

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
17 August 2015 (10.30 - 11.40 am)**

Present:

COUNCILLORS

Conservative Group Linda Trew (Chairman) and Philippa Crowder

Residents' Group Jody Ganly

Present at the hearing were the applicant Mr Colin Hales and his agents Mr Graham Hopkins and Ms Linda Potter.

Paul Campbell - Licensing Officer, (representing the Licensing Authority) and PC Belinda Goodwin (representing the Metropolitan Police).

Also present the Legal Adviser to the Sub-Committee and the Clerk to the Sub-Committee.

No interest was declared at this meeting.

The Chairman reminded the Sub-Committee and the members of the public of the action to be taken in an emergency.

1 REPORT OF THE LICENSING OFFICER

PREMISES

Café Baccarat
61 Station Road
Station Road
Upminster
RM14 2SU

DETAILS OF APPLICATION

This application for a new premises licence was made under section 17 of the Licensing Act 2003 (“the Act”).

APPLICANT

Mr Colin Hales
The Cottage
Duncans Yard
Westerham
Kent
TN16 1AD

1. Details of requested licensable activities

Details of the application

Licensable activity sought:

| Supply of alcohol (on premises) | | |
|---------------------------------|-------|--------|
| Day | Start | Finish |
| Monday to Sunday | 10:00 | 23:00 |

| Hours premises open to the public | | |
|-----------------------------------|-------|--------|
| Day | Start | Finish |
| Monday to Sunday | 07:00 | 23:30 |

2. Non Standard Timings

Seasonal variations

None.

Non-standard timings

None.

3. Promotion of the Licensing Objectives

The applicant acted in accordance with premises licence regulations 25 and 26 relating to the advertising of the application. The required newspaper advertisement was installed in the Yellow Advertiser on the 3 July 2015.

4. Details of Representations

Valid representations may only address the four licensing objectives.

- The prevention of crime and disorder

- Public safety
- The prevention of public nuisance
- The protection of children from harm

There were two representations against this application from interested persons and two representations from responsible authorities.

Both representations from interested persons indicated concerns under the prevention of public nuisance licensing objective. The interested parties did not attend the meeting.

One objector, who resided adjacent to the business, commented that in the last twelve months, the noise levels had been gradually increasing as the business had expanded. The rear patio area could often be noisy, the resident also commented that should the licence application be granted, the chances were that noise levels would become even more obtrusive and disturbing for residents within the immediate vicinity.

The other objector in his written statement was concerned that patrons of the premises rode their scooters and motor bikes in front of the premises constantly revving their engines and circling on the pavement and blocked the entrance to the block of flats above.

The Havering Licensing Authority representation indicated concerns with the application in relation to all four licensing objectives.

The Metropolitan Police representation indicated concerns over the application under the prevention of public nuisance and the protection of children from harm licensing objectives.

Responsible Authorities

Chief Officer of Metropolitan Police (“the Police”):

At the hearing the Police representative - PC Goodwin reiterated the Police representation against certain aspects of the application that would be detrimental to the promotion of two licensing objectives. These were as follows:

Noise Nuisance

The Police were concerned about the size of the venue and the number of covers. There was concern that patrons would be allowed to sit and drink alcohol inside and outside the premises which could cause noise especially at the back, with up to 60 people at the venue particularly in the summer months when people had their windows open. The Police noted that a retirement home and other elderly care homes in the immediate vicinity could also be affected. The Police sought clarification

on how the premises would administer Schedule D Section 4 of the application.

Prevention of children from harm

The Sub-Committee was informed that the premises was in close proximity to three secondary schools and a link route for children coming into the borough onwards to a paintballing and adventure location. The Police had concern with Section 3 of the schedule that suggested that no unaccompanied children would be allowed on the premises after 19:00 hours, suggesting that children would be allowed unaccompanied before this time.

The Sub-Committee was informed that the Police supported local business growth within the area but such a position was predicated upon the business in question adopting an appropriate and responsible approach to the business venture.

