

LICENSING SUB-COMMITTEE

Minutes of the meeting held at 10.00am on 10 August 2017

Present:

Councillor Tony Owen (Chairman)
Councillors David Livett and Michael Turner

Also Present:

Councillor Stephen Wells

33 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Councillor Tony Owen was appointed as Chairman for the meeting.

34 DECLARATIONS OF INTEREST

There were no declarations of interest.

35 VARIATION OF THE PREMISES LICENCE FOR TWO TEN LIMITED--HIGH STREET BECKENHAM

Sub-Committee Decision

The application was partially successful in that the premises licence for Two-Ten Limited was amended thus:

1. The hours were amended as follows:

Provision of films, Sundays to Thursdays - 12 midday until 12 midnight, Fridays and Saturdays from 12 midday until 01.00 hours the following day.

Provision of live music, Sundays to Thursdays - 12 midday until midnight, Fridays and Saturdays from 12 midday until 01.00 hours the following day.

Provision of recorded music): Sundays to Thursdays – 12 midday until 12 midnight, Fridays and Saturdays 12 midday until 01.00 hours the following day.

Provision of late night refreshments, Sundays to Thursdays – 23.00 hours until midnight, Fridays and Saturdays 23.00 hours until 01.00 hours the following day.

Supply of alcohol): Sundays to Thursdays – 12 midday until 23.40 hours, Fridays and Saturdays 12 midday until 00.40 hours the following day.

Section 15 – Hours the premises are open to the public: Sundays to Thursdays – 09.00 hours until midnight, Fridays and Saturdays 09.00 hours until 01.00 hours the following day.

Non-standard timings for New Year's Eve---on any New Year's Eve the premises may remain open and live music, recorded music, late night refreshments may take place until 02.00 hours on the following New Year's Day. Alcohol may be supplied on New Year's Eve until 01.40 hours on the following day.

2. The conditions were amended as follows:

The following conditions were added to the licence further to the prevention of the public nuisance objective.

All doors and windows shall be kept shut during regulated entertainment except to allow access and egress.

A noise limiting device shall be fitted. All external regulated entertainment must be channelled through the device. The maximum noise levels will be set by the London Borough of Bromley's Environmental Health Service and will be reviewed from time to time as appropriate. The premises licence holder or nominated person will be responsible for engaging the services of a sound engineer or similar to assist with the setting and sealing of the equipment.

The handling of kegs, bottles, cleaning equipment, bottle disposal and similar items externally off the premises shall not take place before 07.00 hours or after 22.00 hours.

The delivery of goods and the collection of waste are restricted to between the hours of 07.00 hours and 22.00 hours.

There shall be no new admission of the public after 00.30 hours following any Friday or Saturday night.

On Friday and Saturday nights all music to the external area shall be turned down at midnight and turned off completely at 00.50 hours.

Only customers over the age of 21 shall be admitted to the garden dining area after 21.00 hours on a Friday or Saturday

Free bottled water will be offered to customers leaving the venue after 00.30 hours following a Friday or Saturday.

Crime prevention signage relevant to the operational policies of the premises shall be displayed in a prominent position, for example relating to CCTV recording, drugs policy, management reserve the right to refuse entry. The signage will include a reference to a policy whereby any person who causes a nuisance either on the premises or upon leaving may risk refusal of admission in the future

The licence holder shall ensure that they liaise with a local taxi company to provide vehicles from the venue on a priority basis. Staff will enquire if customers require a taxi.

Risk Assessments will be carried out for any privately booked functions, televised sporting events or any other special occasion and appropriate measures will be taken to negate any risk. The risk assessments will be kept in a log and this must be available to Police or Council Officers on request.

All shisha tobacco will be removed at 00.50 hours following a Friday or Saturday to aid dispersal.

The existing conditions shall be amended as follows:

General conditions: The first 'general' condition is amended to read 'this premises is licenced to operate as a traditional restaurant'. The second 'general' condition is amended to read, 'the premises shall consist of a restaurant on the ground floor, first floor and an external garden area', as shown on the amended reference plan. The licenced area shall not include the first floor roof terrace.

Condition 13 on the premises licence is to be replaced with the following:
The premises licence holder or nominated person shall ensure that suitable signage is positioned at exits to request the co-operation of patrons to make as little noise as possible when leaving the premises.

The remaining conditions on the licence shall remain in full effect. For the avoidance of doubt, condition 12 shall remain in force and it will not be possible for customers who wish to smoke tobacco (shisha or otherwise) to do so if they are not taking or have taken a substantial table meal.

Licensing Policy

The premises are subject to the Beckenham Town Centre special policy on cumulative impact. The Council's Statement of Licensing Policy 2016-2021 states "it would be the Licensing Authority's intention to refuse to grant new premises/club licences or variations, unless the application is such that the grant of the licence would have no further detrimental impact on the area and the promotion of the licensing objectives".

