

LICENSING SUB-COMMITTEE

Minutes of the meeting held at 2.00 pm on 7 February 2019

Present:

Councillor Stephen Wells (Chairman)
Councillors Robert Evans and Pauline Tunnicliffe

Also Present:

Raheli Paris, Steve Phillips, Jonathan Smith, Molly Joyce,
PC Tina Dandridge, Mr Paul Double

10 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Councillor Stephen Wells was appointed as Chairman for the meeting.

11 DECLARATIONS OF INTEREST

There were no declarations of interest.

12 APPLICATION FOR THE VARIATION OF THE PREMISES LICENCE AT O NEILS--27/29 EAST STREET, BROMLEY, BR1 1QE

DECISION

1. (a) INTRODUCTION:

The Licensing Sub-Committee carefully considered the application for the variation of a Premises Licence at O'Neill's 27/29 East Street Bromley.

The Licensing Sub-Committee made the following decision having regard to:

- the four licensing objectives,
- the Council's current Statement of Licensing Policy
- Guidance issued under the Licensing Act 2003; the Secretary of State Guidance issued under Section 182 of the Licensing Act 2003 (As amended),
- Written and oral representations from the Applicant,
- Written and oral representations from the Council's Licensing Team as a Responsible Authority
- Written and oral representations from the Metropolitan Police

The decision of the Licensing Sub-Committee was as follows:

The **Licensing Sub-Committee decided to Grant** the application subject to conditions agreed at the Hearing on the 7th February 2019.

At the hearing, the Chairman of the Licensing Sub-Committee began by mentioning a procedural point regarding the Council and its Licensing Team as a Responsible

Authority; and how it achieved the necessary separation of responsibilities; as expressed by the Applicant's legal representative. The point was satisfactorily addressed by the Council's legal team prior to the Hearing, and necessary procedures continued to be followed. All parties agreed to proceed with the Hearing. Each party presented their case, the Chairman ensured that time was given for questions and answers from all parties. A summary of the Hearing was as follows:

(b) OBJECTIONS AND SUPPORT TO THE VARIATION OF THE ABOVE LICENCE:

Objections were received from the Metropolitan Police and from the Licensing Team as a Responsible Authority.

No written or oral support was received by the Council or presented at the above Hearing.

2. THE APPLICANT'S CASE

Mr. Jonathan Smith (Applicant) was represented by their legal representative Mr. Jonathan Smith. Mr. Smith gave a brief background to the application and as noted in the application pack. O'Neill's were licensing premises in the centre of Bromley Town, with a capacity of 450 persons. The point of whether or not there was a significant difference. It was a 'decent' establishment which had recently been refurbished and did not intend to change its character. The variation would assist the applicants to conduct business a little longer to keep its patrons. It was unlikely to increase the number of disturbances in Bromley Centre. The Applicant was seeking to vary the hours of the premises licence and to amend a condition in the current licence (condition 15(d)).

"To vary the hours to permit the sale of alcohol, provision of regulated entertainment and provision of late night refreshment from 09:00 until midnight Monday to Wednesday (currently 10:00 to 23:00), 09:00 to 02:00 Friday and Saturday (Currently 10:00 to 01:00) and Sunday from 11:00 to Midnight (currently mid-day to 22:30pm); Thursday to remain as existing.

To vary the hours for opening 09:00 to 00:30 Sunday to Wednesday (Currently 09:00 to 23:00 Mondays to Wednesday and 09:00 to 22:50 Sunday), 09:00 to 02:30 Friday and Saturday; Thursday to remain as existing.

To amend condition 15(d) " On any other day that the premises extends its hours and closes beyond 00:30 their shift on these days will begin no later than 20:00 hours and finish no earlier than the closing time of the premises".

Mr. Smith mentioned that the application focused on the extension of hours on Fridays and Saturday's extension to close at 02:00am; with half an hour drinking up time, closing at 2:30am.

The current last admission was 12:00 midnight, and the venue was not seeking to extend the last admission time.

O'Neill's did not provide a sitting area, food and drinks, and that food was served until 10pm and pizzas were served until the closing time. Mr. Smith mentioned that the venue had wrongly been referred to as being purely a vertical drinking establishment; meanwhile there was a sitting area.

A list of the O'Neill's Temporary Events Notices (TENS) for the year 2018 was circulated. This was used to support the Applicant's good record. There were no incidents during the 10 TENS operated by the O'Neill's. The incidents mentioned by the police in the application pack did not relate to any of the dates when the O'Neill's TENS were in place.

