

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
23 September 2019 (11.45 am - 12.40 pm)**

Present:

COUNCILLORS

Conservative Group Philippa Crowder (Chairman) and Nisha Patel

Residents' Group Reg Whitney

Present at the hearing were Mr Matt Bell (Applicant's agent), Mr Elton Xhetani and Mr Eduart Ahetani (Applicants) and Mr Murat Pailikili. Also present was the Public Protection Officer Mr Paul Jones.

The Legal Advisor to the Sub-Committee and the clerk to the Licensing Sub-Committee were also in attendance.

The Chairman advised Members and the public of action to be taken in the event of emergency evacuation of the Town Hall becoming necessary.

PREMISES

Osteria Due Amici
39 Corbets Tey Road
Upminster
RM14 2AJ

1. Details of requested licensable activities

The application to vary a premises licence was made by Mr Elton Xhetani and Mr Murat Brahilika under section 34 of the Licensing Act 2003. The application was received by Havering's Licensing Authority on 6 August 2019.

The application was to vary the premises plans to include the second commercial unit, no. 41, within the ambit of the licensed premises and to add a licence condition further to the provision of CCTV on the premises.

2. Promotion of the Licensing Objectives

The Licensing Sub-Committee must promote the licensing objectives and must have regard to the Secretary of State's National Guidance created under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.

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The applicant acted in accordance with regulations governing the advertising of the application.

3. Details of Representations

There were no representations against the application from any residents or businesses in the vicinity of the premises.

There was a representation against this application from a responsible authority; Havering's Planning Authority.

The representation was on the grounds of the prevention of public nuisance.

The applicants attended hearing and were represented by a Licensing Agent (Mr Matthew Bell) who made submissions on their behalf.

The only representation against the application was a written representation from Planning that related to No. 41 Corbets Tey Road, Upminster which does not benefit from planning permission for A3 use.

The Sub-Committee noted that a planning permission for retrospective change of use from A1 to A3 ancillary use during day as a coffee shop and during evenings as an overflow area to the existing restaurant trading from 39 Corbets Tey Road and retention of a shop front was refused. An appeal against for this refusal had been lodged with the Planning Inspector. Since then a further planning application had been submitted which was still awaiting determination.

The representation outlined that the licence application proposes inclusion of 41 Corbets Tey Road for A3 additional opening hours that exceed the restrictions that have been placed on the use by the planning department. In addition that the use proposed does not have lawful planning status and the application therefore does not accord with licencing Policy 6.

The representation from Planning was solely on the ground of prevention of public nuisance have not been alleviated through the licence application.

Mr Bell addressed the Sub-Committee stating that the application is to vary the premises plans to include the second commercial unit, no. 41, within the ambit of the licensed premises and to add a licence condition further to the provision of CCTV on the premises.

The inclusion of No 41 on the licence would enable the premises to seat an additional 30 people.

It was mentioned that the applicants – both personal licence holders; Mr Elton Xhetani and Mr Murat Brahilika took over the premises in July 2017.

The Sub-Committee was informed that the business was a family oriented one. The premises was currently operating in No 41 with the use of Temporary Event Notices. It was stated that there have been no issues at these events so far.

In response to the sub-committee, the applicant indicated the kitchen closes at 9pm, the premises did not have a designated smoking area but client used the outside seating area for smoking. It was indicated that the outside area of both No 39 & 41 accommodated 10 seats.

4. Determination of Application

DECISION

Upon consideration of the submission and written representation from Planning, the Sub-Committee decided to grant the application with conditions as below.

REASONS

The Licensing Sub-Committee must promote the licensing objectives and must have regard to the Secretary of State's National Guidance created under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.

Having considered and heard all of the evidence, the Sub-Committee considered with care the representations made by Planning Enforcement Team and the submissions from the agent and the responses from the applicant.

Nobody from the Planning Enforcement Team attended in person to answer queries regarding their representation.

The applicant addressed the Sub-Committee and agreed conditions to allay any fears of nuisance to the public. This included not playing music in the new premises at 41 Corbets Tey Road ("Number 41"), closing Number 41 at 10pm (including any seating at frontage of the same), and limiting outside seating to 12 seats maximum at all times.

Having considered and heard all of the evidence, the Sub-Committee was of the view that the applicant had proposed conditions which would allay any fears by the responsible authorities. The Sub-Committee felt confident that the applicant would continue to uphold the licensing objectives.

Having considered and heard all of evidence the Sub-Committee decided to grant the application with conditions as below.

Opening Hours

1. 39 Corbets Tey Road
 - a. Monday to Thursday from 11:00 to 23:00 hours.
 - b. Friday & Saturday from 11:00 to 24:00 hours.
 - c. Sunday – 12:00 to 23:00
2. 41 Corbets Tey Road
 - a. Monday to Sunday from 11:00 to 22:00 hours.

Recorded Music, Supply of Alcohol (ON SALES only)

1. 39 Corbets Tey Road
 - a. Monday to Thursday from 11:00 to 23:00 hours.
 - b. Friday & Saturday from 11:00 to 24:00 hours.
 - c. Sunday – 12:00 to 23:00

Supply of Alcohol (ON SALES only)

1. 41 Corbets Tey Road
 - a. Monday to Sunday from 11:00 to 22:00 hours.

Conditions:

1. CCTV shall be installed at both premises.
 - a. CCTV implementation will be to the Information Commission Standards.
 - b. The CCTV system shall be maintained in good working condition and record the premises 24 hours every day.
 - c. Records shall be retained for a minimum of 31 days and be made available to the Police and Licensing Authority immediately on request.
 - d. The equipment shall have suitable export methods to CD/DVD/USB
 - e. Staff working at the premises shall be trained in the use of the CCTV equipment and a training log will be kept on the premises. This will be made available to the Police and Licensing Authority immediately on request.
 - f. Cameras on the entrance will capture full frame shots of the heads and shoulder of all people entering the premises, of evidential quality in any light condition.

- g. There shall be signs displayed that CCTV is in operation.
 - h. CCTV shall monitor all areas used by the premises patrons including the area immediately outside front and rear alley to the premises.
 - i. The CCTV system shall be checked on a weekly basis to ensure that it is working/recording. A record of this shall be recorded in the CCTV log book with the premises licence holder/DPS recording the date and time of the check. The record shall be recorded in a bound and numbered page book. This register is to be kept on the premises at all times and made available to the Police and the authorised council officers immediately upon request. Full books shall be retained at the premises for a period of 12 months.
 - j. Should the CCTV become non-functional the Premises License Holder / DPS shall take immediate steps to rectify the situation as soon as possible and inform the Licensing Authority immediately.
- 2. Seating outside Number 39 and 41 Corbets Tey Road, shall at all times be to a maximum of 12 seats combined.
 - 3. Seating outside the frontage of 41 Corbets Tey Road, will be removed when these premises stop their licensable activity.
 - 4. There shall be no recorded music played at 41 Corbets Tey Road.

Chairman