Current Government guidance (April 2017) states at paragraph 14.36 "while a large night club or high capacity public house might add to problems of cumulative impact, a small restaurant or theatre may not. If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved". Paragraph 14.38 states "Special policies can also not be used to justify rejecting applications to vary an existing licence or certificate except where those modifications are directly relevant to the

policy (as would be the case with an application to vary a licence with a view to increasing the capacity limits of the premises) and are strictly appropriate for the promotion of the licensing objectives”.

Reasons for decision

The Sub-Committee were advised that the variation application had been submitted some months previously but had been adjourned at a Licensing Sub-Committee meeting on 26th April 2017. That Sub-committee meeting had heard a review of the premises licence and resolved to remove the designated premises supervisor and suspend the licence for a period of three months. The period of suspension was due to shortly end.

The Applicant was represented by Reena Gosrani, who was the new designated premises supervisor. She was assisted by Mr Alex Martin who was a planning agent from Direct Planning. Ms Gosrani advised that during the period of suspension, earnest attempts had been made to address the points raised in the review hearing. In respect of issues of public nuisance, a noise limiter for the external areas had now been fitted and sealed to the satisfaction of the public health team. Measures had been introduced to address the concerns of the fire officer. Signage had been installed at the premises and the CCTV system had been upgraded so that the requirements of the police could be met, although at the date of the review hearing, a final inspection by the police was still awaited. To address smoking restrictions in public areas, part of the cover for the garden area had been permanently removed.

The Applicant asked that a slightly reduced application of the original variation application be considered by the Sub-Committee in substitution of the original application as it was hoped this would address some of the concerns raised in the original objections. An amended plan of the area to be licenced to include the first floor and the rear garden area was also submitted but it was clarified that the application did not include a roof terrace on the first floor. The applicant asked that shisha customers be allowed to purchase and consume alcohol without food if they chose to. The premises would nevertheless remain as a high quality restaurant, no vertical drinking will occur and it will remain a seated, table service area alongside the rest of the venue. In response to an enquiry as to the percentage of customers who would attend for shisha smoking only some 20% or '30 people' was described as 'about right'.

PC Andrea O'Donnell spoke to the written objection submitted on behalf of the Police. She queried whether the figures mentioned by the Applicant for shisha customers would truly allow the premises to remain as a restaurant. She reminded the Sub-Committee of previous breaches of licence conditions and that, on an inspection on 12th May 2017 the CCTV system had been found not to be working in spite of indications given to a previous Licensing Sub-committee. The Applicant has yet to demonstrate that the business can operate within the terms of the premise licence.

Councillor Wells also addressed the Sub-Committee. He was concerned about the position regarding planning, the failure to comply with licence conditions in the past. He mentioned there may be an intention to run the premises as something more akin to a nightclub rather than a traditional restaurant.

The Sub-Committee considered all of the written and oral representations. They noted that the premises was located in an area subject to a special policy on cumulative impact. However, Members considered that an extension to the restaurant would be unlikely to add to issues of cumulative impact or other harm to the licensing objectives. The Fire Authority had indicated that it was now satisfied with the steps taken to safeguard the first floor of the premises in the event of fire. Amendments had been made to the cover to the garden area given the intention of the business to allow smoking in part of that area. A noise limiter had been installed to address concerns raised concerning the possibility of nuisance arising from the use of the garden area. Members accordingly agreed it was possible to approve the extension of the licenced area to include the first floor and garden area as a restaurant.

The police in their original representations referred to issues of public disorder/violence and public nuisance in the area. The special policy concerning cumulative impact was still relevant.

Members were concerned regarding the request to allow those who wished to smoke shisha tobacco to also buy alcohol without a table meal. They noted the expectation that some 30 customers may attend to smoke without purchasing a meal and that there was the potential to increase the capacity for this type of customer by the removal of the external cover for the whole garden area. They doubted that the character of the premises would remain as a restaurant. As the application was being put to Members on the basis that the proposal was for a high quality restaurant, issues of whether there would be cumulative impact and other harm to the licensing objectives had not been addressed by the application.

Members noted the steps taken by the Applicant to address the concerns of the responsible authorities since the suspension of the licence. Nevertheless, members felt that account should be taken of failures of management that had arisen to date leading to the removal of the DPS, who would still remain in the premises in a management capacity. Members had a lack of confidence in the ability of the business to address issues, both in terms of cumulative impact and in terms of harm to the licensing objectives more generally, if the business to operated other than as a restaurant.

Balancing all these issues and the explanations given as to how the business would operate, Members concluded that the requests for live music, recorded music and films were ones that could be permitted without harm to the licencing objectives. A more limited extension of the hours permitted than applied for could be allowed on Friday and Saturday nights but given the track record of the business so far, the existing hours should remain for the

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remaining days of the week when residents may anticipate a higher degree of peace and quiet.

If the business achieved a more satisfactory track record in terms of issues raised by the police and the other responsible authorities, then it was open to them in the future to apply to the Council for this matter to be looked at again.