

Draft Licensing Sub-Committee E – 1 December 2020 at 2pm

Remote meeting

Present,

Councillors : Councillors Smythe & Snell

Officers: Ms Amanda Nauth - Legal Adviser - LB Hackney Ms Subangini
Sriramana - Acting Principal Licensing Officer - LB Hackney
Mr David Tuitt - Licensing Authority - LB Hackney
Mr Clifford Hart - Senior Governance Services Officer - LB Hackney

Representatives:

Applicant: Legal representatives WS law -Sarah Grant, Robert Botkai,
Applicants Ms Trish Bojczuk, & Mr Steve Turpin

Responsible Authorities:

David Tuitt (Licensing Authority)
PC David Atkins - Metropolitan Police Licensing Service

other persons:

Catherine Hanly - Resident

1. ELECTION OF CHAIR FOR THE DURATION OF THE PROCEEDINGS

Councillor Snell was duly elected Chair of the proceedings, following his nomination by Councillor Smythe.

COUNCILLOR SNELL IN THE CHAIR

2. APOLOGIES FOR ABSENCE

There were no apologies for absence. It was noted that Cllr Faraja Thomas had as an observing Councillor to the meeting had given her apologies.

NOTED

3. DECLARATIONS OF INTERESTS

There were none.

NOTED

4. Licensing procedure

The Chair advised all those present of the procedure to be followed at the meeting.

NOTED

5. Application for a Premises License: Hanoi Pho - 179 Mare Street, Hackney E8 3QE - London Fields Ward

The Chair advised that this item had been dealt with and approved under delegated authority and therefore was not required to be considered now at this hearing.

NOTED

6. Application for a variation of a Premises License: Finsbury Park Service Station - 314 Seven Sisters Road, N4 2AP - Brownswood Ward

The Chair advised that in respect of the application before the Committee members were advised that additional concerns from the Police had been circulated on 30 November 2020, together with additional conditions submitted by the applicant's solicitor .

NOTED

- i. The Acting Principal Licensing Officer Ms Sriramana introduced the report in respect of a variation to a premises licence for Finsbury Park Service Station - 314 Seven Sisters Road, N4 2AP - Brownswood Ward
- ii. .As confirmed by the Chair she advised that additional concerns from the Police had been circulated on 30 November 2020, together with additional conditions submitted by the applicant's solicitor.

NOTED

The Chair asked at this point that all attendees introduce themselves

which was done accordingly.

NOTED

iii. The applicant's legal representative Mr Robert Botkai introduced himself, and advised the meeting that the application was as stated in the circulated report. as outlined. Mr Botkai then went on to make a number points and the following were a main summary of those:

- the existing licence operation as detailed, and the fact that the facility was in operation already 24 hours a day with alcohol sales ceasing at 11pm
- that the existing licensing conditions were extensive and may have applied to a previous 24 hour licence which had been carried over
- that one existing condition prevented alcohol of over 6% ● additional conditions had been put forward as circulated prior to the hearing for consideration outlined and summarised as sales of alcohol only being available through the night toine window and not entering the premises, no sales of individual cans of beer or larger, and no sales of miniature bottles of alcohol of 35 cl or less
- an additional condition outlined during festivals whereby there being sale of no more than 4 cans to an one individual, no sals of glass vessels, and ceasing of all alcohol sales if advised so/requested by the Metropolitan Police where concerns were /had been expressed in terms of crime and disorder/ASB during proposed festivals, and assurances given to the Responsible Authorities to this effect
- there were two existing premises at 302 and 308 Seven Sisters Road which which had 24 hour opening, one currently sporadic in its operation, and the other open and the ability to purchase single can of 'white ciders' and strong beer/miniatures - something which was not on sale at this premises
- that the types of alcohol for sale at other the local premises did attract those persons who were alcohol dependent, and street drinkers, and sales from these premises contributing to ASB and disruptive behaviour in the area
- reference by the Responsible authority - Mt Tuitt in his appendix B 2 to a 2017 study of late night convenience stores, supermarkets licensed to sell alcohol, and confirmation that this report had centred on five areas of the Borough, not this area, and the fact that the conclusion of the report advised of no adverse detrimental effect on ASB or disruptive behaviour which

should be noted, and no reference in Mr Tuitt's objections in terms of cumulative impact/ASB concerns, and no evidence to suggest that, together with no public and environmental health representations

