted.

6.2 Mike Smith, Principal Licensing Officer introduced the report outlining the application for the review of the premises licence for Best American Pizza on the grounds of alleged public nuisance created by the operation of the premises and alleged non-compliance with conditions of the premises licence. Representations were received from Environmental Enforcement and the Police and a planning informative.

Mr Smith reported that the licence at page 70 of the pack was incorrect and the correct premises licence had been circulated at the meeting.

6.3 The Sub-Committee noted the written representations received from the Police and Environmental Enforcement.

6.4 Mr Riviere, Licensing Service, outlined the case for the revocation of the premises licence on the grounds of the prevention of public nuisance. Since early 2016 until 8 June 2018 the Licensing Authority had received complaints relating to the premises allegedly operating beyond its permitted hours and causing a public nuisance and disturbance to local residents. The allegations included patrons congregating outside the premises, anti-social behaviour and noisy delivery drivers causing a noise nuisance. Mr Riviere summarised the history of complaints received in relation to the premises:

- 1 April 2016 – alleged noise nuisance at 04.30 hours
- 9 December 2016 – website advertising the premises is open until 04.00 hours
- 3 January 2017 - alleged noise nuisance at 04.00 hours
- 27 August 2017 - alleged noise nuisance at 06.00 hours and on 1 September 2017. Mr Riviere informed Mr Abdul Wahid of the complaint
- 9 September 2017 – premises had been operating at 03.30 hours beyond its permitted hours
- 15 September 2017 – Licensee had been sent a formal warning letter
- 24 September 2017 - premises had been operating at 03.15 hours beyond its permitted hours causing a public nuisance and a test purchase had been undertaken
- 21 October 2017- premises had been operating at 03.30 hours beyond its permitted hours
- 17 January 2018- PACE interview had been undertaken with Mr Millad
- 1 April 2018 – premises had been operating at 03.11 hours beyond its permitted hours and a test purchase had been undertaken with an unauthorised sales.
- 13 April 2018 - alleged noise nuisance from the premises at 04.00 hours from patrons and delivery drivers
- 29 April 2018 - alleged noise nuisance
- 8 June 2018 – alleged noise nuisance

6.5 Mr Riviere stated that he did not have confidence in the licensee to operate the premises responsibly following the numerous complaints relating to public nuisance caused by the premises operating beyond its permitted hours. Moreover, there had been consistent non-compliance of the licensing conditions even after Licensing Officers and responsible authorities had engaged with the licensee to address the issues at the premises.

6.6 In response to questions from the Chair seeking further clarification regarding the review, Mr Riviere confirmed that licensable activities included late night refreshment and during a PACE interview on 17 January 2018 it had transpired there was no DPS. The Council had received complaints relating to public nuisance inside and outside the premises after closing hours.

6.7 Members sought clarification regarding the removal of the review site notice. Mr Riviere stated that the initial site notice had been removed when officers had re-visited the premises ten days later. Mr Tuitt confirmed that the site notice had been

reprinted and displayed in window of the premises and a nearby lamp post for a further 28 days in compliance with licensing requirements. The Council did not intend to take any further action against the licensee for the removal of the site notice.

6.8 The Sub-Committee noted that the site had been granted planning permission for office and general industrial development use. There was no planning permission for the use of the premises as a pizza business.

6.9 In response to a query regarding the lack of representations from residents to the review, Mr Riviere stated that the Council had received complaints of public nuisance in relation to this premises since 2016 and that complainants wanted to remain anonymous fearing retaliation and expected Council officials to pursue any actions of public nuisance.

