

LICENSING SUB-COMMITTEE

Minutes of the meeting held at 10.00 am on 24 October 2022

Present:

Councillor Nicholas Bennett MA J.P. (Chairman)
Councillors Robert Evans and Kira Gabbert

Also Present:

1 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Councillor Nicholas Bennett was appointed Chairman for the meeting.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 **New Premises Licence Application for Dough Artisan Bake House Ltd 210 High Street, Beckenham, BR3 1EN**

1. INTRODUCTION:

The Licensing Sub-Committee having carefully considered the application for **a new premises licence at DOUGH ARTISAN BAKE HOUSE LTD, 210 HIGH STREET BECKENHAM BR3 1EN:**

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),
- All written representations
- Written and oral representations by the Applicant (and supporters)
- Written representations by two Ward Councillors
- Written and oral representations by Local Residents
- Written representations by the Responsible Authorises
- Written and oral representation by the Council's Health and Safety Inspector

The decision of the Licensing Sub-Committee was:

The **Licensing Sub-Committee decided to Grant** the premises licence subject to amendments made at the Hearing on the 24th October 2022.

The Licensing Sub-Committee meeting was conducted in a manner which allowed each party to present their case and to discuss their concerns and positive aspects of the above application. The Licensing Sub-Committee paused to ask questions to the relevant parties with the view to obtain clear responses and where necessary, to get further information, and an overall understanding of various points.

The Licensing Sub-Committee was made aware prior to the commencement of the meeting about the change of hours (by the applicant) for the sale of alcohol at the above premises. The applicant decided to reduce the hours stated in the above application for film, live music and sale of alcohol to end at 10pm (22.00hours) rather than 12:00 midnight (00:00 hours) as proposed, and the use of the outdoor area until 9pm (21:00 hours)

Regarding Planning, there had been class use changes since the premises was owned by the previous tenant. The Licensing Officer briefly explained about the changes in the Planning Class use which were updated on the 1st September 2020 [as noted in the Town and Country Planning (Use Classes) Order 1987 (as amended)]. The former class A3 for Restaurants and Cafes was now the new Class E, which included Restaurants, Snack Bars and Cafes. However, before the change, the premises was a class A1 retail shop and was denied an application to change to A3. The change in class coding meant that the premises could operate as any type of business within the new class E which included both shops and cafes. The premises was therefore now under Category E and could operate as a bakery/café without the need to apply for planning permission.

The application plan showed an outside (outdoor) area in the rear which was subject to planning permission. The applicant previously applied for permission for that area and later withdrew the application to amend the drawings. The applicant mentioned that she has since re-submitted to the Council for consideration the amended application for that part of the premises.

Members of the Licensing Sub-Committee were further informed that the above application concerns the inside use of the premises and the front outdoor area (shown in a pink shade in the application plan). The pavement outdoor area (in the front of the premises) already had a valid pavement

licence. The sitting arrangement for that outdoor area included two tables and two chairs per table.

2. THE APPLICANT'S CASE AND DISCUSSION AT THE HEARING:

The applicant mentioned that her business model for the above premises was aimed at various clients, but included the young families where the children could have fun, children's parties, films. During that time, the children's parents /guardians (the adults) could have some sociable time with a glass of prosecco, mulled wine (at Christmas etc), coupled with a pastry and some sort of bread and 'bubbles' alternative etc. The capacity of the premises was approximately 50 persons (but likely to be less at most times).The applicant said she had taken into consideration the residents' concerns and had re-instated the closing hours to 10pm rather than 12:00 midnight as stated in the original application.

The Licensing Officer mentioned that the applicant should be aware that with the closing hours, the time ought to factor in half an hour drinking time. The Licensing Officer asked what time they would stop serving alcohol and the applicant stated they would stop serving alcohol at 9:30pm and close the premises at 10pm.

The applicant agreed to all Metropolitan Police conditions which were noted in the application bundle.

The applicant said that she had the noted points mentioned by residents; she urged the residents to separate her business (and business plan) to that of the previous tenants at the above address. Her intention was to grow her business in a more sensible way with a different type of clientele to the previous tenant. She recognised that she was somewhat carrying a stigma from the previous owner. She said her business was very different and it was not a nightclub, or a bar or a late-night establishment.

There was a discussion about the outside area and sitting arrangements and questions regarding the consumption of alcohol in the outside area as well as the delivery of alcohol for off the premises food and also where food could be delivered off the premises with alcohol through a third party. The applicant (and her supporters) mentioned that they had not considered serving food and alcohol through the delivery service and that it was not her intention to sell alcohol as part of the delivery service.

The applicant confirmed what the Licensing Officer mentioned, about the area needing planning permission being separate to the above application, and that an application to the Council had been re-submitted.

The applicant responded to the points raised by the Health and Safety Inspector in respect to Noise Nuisance. The applicant acknowledged that an opening party (which included a D.J and music) took place in 2020, at a time when the Covid restriction rules had changed to allow gatherings. The Police were called to the premises, but when they came "they saw that everything

was fine". The Health and Safety Inspector explained that such nuisance interfered with the rights for residents to enjoy their property. She also mentioned that the previous tenant had some issues which infringed those rights. The applicant in a related point responded that noise level checks had been carried out at the premises.