Licensing Authority:

The Havering Licensing Officer reiterated his representation to the Sub-Committee that the application for the supply of alcohol between 10:00 to 23:00 hours did not appear to be an excessive application until it was considered in conjunction with the location of the premises.

The applicant sought to supply alcohol on the premises for 50 people inside the building, 8 people to the front of the premises and 60 people in the rear garden/terrace area. This was a total of 118 people when full.

The volume of noise caused by 60 people in the rear garden/terrace could cause a nuisance until 23:00 hours and then a further 30 minutes as they departed from the premises.

The Sub-Committee was informed that under the de-regulation of licensable activities due to take place, that if the licence was granted as applied for, the premises could provide live and recorded music between the hours of 08:00 to 23:00 which could also add to nuisance from the venue.

The Havering Licensing Officer sought clarification on how the venue would operate as he was of the view that if this licence was granted as applied for the licence holder (including any person the licence was transferred to in the future) could operate the premises as a bar or club as long as customers were sitting at a table.

The Sub-Committee was informed that the application contradicted itself stating that no more than 8 customers would be permitted to go to the front of the premises to smoke after 22.00 but was also asking for the

area to the front to be licensed to 23.00 where there would already be 8 persons seated.

The Havering Licensing Officer was of the view that if the application was to promote the business to its maximum capacity, there was a very strong possibility that if granted as applied for it would have a detrimental effect on people living nearby.

The Sub-Committee was asked to either reject the application, restrict the times for the whole licence or restrict the times the external areas could be used for licensable activities.

Planning Control & Enforcement: None

Public Protection: None

London Fire & Emergency Planning Authority (“LFEPA”): None

Health & Safety Enforcing Authority: None.

Public Health: None

Children & Families Service: None

The Magistrates Court: None

5. Applicant’s response

Mr G Hopkins, the representative of the applicant addressed the Sub-Committee and responded to all the points made in the representations.

A copy of the premises menu was supplied to the Sub-Committee and it was stated that the last orders from the menu were at 22:00 hours.

The premises would operate as a sit down bar and not a restaurant due to its planning consent but the applicant was currently reviewing the planning permission with the relevant service.

The Sub-Committee was informed that the applicant had recently acquired a Personal Licence. Mr Hale was also considering an experienced business partner with a licence and the appointment of a manager with a licence to ensure there was a licence holder present at all times. Mr Hale leased the premises in 2012 and was currently in possession of the vacant flat above the venue. Mr Hale owned the picture framing business above which may have to be opened for his use only.

It was clarified that the business was seeking an on-sale alcohol licence only. Alcohol would be sold and served to seated patrons in order not to

turn the venue in to a vertical drinking establishment. It was to be a venue for responsible adults to have a drink without having food inside and outside the premises. It was the intention of the applicant for the outside area to be used all year round.

There was no intention to sell lager in cans at the premises; real ales and limited wine and spirits would be available to patrons. There was to be no supply by large breweries, no cans of larger. Pricing of drinks was suggested at about £5 in order to deter the wrong clientele.

The premises had no intention to apply for a late night refreshment licence and hot drinks would still be available for purchase until 22:00 hours.

On the issue of concerns about noise and public nuisance, Mr Hopkins said that there was no plan to have loud music. Music at the venue will be background level, acoustic guitar and singer. There will be no music outside at anytime. There will be do not disturb signs and closing the terrace at 21.00 will limit the disturbance. On the issue of motor scooters, Mr Hopkins informed the Sub-Committee that Mr Hale had permission to use the parking place. There were powers to deal with any issues of noise by way of a review of the licence or by a noise abatement notice. Mr Hopkins informed the Sub-Committee that there were no residential premises on top of the café and that the activities in the premises will not impinge upon residents in the care home because of the railway. The complaints about rats were not made out as there had been no environmental concerns with the establishment.