6.10 Mr Furlong, legal representative of the licensee addressed the issues raised by the responsible authorities and made the following points in his submission against the revocation of the licence:

- Mr Millad had managed the licensed premises and pizza business since 2011 without any issues of public nuisance until 2016. The issue of public nuisance could not be solely related to this premises. A student accommodation built in 2016 in Charles Square had approximately 5,000 students and the hotel had 300 guest rooms. The public nuisance had arisen from the additional footfall in the area of students, visitors and patrons visiting local restaurants, licensed premises, pubs and clubs. Patrons from other venues were also congregating outside the licensee's premises causing a nuisance.
- The incidents of public nuisance were caused by patrons from other licensed premises within the vicinity and they had left food containers outside the licensee's premises.
- Mr Millad had accepted that there had been management issues when the premises had been operating beyond its permitted hours. Mr Millad had depended on his staff to operate in accordance with the licensing conditions, however, due to a high turnover of staff, lack of training and supervision this condition had been breached. Since April 2018 Mr Millad had put in place measures to address the concerns of operating outside permitted hours and public nuisance including induction for new staff, proper signage within the premises informing customers of the last order at 02.45 hours, installation of CCTV to supervise staff and ensure the premises closed at 03.00 hours and one delivery driver. Since these measures had been implemented there had been no further breaches of the licensing conditions.
- With regard to the site notice of the review being removed from the premises window, Mr Millad disputed this allegation. Members were referred to exhibit CR/15 on 23 June 2018 and it was explained that the notice had been put inside the window on the top right corner to enable staff to clean the window and had been returned to the middle of the window after cleaning.
- When it had been brought to the Mr Millad's attention that the website advertising the premises had published the incorrect closing hour he had immediately contacted the company and the error was rectified.
- During the PACE interview on 17 January 2018 there had been a misunderstanding regarding the DPS. It was clarified that Mr Jamal had been the owner until 2015 but had continued to work as the DPS on a part time basis training Mr Millad and he was now applying to become the DPS.

Thursday, 13th September, 2018

Mr Millad played mobile footage of incidents of public nuisance from 01.40 until 02.34 hours caused by patrons from other licensed premises.

6.11 In response to questions from Members seeking further clarification, Mr Millad stated that since he had received the formal warning in April 2018 he had been acting as a responsible operator and had implemented measures to resolve all issues related to the premises. With regard to the incident on 21 October 2017 Mr Millad explained that the shutters were down but six customers had remained inside the premises due adverse weather conditions outside and no food had been sold. An unsupervised member of staff had sold hot food on 24 September 2017 while Mr Millad was in Denmark attending a relative's wedding. There had been a high turnover of staff approximately every six weeks as a result of changes in employment legislation and it had been a challenge to fully train staff. Mr Millad had issues with his neighbor and alleged that the complainant was a business rival making a vexatious complaint on 8 June 2018. Mr Furlong enquired whether any checks had been undertaken to confirm that the complainants were indeed local residents.

6.12 In response to questions from Members seeking further clarification regarding the review, Mr Riviere confirmed that a copy of the transcript of the PACE interview on 17 January 2018 had been sent to Mr Millad and no further communications had been received disputing the contents. Mr Riviere confirmed that the complainants of public nuisance relating to this premises were made by two local residents and the Council had received a further complaint of public nuisance on 8 June 2018 from a local resident.

The food containers left outside the premises belonged to this businesses as its menu also included burgers and desserts.

6.13 In response to a question from the Chair, Mr Riviere replied that the Council had not received any complaints of public nuisance relating to the other licensed premises within the vicinity, which also had later opening hours.

6.14 Mr Furlong stated that Mr Millad had introduced checks and balances to ensure good management of the premises and the promotion of the licensing objectives. Mr Millad added that he now employed long term and reliable staff that were fully trained, signs were prominently displayed inside the premises advising customer to respect and not disturb residents, deliveries were now made from the front of the premises and drivers had been trained to push the bike to the back of the premises to minimise noise nuisance for local residents, CCTV cameras had been installed to enable Mr Millad to supervise his staff while off site, Mr Millad was engaging with local residents and had arranged a meeting with a complainant for next week. Since implementing the measures in April 2018 there had been no further breaches of the premises licence.

6.15 The Sub-Committee noted that the licensee had taken measures to improve management, training and supervision of staff, better communication with responsible authorities and deliveries from the front of the premises. However no evidence of these measures including compliance with licensing conditions had been submitted to the hearing.

6.16 The Chair proposed a reduction in the opening hours of the premises to address the issues raised. Mr Riviere indicated that the reduction of hours would not address his concerns due to the numerous incidents of non-compliance, lack of confidence in licensee's management of the premises including an unwillingness to

implement measures prior to April 2018 and no evidence of staff training submitted at the hearing.