Mr. Smith mentioned that the Applicant worked closely with the police, and that the idea of applying for the TENS in 2018 was suggested by a police officer who worked with the O'Neill's management to create the dispersal plan. This was used when the TENS were in place. The Chairman of the Licensing Sub-Committee asked whether O'Neill's worked with the Street Pastors, and the response was yes, and that also that O'Neill's engaged with the neighbouring licensing establishments' staff. The Applicants' aim was to work with all responsible authorities in order to maintain the licensing objectives.

Mr. Smith mentioned that prior the Hearing, he had contacted the police and did not get any replies from their offices. He further said that the police information may not have provided enough information, and that some of the information provided was not entirely accurate. For instance, there were some crimes which were noted as having occurred and yet there were crimes which were self-reported by the management of O'Neill's--having reported the incidents to the police i.e. where the management catches a patron using drugs. Other incidents were explained. Overall, Mr. Smith argued that the number of incidents which had occurred at O'Neill's in the grand scheme of things were a small number in comparison to the number of admissions to the venue.

He mentioned that his clients had provided suggested conditions and a dispersal plan; both were distributed to all parties a few minutes prior to the hearing.

A Licensing Sub-Committee member asked the Applicant questions relating to the number of door staff and whether the staff liaised together with other neighbouring licensing establishments and the Street Pastors. The response was affirmative. With reference to alcohol promotions on Fridays and Saturdays, the Licensing Sub-Committee was informed that there would be no alcohol promotion on those days.

Mr. Smith mentioned that he was aware of the Council's cumulative impact policy and the Council's concerns. The Applicant had addressed those points in the application, in the suggested conditions, and the dispersal plan and during the Hearing itself.

3. THE APPLICANT'S AMENDMENTS AT THE HEARING

The Applicant through their legal representative decided to submit the following:

- a) To provide suggested Conditions for the Licensing Sub-Committee to consider ;
- b) To provide a dispersal plan for the Licensing Sub-Committee for consideration;
- c) Agreed to amend both the Applicant's proposed conditions and the dispersal plan.
- d) Furthermore, it was agreed to incorporate the amended dispersal plan to form part of the agreed conditions.

4. THE METROPOLITAN POLICE'S CASE

Ms. Molly Joyce represented the Metropolitan Police. In attendance was PC Tina Dandridge. The Sub-Committee was informed that the two Policemen who initially dealt with the matter were both ill and were unable to attend the Hearing.

The police referred to their objections which focused on Crime and Disorder. Information relating to statistics of various crimes at the premises was circulated prior to the Hearing. Ms. Joyce apologised on behalf of the police for failing to respond to the Applicants' correspondence prior to the Hearing, due to a shortage of staff. Ms. Molly continued by explaining that O'Neill's was located in Bromley town centre's cumulative impact zone. Reference was made to the Council's Special Policies on Cumulative impact on page 9 and 10 of the Statement of Licensing Policy 2016-2021.

The police suggested that longer opening hours would lead to patrons possibly drinking longer, and potentially becoming intoxicated, and may cause nuisance, crime and disorder. The police mentioned the importance that the Applicant demonstrated how they would mitigate the various issues around the Bromley centre cumulative impact zone.

In response to Mr. Smith's point on the TENs, Ms. Joyce said that the TENs were not the same as a full licence. TENs were temporary and would not necessarily be showing the cumulative impact issues.

MS. Joyce mentioned the government guidance relating to vertical drinking. During the discussion, it was clarified that O'Neill's was not purely a vertical drinking establishment; it did have a sitting area, and it did serve food as well as drinks.

The police mentioned that in their view, there was currently a desirable balance of dispersal in Bromley town centre. The balance may be impacted by large numbers of people arriving at O'Neill's and also at the premises' closing time; there may be a significant large number of people in Bromley town, and the cab services might be inundated.

The proposed conditions and the dispersal plan were received at the hearing prior to its commencement. The police were unable to consider them at such short notice. The police did note that both proposals seemed helpful and may have facilitated a negotiable solution if they were in receipt of them prior to the hearing day.

In response to the Licensing Sub-Committee's question on whether the variation application if granted would cause the need for the Metropolitan Police to increase its services or its presence in Bromley town centre. The response by the police was 'no'.

