

MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE E

TUESDAY, 4TH FEBRUARY, 2020

Councillors Present: Cllr Peter Snell (Chair) and Cllr Caroline Selman

Apologies: Cllr Sophie Cameron

Officers in Attendance: Amanda Nauth (Corporate Lawyer), Mike Smith (Principal Licensing Officer), David Tuitt (Licensing Authority Representative), Natalie Williams (Governance Services Officer)

Also in Attendance: Mr Muhammed Haseeb - Applicant
PC Kerry Ryan – Hackney Licensing Police

1 Election of Chair

1.1 Councillor Snell, was duly elected as Chair of the Sub Committee following which, members and officers introduced themselves.

2 Apologies for Absence

2.1 Apologies for absence were received from Councillor Cameron.

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 procedure to be followed was outlined by the Chair as set out on page 1 of the agenda pack.

5 Application for a Premises Licence: Hoxton Chicken & Pizza Ltd, 94 Hoxton Street, N1 6LP

5.1 Mike Smith, Principal Licensing Officer, introduced the report in respect of a premises licence application to authorise the provision of late night refreshment Monday-Thursday 23.00-00.00 and Friday and Saturday 23.00-02.00 as set out on page 3 of the agenda pack. It was noted that Responsible Authority representation had been received from the Police and Licensing Authority. A

- Planning informative had also been submitted by the Planning Authority. The Sub Committee also noted the additional information that had been circulated from the Police.
- 5.2 Mr Muhammed Haseeb, applicant, made submissions. He stated that he operated two fast food take away businesses, one of which was located in a neighbouring borough. Due to increased rents, in order to make his business financially viable he would require longer trading hours. The business was described as a fast food takeaway chicken shop which also offers a delivery service. Mr Haseeb stated that there was minimal demand and trade during the daytime and that most of the trade was during the evening. He confirmed that there was one delivery driver who was directly employed by him and not via a third party service.
- 5.3 In direct response to the breaches of the licence witnessed by the Police and detailed in the additional material circulated ahead of the hearing, Mr Haseeb accepted responsibility for the first breach on 1st January 2020 where the sale of hot food beyond the terminal hour was witnessed. In relation to subsequent breaches, he vehemently denied these occurring and stated that the shop was closed and he was giving free food to a friend, which was witnessed Police.
- 5.4 It was noted that the Police had submitted Responsible Authority representation attached at Appendix B2 of the agenda pack. In addition, the Police had circulated additional information in the form of three warning letters prior to the hearing which were sent to the applicant after three separate breaches were witnessed by patrolling police. The letters pertained to the sale of food beyond the terminal hour of 23.00hours on the following dates:
- 1st January 2020 – witnessed the sale of hot food at 04.40hours
 - 11th January 2020 – witnessed the sale of hot food at 00.05hours
 - 24th January 2020 – witnessed the sale of hot food at 00.36hours and deliveries in operation
- 5.5 PC Kerry Ryan made submissions. She informed the Sub Committee that her colleague, PC Atkins had completed the initial representation contained at Appendix B2 of the agenda pack. However she had visited the premises every Friday since New Year's Eve. It was explained that on the first breach, the shop was open, trading and making deliveries past the terminal hour of 23.00 hours and up until 04.40 hours. Regarding the second and third breaches, whilst on first appearances the premises appeared to be closed as shutters were down, patrons were still entering, purchasing food and deliveries were still taking place. On exiting patrons were approached and confirmed that they had purchased food from within the premises.
- 5.6 PC Ryan reported that on speaking to the applicant at the time of the 3rd breach, Mr Haseeb requested that the Police pretend that they had not seen observed any breaches. PC Ryan confirmed that there was body cam footage available as evidence.
- 5.7 The Sub Committee noted that PC Kerry Ryan had explained to the applicant that additional hours could be legitimately used through the Temporary Events Notices (TEN's) procedure.

- 5.8 PC Ryan expressed concern that the applicant was not an honest and responsible operator. Further concerns were also raised regarding the applicant's ability to grasp the magnitude of the situation, engage in the application process and promote the licensable objectives. It was explained that Mr Haseeb had made no attempts to contact the Police following the representations made and the warning letters issued. The Sub Committee was informed that should further breaches be witnessed, the Police would proceed to the next step which would be prosecution.
- 5.9 PC Ryan explained that the Police's stance had changed from objection on the grounds of; the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm, which was submitted at the time of their original representation attached at Appendix B2 to recommending the licence be refused due to non-compliance.
- 5.10 David Tuitt, Licensing Authority representative, made submissions. It was stated that he shared similar concerns as raised by the Police. The Licensing Authority had objected to the application on the grounds of the prevention of crime and disorder and the prevention of public nuisance. Concerns were expressed relating to the application for hours outside of the core hours (LP3) and in relation to dispersal and loitering of patrons.
- 5.11 The Sub Committee heard that the Licensing Service, had undertaken two test purchases (July and October 2019) and on both occasions were able to purchase food after the terminal hour of 23.00 hours. David Tuitt informed the Sub Committee that not all evidence of breaches had been presented to Members as some may be relied upon in the event of a trial.
- 5.12 In response to points of clarity raised by the Chair, David Tuitt, informed the Sub Committee that the Macbeth Pub is a nearby licensed premises which is the most likely place that will generate patrons and exacerbate problems of loitering. It was noted that the applicant had one delivery driver and did not use a third party service for its deliveries. Subsequently, there was minimal concern about delivery drivers congregating around their vehicles/motor bikes and causing public nuisance.
- 5.13 In response to a point of clarity from the Sub Committee, David Tuitt confirmed that to his knowledge, there had not been any complaints from residents.
- 5.14 Following submissions from all relevant parties, and points of clarity from the Sub Committee, a discussion of the application ensued, during which the following points were raised:
- It was noted that there was a Planning informative at Appendix B1, and that there was no planning permission in place for the provision of late night refreshment.
 - The suggestion that the business was not viable without the additional hours cannot be prioritised above the need to operate legally and promote the licensable objectives.