- that the overall Police concerns/objections had been answered by the additional conditions outlined, and any additional conditions that may be considered to be added for proposed 24 hour licence were already added due to the operation of the existing licence
- that the email sent by the Police in regard to high crime and disorder gave no specific references to incidents, times/dates, and severity, and it would be expected that any such references would be substantiated by clear/factual evidence
- regarding resident concerns in respect of drug dealing etc there was no evidence to suggest these activities, and no incidents of ASB at the store, or street drinking in the vicinity of the store,
- that by operating the proposed licence for the requested period would not suggest that such issues would arise, and giving the that the operator was a responsible and established one with 31 similar licenced establishments operating 24 hours a day across the country
- that the sales of alcohol through the night window throughout the night was easier to control/regulate, and the night staff were able to see all activities and report any signs of ASB etc
- whilst there could not be a 100% guarantee that ASB and other elements/difficulties could occur should there be a situation which arose whereby the Police then came directly to the the licensee and advised of the behaviour causing considerable difficulties then the activities would be immediately suspended
- that none of the 24 hour licences had been reviewed and that it was the case that were the licensee not to comply with set conditions etc then the licensee knew that the licence would be brought back to the Licencing Authority for review

iv. the Chair asked and the Committee raised the following points which were responded to;

- what had been the level of liaison with the Police Authorities with regard to the additional conditions submitted and responses from Mr Botkai that there had been discussions with the Police during the consultation period, and that the concerns /reservations remained and were before the sub-committee ●

clarification given by the legal adviser to the sub - committee - Ms Nauth to points raised by the Chair as regards to the 2017 study, and whether any changes had been fundamentally made to existing policy in terms of the responsible authorities

submitting evidence to substantiate asb etc , and her response that the sub-committee should take account of the policy in considering whether an exception should be made based on the submitted evidence and whether the Sub-Committee would in that sense be prepared to depart from existing policy,

- clarification by Mr Botkai with regard to the issue of representations and that there was no evidence to suggest such activity from this premises, and that also it was not in a cumulative impact area (CIA) , and that were it to be in a CIA then indeed there would need to be evidence to the effect of there being an impact as a result of the activity - and this was indeed not the case
- clarification of the 2017 report referred to

v. The Chair thanked Members and the applicant for their questions/clarifications. The Chair asked that the responsible authorities next give their initial comments. Mr Tuitt, and PC Atkins raised objections as follows

Mr Tuitt:

- of the objections as detailed in at appendix B2 and that these referenced the representations as shown - the prevention of crime and disorder, and the prevention of public nuisance due to the possible increase in activity in this area during the times by the proposed sale of alcohol between 11.00pm to 5.00am, and that the store was currently operating 24 hours a day already
- the additional measures offered by the applicant were welcomed especially in that as stated they would cease alcohol sales upon requests from the Police during festival times, which was a significant offer on the part of the applicant
- reference made to the commissioned 2017 study which was used to form policy development, which in the study had highlighted supermarkets/convenience stores as potentially adding to cumulative impact, though the studies focused on five areas in the Borough, this location not being in any of those areas,
- that the Licensing Policy and objectives could be undermined by the increase in alcohol sales in the locality

The Chair and Committee sought and received clarification on the

following points:

- clarification that in terms of evidence of crime/ASB it was advised that this was anecdotal, and raised internally during general working group discussion in terms of activity in this area, and also given the location of a hostel facility in close proximity to Seven Sisters Road, which could seriously undermine the licensing objectives but that this had not been evidenced in the representations at B2 as there was no categorical evidence as such to say that this was the case
- clarification that the 2017 study had not looked at the Blackstock Road area as part of cumulative impact inclusion though it being in the borough boundary
- concern and clarification by Mr Botkai that the 2017 study had not given any evidence of late night sales having a detrimental effect on crime and ASB in this area, and that this report was being referenced in terms of an objection to the proposal when the said report should have been circulated as part of the evidence to support a point, and that without the report before the meeting it should not be referenced nor taken account of in any deliberation

