

MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE C

21 JANUARY 2021

Councillors Present: **Councilor James Peters in the Chair**
Councillor Emma Plouviez
Councillor Peter Snell

Officers in Attendance: Subangini Sriramana (Principal Licensing Officer)
Amanda Nauth (Lawyer), Peter Gray (Governance
Officer)

Observers:

Georgia Lazari and Karishman Mahmmod (Legal
Services)

Also in Attendance: **Unit 7, 2-4 Orsman Road**
David Dadds, Solicitor

Responsibility Authority
Channing Riviere (Licensing Officer)

1. Election of Chair

1.1 Councillor James Peters was appointed as Chair.

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. Licensing Sub-committee Hearing Procedure

4.1. The Procedure was not available to the Sub-Committee. David Dadds confirmed that he was aware of the procedure to be followed.

5. Premises License: Unit 7, 2-4 Orsman Road

5.1 Subangini Sriramana (Principal Licensing Officer) introduced the application. The Metropolitan Police Service had withdrawn their representations, and agreed

conditions with the applicant before the Hearing. There were no objections raised by other Responsible Authorities or Other Persons.

5.2 David Dadds made submissions to the Sub-Committee in support of the application:

- That there had been no representations from the Police, Environment Health, Environmental Enforcement against the application.
- That there was no primary evidence before the Sub-Committee.
- There had been a previous complaint about noise at the premises but that there had been no new complaint.
- That under legislation, Local Authorities should not act on behalf of other parties.
- That a condition making the sale of alcohol ancillary to the consumption of a meal was not sought by the applicant.
- The Police did not object to the removal of condition 3.
- That sound-proofing work had been carried out at the premises.
- There had been no objections from residents to the present application.
- Following concerns about smoking at the front of the premises a condition had been put in place.
- There had been no crime and disorder at the premises.
- That the application should be considered on its own merits.

5.3 Channing Riviere made submissions on behalf of the Responsible Authority as follows:

- The applicant remained the same as when the application was revoked, recently, for public nuisance.
- The applicant did not have a good track record, having previously had its licence revoked.
- The applicant's solicitor had proposed conditions for the front of the property but two residents were still unhappy with the application.
- The applicant had recently operated the premises in a way as to cause public nuisance.

5.4 David Dodds objected to the reference to the two residents and evidence of public and submitted that appropriate weight be applied. He added that details of the residents were not disclosed to the applicant or the Sub-Committee and that there was no reference to them in the original representations. Channing Riviere submitted that, in line with Home Office guidance, a Local Authority has the power to make representations on behalf of objectors in this way. Amanda Nauth (Lawyer) advised that any such objection must be made at least 28 days before a hearing.

5.5 Councillor Snell asked if the Licensing Authority had met with the objectors and whether there was a legal right to give a report that included those residents' concerns. Channing Riviere confirmed that he had contact with the two residents who continued to have concerns about the application. He confirmed that the Responsible Authority had the right to make the report.

5.6 Councillor Peters confirmed that the Sub-Committee would take into account the documents that were before it and previously circulated, in particular representations made by Councillor Adams.

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5.7 David Dadds reiterated that this was a new application and that it should be treated on its own merits and referred to the need for 28 days notice on the making of representations. He submitted that the Sub-Committee should decide on what weight to put on the documentation submitted relied on by the Licensing Authority and the representations of Cllr Adams. He referred to the case of: *R v Licensing Justices for East Gwent ex parte Chief Constable of East Gwent (2001)*. Amanda Nauth explained the judgement to the Sub-Committee in relation to the weight to be given to such evidence. The Sub-Committee noted that advice and said that it would consider the evidence accordingly.

5.8 Councillor Peters asked why there were no records of complaints against the premises. Channing Riviere told the Sub-Committee that because of the lockdown the premises had not been operating, and there had been no current complaints. The premises was not in a position to show improved performance.

5.9 David Dadds explained that the Council had found the applicant in breach of Conditions 31 (which required any alcoholic drink sold to be served with a substantial table meal). He submitted that there was no suggestion that the breach undermined the Licensing Objectives and the Police had not raised any objection. The DPS had been changed and the Police were content with this. David Dadds offered to include a condition by which food would always have to be available at the premises.

5.10 Councillor Snell expressed concern that there was no reference to food being served and that the application appeared to be for a stand up bar. David Dadds confirmed that the premises was to have a capacity of 95 (combined indoors and outside) and that there was to be ample seating and that the intention was not to have vertical drinking. The condition on the sale of alcohol being ancillary to the service of a meal had been accepted when the original licence was granted but, as the premises was not a restaurant, this had been difficult to implement.

5.11 Councillor Plouviez asked about the rationale of condition 31. David Dadds confirmed that this was a condition agreed with the Police but he considered that there was no rationale for this condition.

5.12 In closing, Channing Riviere submitted:

- that local residents had concerns about the premises and that there had been a bad track record of management at the premises.
- There had been no opportunity for the premise to show changes in behaviour.
- That the application should be rejected.

5.13 In closing, David Dadds submitted that:

- there was no evidence of disorderly behaviour or noise nuisance.
- that the application should be considered on its own merits.
- that the makers of the representations were not present at the hearing.
- that the application should be granted, as amended

The decision of 21st January 2021

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 has been refused in accordance with Licensing Policies LP1 and LP2 within the Council's Statement of Licensing Policy.

Reasons for the decision

The Licensing sub-committee, having heard from the Licensing Authority, considered that granting the application was likely to result in the licensing objectives being undermined.

The sub-committee took into consideration the fact that the Metropolitan Police Service had withdrawn its representations, and agreed conditions with the applicant before the hearing. It was also noted that there were no objections raised by other Responsible Authorities or Other Persons.

The sub-committee, when making its decision, took into consideration that the applicant was seeking a new premises licence to operate the premises as a licensed bar within a residential area. It was noted that the current premises licence permits the sale of alcohol only with a substantial table meal. The sub-committee was concerned that there were fewer protections in the current licence than would normally be expected. The sub-committee took into consideration evidence that the licence holder had failed to comply with the conditions on an existing premises licence.

While the sub-committee noted that the premises licence had been revoked recently, it considered the present application on its own merits. The sub-committee took into consideration the Licensing Authority's concerns that the proposed application could lead to further resident complaints, and the licensing objective relating to public nuisance could be undermined. The Licensing Authority presented evidence that the applicant had, recently, operated the premises in a way as to cause public nuisance. While the weight to be attached to that evidence was disputed by the applicant, the sub-committee considered it appropriate to take it into account when arriving at its decision.

The sub-committee took into consideration when refusing this application the evidence before it of issues relating to the manner in which the applicant has run its business from the premises. The application was carefully considered on its own merits. The sub-committee was concerned that the applicant had been unable to demonstrate that it had engaged with the Licensing Authority to resolve its concerns. The sub-committee had concerns, based upon the evidence presented to it, about whether the applicant was able to manage the premises responsibly. Therefore, it was felt that the licensing objectives could not be promoted by granting this application, meaning that it was appropriate to refuse the application in its entirety.

7. Temporary Event Notices - Standing Item

There were no temporary events notices.

Duration of the meeting: 2pm - 3pm

Signed

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Chair of Committee

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