5. THE LICENSING TEAM AS THE RESPONSIBLE AUTHORITY'S CASE

Mr. Steve Philips spoke on behalf of the Council's Licensing Team as the responsible authority. Information regarding Bromley town centre which was subject to a special policy of cumulative impact was noted on page 33 of the application pack. Mr. Phillips mentioned that there were certain things that could not be overlooked even in a well-run pub such as the O'Neill's.

Mr. Phillips responded to the question whether or not O'Neill's was a vertical drinking establishment. and acknowledged that there are some seating areas at the premises.

On the point whether O'Neill's was a nightclub or a pub, both Mr. Phillips and Ms. Joyce agreed that there was a significant difference between the two. Mr. Smith however, disagreed, and said the distinction between pubs and nightclubs is no longer evident (perhaps the main difference being that that O'Neill's had a dance floor). Otherwise, both pubs and nightclubs seem to provide similar if not the same quality of service, in their size/capacity, and prices of drinks in their menu etc.

Mr. Phillips pointed that there was a current balance between pubs and nightclubs. That balance would be impacted, and the vision of the town centre would be affected. Mr. Phillips mentioned that the conditions offered by the Applicant were not submitted prior to the Hearing, and so again he did not get the opportunity to consider them.

6. THE LICENCE

The premises licence was noted on pages 7 to 9 of the application pack. The variation of the premises licence was noted in paragraph 7 of this decision.

7. APPLICANT'S STEPS TO MEET THE LICENSING OBJECTIVES

The Applicant in their application described the steps they intended to take to promote the four licensing objectives on page 19 of the application pack. Furthermore, at the hearing the Applicant included the proposed conditions and their dispersal plan.

"The variation is to vary hours for licensable activities to start earlier in the morning all week and for an additional hour in the evening on Sundays to Wednesdays to midnight and until 02:00 on Fridays and Saturdays".

A number of other premises in Bromley town centre could already open for licensable activities to these hours or later and so the application if granted was not extending the hours that premises generally can remain open in the Town Centre. A 02:00 bar closure and 02:30 premises closure on Fridays and Saturdays would assist dispersal in the town centre because fewer premises closed at this time.

The premises had had the benefit of a number of TENs which ran until 02:00 or later on Friday nights without the additional hours causing any concerns to the Metropolitan Police.

There were already conditions dealing with door staff, CCTV, staff training on alcohol sales and a dispersal policy all of which would also apply in the additional hours sought.

The Applicant had tried to discuss the application with the Metropolitan Police on a number of occasions but resourcing issues meant that they had as yet not received a reply from the Metropolitan Police.

7. THE VARIATION

The proposed variation was noted on page 10 of the relevant application pack.

“To vary the hours to permit the sale of alcohol, provision of regulated entertainment and provision of late night refreshment from 09:00 until midnight Monday to Wednesday (currently 10:00 to 23:00), 09:00 to 02:00 Friday and Saturday (Currently 10:00 to 01:00) and Sunday from 11:00 to Midnight (currently mid-day to 22:30pm), Thursday to remain as existing

To vary the hours for opening 09:00 to 00:30 Sunday to Wednesday (Currently 09:00 to 23:00 Mondays to Wednesday and 09:00 to 22:50 Sunday), 09:00 to 02:30 Friday and Saturday, Thursday to remain as existing

To amend condition 15(d) “ On any other day that the premises extends its hours and closes beyond 00:30 their shift on these days will begin no later than 20:00 hours and finish no earlier than the closing time of the premises”.

(i) The Offered Added conditions:

O’Neill’s Proposed Conditions on the grant of an extension of hours for licensable activates to 02:00 on Fridays and Saturdays, Condition 15(d) would accordingly be amended to read:

“On any other day that the premises extends its hours and closes beyond 02:30 their shift on these days will begin no later than 20:00 hours and finish no earlier than the closing time of the premises”. The rest of the agreed conditions are as follows:

1. No alcohol in open containers or vessels is to be taken from the premises.
2. The capacity of the premises will not exceed 450 people.
3. The premises shall have no fewer than 6 SIA Registered Door Supervisors whenever licensable activates are taking place on a Friday and Saturday from 20:00 until closing time of the premises unless the premises are open for a privately booked family or business event/function/celebration.
4. From 20:00 on Fridays and Saturdays random targeted searches of customers entering the premises are to be carried out. These searches to include the customer’s person, wallets, purses, bags and other item carried by them. All searches to be carried out in sight of a CCTV camera. If any person is found in possession of drugs, weapons or items prohibited by the venue, these items must be seized and the person excluded. Police will be called in all cases where weapons are recovered. Any person not agreeing to a search must be refused entry.
5. A shop safe radio or a future equivalent is to be kept charged and in use at the premises during the premises hours of opening and until the last of its customers has left the premises.