The Chair asked for and representations were given by PC Atkins as follows :

- that in terms of other premises in the vicinity of Finsbury, as previously commented one premises - 302 was open 24 hours, as was 308 - but that 308 ceased sales of alcohol at 11pm
- that an additional licence of 24 hours and alcohol sales as proposed would exacerbate existing street drinking in that area, and further possible detrimental effects on ASB which had been the concern of the Safer Neighbourhoods team (SNTs), together with the evidence submitted and circulated from PC Hussain the previous day

The Committee then sought clarification on the issues raised, and responses thereto as follows:

- clarification that conditions submitted had been discussed prior to the hearing, and concerns of the Police as to whether the Police would have the capacity to be able to notify the applicant 48 hours prior to festivals to cease alcohol given that it may not always be the licensing team but rather the local area

officers, and capacity issues

- the further concerns submitted by the Police were quoted by PC Atkins for the benefit of the hearing (originally stated in February 2020). The substance of the comments could not be further explained as regards the initiative undertaken due to the absence of the SNT at this hearing due to unforeseen work issues

vi. The Chair then asked the other parties representative - Ms Hanly to address the meeting:

Ms Hanly advised that :

- living in close proximity to the premises there was considerable issues with street drinking, drug taking, and ASB, certainly since 2016 when first in residence, and that work was on going with both the Council and Police to address these issues emanating from the two mentioned off licences where people congregate
- the issues with drinking in the vicinity of the entrance to Finsbury Park and that the park was open 24 hours a day so the drinking issue and congregation of people there was continual
- the location of the hostels in the vicinity adding to the issues as well as homelessness in the area
- the matter of extensive festivals for three months during the summer - 2020 not so due to COVID, with street drinking going off the scale, and existing issues with the petrol station during this time being a massive draw from people leaving the Park, and the sale of alcohol/cigarettes allowing for people remaining in the area and not moving off after the festivals were concluding
- the existing private foot patrols having a presence to try to assist in terms of ASB and street drinking paid for by the festival organisations to try to combat the issues and concerns
- that any additional application for 24 hour drinking would only to serve to worsen an already known issue of street drinking/ violence and ASB

The Chair thanked Ms Hanly for her well presented evidence and that should she wish to contribute during the discussion stage then she was welcome to do so.

There were then further points of clarification as to the earlier comments raised as follows:

- confirmation in response from Mr Tuitt that he had been clear in terms of the said making reference in the 2017 report to late night

sales but that these were not in the area in question

- clarification from Ms Nauth that the Sub-Committee should consider whether references given to the 2017 study (which was in the public domain and readily available to be seen) should be quoted if possible in terms of their relevance to the licence

application

- counter concerns of Mr Botkai that the report referred to should have been circulated at least 24 hours prior to the hearing by law, and that it would be totally wrong for the report to be taken account of in deliberating the issue of the licence approval
- the reiteration of Mr Tuitt in response to the content and findings of the 2017 report and its comments relating to the existing number of late night supermarkets/off licence premises selling alcohol late at night and that whilst there should be no retrospective review of existing licences the consideration of any new late night off licences should be mindful of those concerns
- the reiterated comments of Mr Botkai that the findings and reference to the report, which as quoted were misleading given the that the findings stated a whole raft of comments and in particular that late night off licence sales in the five areas in question were not found to be detrimental or added to the issues of late night street drinking/ASB etc, and that his objections be placed on record to the fact that a one line quote in that 2017 report was being evidenced for the Sub-Committee to consider in terms of the application before it, was totally misleading the Sub-Committee, given that the report and its finding were neither before or had been circulated to the Sub-Committee at least 24 hours prior to the hearing, by law.
- the conclusion of the Chair that the quoted reference would be taken account of during deliberation of the application if it was felt that the quote was of relevance, with there already being other evidence of residents and the Police, and in other comments expressed to suggest the level of street drinking, ASB and crime in the locality of application, which would be taken account of when the Sub-Committee deliberation.