6.17 Mr Furlong stated that Mr Millad accepted the historical breaches of the premises licence but emphasised since the review in April 2018 he had been concerned for his livelihood and complying with licensing conditions.

6.18 In response to questions from the Chair, Mr Millad confirmed that there was an induction pack for new staff but no copies had been brought to the meeting. He would be willing to have new staff sign a form to confirm induction attendance. Mr Millad confirmed that there were no sales of alcohol from 02.00 to 03.00 hours and the last order for food was taken at 02.45 hours with a fast pizza being cooked within seven minutes. Moreover, Mr Millad and his brother were now at the premises seven days a week to ensure there were no further breaches of the licensing conditions and CCTV footage could be submitted as evidence of the changes in management and compliance of conditions.

6.19 Mr Furlong summarised that there were now checks and balances in place to ensure the premises complied with its licensing conditions.

6.20 Mr Riviere summed up that Licensing had not received any application to vary the DPS and more recent complaints had been received on 29 April and 8 June 2018 relating to public nuisance after the unauthorised sale. He did not have confidence in the licensee upholding the licensing objectives based on his track record.

The decision

The Sub-Committee in considering this decision from the information presented to it within the report and at the hearing today have 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

that the premises licence for Best American Pizza, 16a Pitfield Street, N1 6EY be revoked.

Reasons for the decision

The Sub-Committee has been persuaded by the Responsible Authorities contention that the revocation of the licence is both necessary and appropriate to uphold the licensing objectives, in particular the prevention of public nuisance and crime and disorder.

The Sub-Committee noted the evidence presented by the Licensing Authority, written representations from the Police and Environmental Health, and an informative from the Planning Authority.

The Sub-Committee did not have the sufficient confidence in the Premises Licence Holder (Licensee) and management, given the alleged activities that were carried on beyond the permitted hours, as authorised by the premises licence. It was noted that this history of unauthorised activity was undermining the licensing objectives,

Thursday, 13th September, 2018

particularly in terms of causing a public nuisance. The Sub-Committee were disappointed to note that this had continued even after specific action had been taken against the Licensee, by way of a formal interview under caution, which was carried out in January 2018. Such activity, included most recently on 29th April and 8th June 2018 when a complaint was received about the premises trading beyond its hours. This followed an unauthorised sale taking place on 1st April 2018, 4 days before the licensee's variation application was considered by the Licensing Authority.

The complete disregard the Licensee has shown in the past and the negative cumulative impact arising from the poor track record of the management for the premises, located within the heart of the Shoreditch Special Policy Area, persuaded the Sub-Committee that the Licensee had not adequately demonstrated the ability to uphold the licensing objectives in order to prevent public nuisance from reoccurring.

The Sub-Committee noted that it was unfortunate that no evidence had been provided to support the verbal representations made by the Licensee in relation to the measures that was advocated at the meeting, these measures related to procedures that had been introduced to improve the management of the premises since April 2018 including induction of new staff and installation of CCTV cameras along with a willingness to agree to any appropriate additional conditions being place on the licence, to ensure the premises was operating in compliance with it's permitted licensable hours and was promoting the licensing objectives. The Sub-Committee also noted that if formal evidence, including any proposed conditions, as opposed to just oral assertions made at the meeting, were placed in front of them, the decision may have been different.

In summary, the changes that the Licensee states has been made between April 2018 and the hearing date were fully considered at the meeting. However, the Sub-Committee was not sufficiently satisfied and did not have complete faith, given the history, that the Licensee has now changed the operation by putting in place a management system with the relevant measures, to maintain and promote the licensing objectives.

The Sub-Committee in making this decision has considered all the other options available to them, as detailed within the report, and were satisfied that none of these would adequately address the likelihood of the licensing objectives form being undermined at this point in time.

7 Temporary Event Notices - Standing Item

7.1 There were no temporary event notices.

Duration of the meeting: 7.00 - 9.30 pm

Signed

.....

Chair of Committee

Thursday, 13th September, 2018

Contact:

Governance Services Officer:
Tel 020 8356 8407