The above conditions were agreed at the hearing with the changes made in paragraph 3 to read six (rather than four) SIA Registered Door Supervisors. In addition, it was greed that the dispersal plan was to be added as part of the conditions.

(ii) The Agreed Dispersal Plan to form part of the conditions:

The O’Neill’s Bromley Dispersal Plan:

The following dispersal plan should be followed during any Friday and Saturday night, peak shifts or key event to ensure the smooth dispersal of guests towards and at the end of trading hours.

The purpose of the dispersal plan is to move guests from the venue and its immediate area in such a way to cause minimal disturbance or nuisance neighbours, both residential and business, and to make the minimal impact upon the neighbourhood in relation to potential nuisance, anti-social behaviour and crime.

The dispersal plan is subject to review and will address problems and concerns as they are identified in order to establish a permanent reduction or elimination of any nuisance, anti-social behaviour or crime.

- ***Last entry or re-entry to venue will be 2 hour before closing (midnight on Friday and Saturdays)this will aid in "winding down" our terminal hour of trade and assist in dispersal of guests***
- ***During last 30 mins of trade lighting levels will be increased and music type changed to encourage the gradual dispersal of guests during the last part of trading and drinking up time.***
- ***Smoking area closed 15 minutes before end of bar service -this will ensure all guests are within venue by end of trading hours***
- ***Upon bar closure, there will be increased movement and inspection through the bar and toilets by management and glass collectors to begin to encourage customers to move out of the premises in a quiet and orderly manner.***
- ***Upon bar closure door supervisors will split into 2 teams, One internal and one external***
 - ***Internal team- 3 door supervisors to remain inside the venue and encourage guests to drink up and leave the venue quietly ensuring all areas are cleared including upstairs areas and toilets.***
 - ***External team- Should consist of 3 door supervisors and a duty manager.***
 - ***1 door supervisor should remain on the front door to ensure the removal of glasses/bottles from guests whom attempt to remove them from the venue whilst encouraging guests to leave in a***

considerate manner.

- *2 door supervisors should be wearing high visibility jackets and be situated outside the venue. Their primary role is to ensure of guests as they leave the venue whilst encouraging them to keep noise to a minimum, be considerate of local residents and move away from the immediate area by directing them to local cab offices, train stations and bus stops.*
- *Duty manager should remain outside to ensure door supervisors are managing the dispersal of guests as per the dispersal plan whilst also encouraging guests to leave the immediate area in a considerate manner.*
- *All guests should have left the venue no later than 30 mins after bar closure.*
- *Once the last guest has left the venue duty manager should conduct a thorough check of all internal areas to ensure no guests remain within the venue.*
- *The immediate external vicinity will be checked and cleared of any potentially dangerous items left in doorway or plant box areas before securing the venue.*

8 THE DECISION

The Licensing Sub-Committee decided to **Grant** the variation to the above premises licence in relation to the application subject to the modifications (added conditions) at the Licensing Sub-Committee hearing. The Licensing Sub-Committee when deliberating took into consideration the following:

All the licensing objectives, the relevant licensing policies and guidelines in relation to the application. It looked at the application as a whole, and all the steps which the Applicant intended to take to promote the licensing objectives.

- a. All points raised by all parties in the application pack and at the Licensing Sub-Committee hearing.
- b. That the Applicant agreed to all conditions as stated in paragraph 7.
- c. The Applicant agreed to all the relevant policies and conditions, and mentioned that it has good intentions to uphold the licensing objectives and to continue to work together with the Metropolitan Police, the Council and all involved in promoting the licensing objectives.
- d. The relevant Licensing Act provides for a review process for any licensing premises which can be utilised as and when required.

The Sub-Committee believed that the above mentioned reasons and conditions that were incorporated into the premises licence were necessary, in order to uphold all the licensing objectives. In conclusion the Licensing Sub-Committee, in line with the relevant policies and guideline made the decision that the above variation of the premises licence application to be **granted with the relevant conditions agreed at the Licensing Sub-Committee hearing and as noted in the above full decision.**

The parties had a right to appeal to the Magistrates' Court within 21 days from the date of this decision notice.

The meeting ended at 4.00 pm

Chairman