vi. The Sub-Committee then undertook a wide ranging discussion regarding the application, and responses from the applicant and their legal representative - the main points being:

- comments of the Chair as to overall consideration of such types of applications and the requirement to consider all aspects of the the licensing policy, and the fact that it was known that ASB/street drinking in the area would be something that would have to be taken account of when deliberating this application

- the evident concerns of local residents particularly during the latitude festival period and the issues associated with loitering, prolonged street drinking and ASB, and the requirement for private security during this period, but given the concerns that this was a year round issue whether indeed there should be private security during the whole year
- that it was a fact that in recent years it had been practice not to grant alcohol sales 24 hours a day and that the Council's licencing policies had to be upheld by granting such a request , and that there had been no evidence thus far to suggest any benefit to the local community, and that by granting the licence this would be against such agreed policies
- the applicant solicitor in response to the comments thus far advised that he in conversation with the agents there was a willingness to amend the application to permit alcohol sales to midnight on Friday and Saturdays only, and not to 5.00am together with the conditions suggested by the applicant in terms of festival operations
- clarification from the applicant that the Company was a responsible one in its operations, and that the application was in line with the 61 premises licences across the Country, 37 of which were for 24 hour operation, and the fact that there had not been any difficulties with those licences operated 24 hours, however there agreement now to amend the licensing application operation to 12 Midnight only on Fridays and Saturdays
- comments of the applicant solicitor in terms of Central Government's Licencing policy (Section 180 of the Licensing Act) together with the LB Hackney's licensing policy
- that the sale of alcohol at this premises was a restricted range and could not be compared with the considerable range of alcohol sold at both 302, and 308 Seven Sisters Road, which was were a lot of the problems emanated from
- that clarification from Mr Botkai that in other local authorities it was often the practice of the Police to work with licensees during festivals/large events in terms of notification and perceived worries, and that the conditions put forward by the applicant evidently expressed the desire to work with the licencing authority and Police during such events, and in line with such existing practices elsewhere were the Police to request the ceasing of alcohol from (pm during festival operation then the applicant would comply with this, and whether a further condition could be reflective to the effect of ceasing of alcohol sales at 11pm during festivals negating the need for the Police to then have to specifically notify/request alcohol sales ceasing
- clarification sought in terms of the workability of the proposed

conditions from a Police perspective and responses given that whilst the conditions may be workable viz a vi 48 hour notice it was a logistical question of local police officers having knowledge or being able check local licences in order to then enforce such conditions, coupled with the sheer volume of licensees in the Borough

- further clarification by the Police that whilst at 11pm ceasing of sales of alcohol during festivals would assist the overall concern of residents etc during the rest of the year, together with the observations of the Police Safer Neighbourhood Teams was something that needed to be taken account of
- clarification from the Chair that it was sensible to have a condition in terms of ceasing alcohol during any events, which was in part supported by the applicant but the issue of what constituted an event - i.e would it be necessary during a fun fare
- clarification from other person (Ms Hanly) that the festivals were not just confined to the summer festivals such as wireless but others also, and festivals were also happening into October - the Oktober fest - and in checking her notes from the previous summer wireless after event discussions and confirmation that the Police presence was to 2am. and that it was a given fact that the problems were not just confined to the summer period
- clarification of the core hour operation in line with licence condition LP3 as already granted and that the extension of operation would only apply Friday and Saturday 11- 12 Midnight.

viii. The Chair asked for final summing up comments from each of the parties:

other persons (Ms Hanly)

- that the discussion and comments had given no assurances that there would be any improvement by what was being proposed, to alleviate or address the evident exiting problems of ASB, street drinking, and drugs issues in the area, but that the opportunity to express resident concerns was welcomed

Responsible Authorities:

Police Authority (PC Atkins) - no further comments to add
Licensing Service (Mr Tuitt) -no further comments to add

Applicant (Mr Botkai on their behalf)

- that the concessions/amendments to the application by way of the proposed variation for alcohol sales Friday and Saturday to Midnight only somewhat mitigated a number of issues /concerns expressed during the discussions on the proposed application
- a reiteration of the issue of the quoted study, and the need to disregard this in deliberation of the application, given the quasi judicial nature of the licensing process
- a commitment to work with the Licensing Authority and Metropolitan Police, and local residents going forward

There being no further points raised by any of the parties the Chair advised that the formal meeting would now close and asked that all external parties now leave the proceedings. The Sub-Committee would then retire to consider the issues and the applicant would be advised of the decision within 5 working days.