- The applicant explained that he did not fully understand the process and expressed disappointment that he did not receive additional help and support.
- Mike Smith, Principal Licensing Officer explained that the applicant received proper advice as given to all applicants and additional support was given to ensure that the application was acceptably presented.
- The Sub Committee expressed concerns about the applicant's ability to meet the requirements of the licence after multiple breaches had been witnessed by the Police and Licensing Service.
- The applicant offered apologies for breaches and reassurances that he would correct the situation going forward.
- The applicant confirmed that he did not fully understand the TEN process and stated that he had attempted to contact the Police-which was refuted.
- David Tuitt confirmed that following the test purchases, letters were sent to the applicant via recorded delivery. However the investigation was put on hold and no further action was taken due to the application process.
- Concerns were expressed by the Sub Committee and Responsible Authorities relating to the applicant's understanding of the; process, requirements of the licence, licensing objectives, roles of responsible authorities and the responsibilities of a licensee.
- It was explained to the applicant that he could have chosen to seek help and representation from a friend if legal representation was not an option.

- 5.15 In his closing submission, David Tuitt retained his objections and concerns, whilst expressing sympathy for the applicant's seeming lack of understanding. He informed the Sub Committee that he did not have confidence that the applicant would operate the licence, with the additional hours requested, responsibly.
- 5.16 In her closing submission, PC Kerry Ryan requested that the application be refused as the applicant had made very little effort to engage with the Responsible Authorities and had shown a consistent and blatant disregard for the law.
- 5.17 In his closing submission, the applicant requested that the Sub Committee be mindful to agree the application with the additional hours requested.

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 a premises licence for late night refreshment has been refused having regard to the Council's Statement of Licensing Policy, in particular LP1, LP2, LP3 and LP5.

Reasons for the decision

The Licensing sub-committee after hearing the representations made by the

Metropolitan Police, and the Licensing Service were of the view that the licensing objectives would be undermined if the application was granted. This was because of the concerns raised by the Metropolitan Police and the Licensing Service which had not been properly addressed by the applicant at the hearing.

The Licensing sub-committee took into consideration that the applicant had operated without a licence recently on three separate occasions in January 2020, and had been sent warning letters after each incident from the Metropolitan Police as to the same. In addition there were previous concerns reported to the Licensing Service who investigated the complaints in July 2019.

The sub-committee noted that the applicant had not contacted the Metropolitan Police following the recent warning letters or sought to discuss the matter with them.

In addition, the sub-committee had real concerns about the current operation of the premises, given the complaints surrounding the current management and their track record.

The Licensing sub-committee in making their decision did not have sufficient confidence in the applicant's ability to comply with the requirements of a premises licence in accordance with the Council's Statement of Licensing Policy.

As such, in refusing the application, the sub-committee had serious doubts about the applicant's ability to promote the licensing objectives, given the applicant's failure to comply with the law.

In making this decision the Licensing sub-committee noted that this does not prevent the applicant from continuing to trade until 11pm every day and providing that the applicant can demonstrate that they can operate in a manner that would not undermine the licensing objectives going forward, this may be taken into account with regards to any future application that may be made.

It was also noted that there is scope for the applicant to apply for extra hours under a Temporary Event Notice (TEN), which is unlikely to receive objections from the Responsible Authorities, if the applicant is able to demonstrate he can operate the premises under his current permitted hours, and following a period of continuous compliance.

Public Informative

The applicant is reminded that if they consider submitting an application again in the future that they should consult with the Responsible Authorities, including the Metropolitan Police and the Council's Planning Services to address any of their concerns relating to his application for a premises licence to provide late night refreshment.

It also should be noted for the public record that the local planning authority should draw no inference or be bound by this decision with regard to any future planning application which may be made.

6 Temporary Event Notices - Standing Item

There were no Temporary Event Notices for consideration.

Duration of the meeting: Times Not Specified

Signed

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Chair of Committee

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