The following series of measures were offered by the applicant:

- The front and back terrace shall be closed to the public at 21.00 hours Sunday to Thursday and at 22.00 hours on Friday and Saturday except for use by smokers after those times on the front terrace.
- At the closing time of the terrace customers would be requested to go inside the premises. Customers would not be allowed onto the back terrace after the terrace closing times except for use as a fire exit.
- Music or other regulated entertainment would not be provided on the terraces outside. Only recorded music was to be played in the background in the premises.
- There would be notices informing patrons not to take drinks off the premises.
- A Challenge 25 scheme would be in operation at the venue to address any issues relating to the protection of children from harm.
- The Sub-Committee was informed that the premises had consulted with Havering's Noise Specialist and agreed for a

noise limiter be installed and sealed by Environmental Health officers.

- The premises would not operate as a pub and had no cooking facilities such as found in a restaurant.
- In order to address the prevention of public nuisance objective; the premises had agreed a closure by 23:00 hours.
- The Sub-Committee was informed that the venue was well served by public transport and taxis past its 23:00 hours closure.
- The Sub-Committee noted the fire escape arrangement for the premises and that there were two toilets in the venue.
- The premises would have staff at the exit advising patrons to disperse quietly, and that a notice would also be installed on the premises.
- The applicant would deliver a direct contact number to residents in the block of flats and the two interested parties to raise any issues of concern with him.
- The Sub-Committee was informed that the scooter/motor bike group were friends of Mr Hales who had now been informed to be considerate when at the premises.

Determination of Application

Decision

Consequent upon the hearing held on 17 August 2015, the Sub-Committee's decision regarding the application for a Premises Licence for Café Baccarat, Upminster was as follows:

The Sub-Committee was obliged to determine this application with a view to promoting the licensing objectives, which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

In making its decision, the Sub-Committee also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Havering's Licensing Policy.

In addition, the Sub-Committee took account of its obligations under s17 of the Crime and Disorder Act 1998, and Articles 1 and 8 of the First Protocol of the Human Rights Act 1998.

Agreed

Facts

Facts/Issues

Whether the granting of the premises licence would undermine the licensing objectives.

- **Prevention of Public Nuisance**

The Sub-Committee noted the comments of the interested parties that the playing of music, seating and drinking of alcohol inside and outside the premises to the front and back areas would cause noise. The Sub-Committee accepted that the premises was a small venue and noted that the applicant had offered conditions to close the outside areas before the closure of the premises at 23:00 hours.

- **Protection of Children from Harm**

The Sub-Committee also noted that a Challenge 25 scheme would operate to ensure that any person attempting to purchase alcohol who appeared to be under the legal age to do so would need to provide documented proof that he/she was over 18 years of age.

- **The Prevention of Crime and Disorder**

The Sub-Committee noted that the premises would have a CCTV system operational inside and outside the premises and staff monitoring issues. Notices would also be installed advising patrons to disperse quietly.

- **Public Safety**

The Sub-Committee was satisfied with the fire exit arrangement at the venue.

Having considered the application, written representations and oral responses including the additional conditions offered by the applicant, the Sub-Committee was satisfied that the application and operating schedule would not impact negatively on the Licensing Objectives.

The Sub-Committee therefore granted the application as applied for along with the additional conditions that were offered by the applicant to further address the concerns about public nuisance in the operating schedule and imposed two further conditions to the licence:

1. The front and back terrace shall be closed to the public at 21.00 Sunday to Thursday and at 22.00 Friday and Saturday except for use by smokers after those times on the front terrace. At the closing time of the terrace customers would be requested to go inside the premises. Customers would not be allowed onto the back terrace after the terrace closing times except for use of the fire exit.
2. No music or other regulated entertainment would be provided on the terraces outside.

3. Only a maximum of 8 smokers would be permitted outside on the front terrace after the closing time on any night (21.00 Sunday to Thursday and 22.00 Friday / Saturday).
4. No amplified music would be played in the premises unless played through a noise limiter set and sealed by the Environmental Health officers.
5. A staff member would be at the door at closure to ask customers to leave quietly and supervise an orderly dispersal of customers

Further conditions:

- That only toughened drinking glass be used in the premises.
- That no part or full bottle of alcohol be removed from the premises.

The Sub-Committee stated that in arriving at this decision, it had taken into consideration the licensing objectives as contained in the Licensing Act 2003, the Licensing Guidelines as well as Havering Council's Licensing Policy.

Chairman