Mr Botkai thanked the Sub-Committee for its consideration.

The Chair thanked all parties for their attendance.

The formal meeting concluded at 15:22hrs

Following private deliberation it was:

RESOLVED

Application to Vary a Premises Licence – Finsbury Park Service Station, 314 Seven Sisters Road, London, N4 2AP – APPROVAL

The decision of 1st December 2020

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 to vary a premises licence has been approved in accordance with the Council's Statement of Licensing Policy, and together with the proposed conditions

as set out in paragraph 8.1 of the report, with the following amendments:

The hours for licensable activity are:

Supply of Alcohol (off the premises):

Sunday to Thursday 06:00 - 23:00 hours

Friday to Saturday 06:00 - 00:00 hours

And the following additional conditions:

- The entrance door to the shop will be closed to customers between the hours of 2300 and 0600. Any sales between these hours will be made through the night pay window.

The licence holder will, on receipt of a request in writing (email will suffice) from the police take the following steps at the premises for such times as may be agreed, on days when the police consider that a major event is taking place in Finsbury Park. Such requests from the police must be on at least 48 hours' notice:

- i) Alcohol sales in respect of cans of beer or cider to be limited to no more than 4 cans per person.
 - ii) The premises will not externally advertise local promotions of alcohol.
 - iii) No sales of alcohol in bottles or glass containers are made during this period.
 - iv) Upon the direction of a Police Officer, using the grounds of the prevention of crime and disorder or public safety, the premises will immediately cease to sell alcohol until further directed by the Police.
- There shall be no sale of single cans of beer, larger or cider from the premises.
 - There shall be no sales of spirits in vessels with a volume of less than 35CL.

Reasons for the decision

The application has been approved as the Licensing sub-committee was satisfied that the licensing objectives would not be undermined.

The sub-committee noted that the premises is situated in a busy residential area

opposite Finsbury Park, and in the Summer months the park holds a number of festivals and concerts. It was noted that the applicant held an existing premises licence, and they are an experienced operator who have 61 sites of which 37 are operated on a 24 hour basis.

The sub-committee took into consideration the representations from the Licensing Authority, the Metropolitan Police, and Other Persons. It was noted that apart from the Licensing Authority and the Metropolitan Police no other Responsible Authorities had made representations.

The Metropolitan Police stated that they had concerns that festival goers will have more access to alcohol, which could be disruptive, and may cause a public nuisance. They had concerns that the additional hours may also exacerbate the situation with street drinkers. The Metropolitan Police also had concerns following festival events about the implications on public safety with individuals continuing to drink on at Finsbury Park Station and on the public transport network.

The sub-committee considered that the Licensing Authority had concerns that the alcohol sales could lead to incidents of anti-social behaviour including street drinking, and could lead to crime and disorder.

The sub-committee took into consideration the objections from Other Persons in relation to anti-social behaviour and the impact on the local residents in the area which would also undermine the work undertaken by the local community Police.

The sub-committee felt that the applicant's amended application seeking an additional hour on Friday's and Saturday's from 06:00 to midnight (00:00), together with the above additional conditions, proposed by the applicant, gave them some comfort that it would reduce the risks of late night street drinking, and any anti-social behaviour that would mitigate any impact on local residents in the area.

Having taken all of the above factors into consideration the Licensing sub-committee were satisfied, when granting the variation of this premises licence, that the licensing objectives would continue to be promoted.

Public Informative

The applicant is encouraged to engage in meaningful dialog with the local residents regarding issues relating to the premises, and to play their part in reducing any impacts such as noise and anti-social behaviour.