In summing up, the applicant said she was trying to provide (and add) some alternatives for her customers in order to 'stay competitive, and to keep her business going'. She said it was not her intention to cause any noise nuisance and that she would be responsible for monitoring the music and noise at the premises to ensure it did not become a nuisance.

3. OBJECTIONS AND SUPPORT TO THE LICENCE:

There were 2 Cllr objections, 1 Responsible Authority Objection and 28 resident objections making 31 objections in total. At the Hearing there were 2 persons who supported the application and 2 residents who spoke in objection to the application and the Health and Safety Inspector also spoke in objection.

4. LOCAL RESIDENTS' REPRESENTATION & DISCUSSION AT THE HEARING:

Two residents spoke in objection to the application. The following summary is of the discussion and relevant responses from the applicant:

The objections were mainly regarding the following: Opening Hours, Sale of Alcohol, possible Noise and Public Nuisance. Residents raised points regarding the possibility of an increase in noise nuisance, the long opening hours, and anti-social behaviour which was linked to the consumption of alcohol.

Residents also mentioned their concern about private parties. The use of the outside areas was discussed. The applicant acknowledged that when the private parties were held it was the applicant's responsibility to ensure they were run properly. That there will be senior management, and clear rules and guidelines will be given to the person(s) hiring the place.

Objections were expressed relating to the opening hours and consumption of alcohol.

The applicant responded that she had reduced those hours and intended to be diligent to ensure that there was no noise nuisance. One of the residents whose family lived near the premises for a long time, wanted to know how the noise level checks were conducted and whether the decibels noted were correctly noted given the day/time when the survey took place. The applicant mentioned that the results of the noise survey were correctly monitored. The applicant further explained that: part of the rear garden of the above Premises which was located closest to the resident's property would not be used. The applicant had decided to reduce the use of the rear garden in

order to deal with the possible noise issues which were evident when the premises was used by the previous tenant.

Off premises food delivery and the use of a third-party delivery service was also discussed. One of the members of the Sub-Committee asked whether alcohol would be delivered with the food from the premises. The applicant replied that it did not occur in her mind to deliver alcohol and that she did not intend to do so.

One of the Licensing Sub-Committee members raised the point which the objectors mentioned in the application bundle regarding cumulative impact. The Licensing Officer, having explained the meaning of a cumulative impact zone, went on to explain that the premises which opened after 11pm (until early hours of the morning) would be the ones affected by issues relating to cumulative impact zone. Issues regarding the cumulative impact zone did not apply in this case.

Once the Licensing Sub-Committee established that there was no further input from all parties. The Licensing Sub-Committee retired for deliberation.

5. THE WARD COUNCILLORS' COMMENTS:

Two ward Councillors submitted their written representations in objections (see pages 63 of 96 to 64 of 96).

6. THE LICENCE

The Application Form and Premises Plan which provides the details of the application for the above premises licence are noted in the agenda/application bundle on Pages: 7 of 96 to page 30 of 96.

The original Hours for the supply of alcohol are noted in the application on pages 18 of 96 to page 19 of 96 application and for Opening Hours for the premises to the public are on page 20 of 96 to page 21 of 96. Opening hours, and consumption of alcohol were amended prior to the hearing.

The changes made at the Licensing Hearing are noted below:

Opening Hours

Inside the Premises

Mondays to Sundays 10:00am to 10:00pm [22:00 hours]

Outside the Premises

Mondays to Sundays 10:00am to 9pm [21:00hours]

All customers to be Inside the premises after 9pm [21:00 hours]

No alcohol to be brought outside after 9pm [21:00 hours] at the front area of the premises and at the rear garden of the premises.

Sale of Alcohol for the premises

Mondays to Sundays 10:00am to 9:30pm [21:30 hours]
(which allows customers half an hour drinking up time)

Sale of Alcohol off Premises

Mondays to Sundays

No off sales except to customers attending at the premises.

No off sales of alcohol by third party delivery companies.

Agreed Conditions

The applicant agreed to operate in accordance with the requirements of the Licensing Act 2003 (as amended) and the conditions attached to the premises licence.

Additional Conditions Agreed by the Applicant are noted in the application bundle page 88 of 96 to 90 of 96

Agreed Metropolitan Conditions:

1. Install and maintain a CCTV system covering the entrances, internal areas and external areas of the premises and recordings shall be stored for a minimum of 28 days. CCTV images shall be delivered to Police or Council Officer on request. CCTV cameras shall be installed at the entrance door to enable head and shoulders images to identification standard, of each person entering, to be captured as they enter the premises.
2. Ensure a member of staff trained in the use of the CCTV system be available at the premises at all times that the premises are open to the public.
3. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram and appropriate signage will be displayed inside the premise.
4. There shall be no vertical drinking within the premises
5. Ensure that all staff within the business are trained in relation to the Licensing Act 2003 and conflict management. Training records shall be held at the premises and made available for inspection by the police upon reasonable request. Refresher training will be undertaken every 12 Months.
6. Maintain a comprehensive incident register at the premises. The DPS shall ensure that the details of incidents shall be added to the register within 24 hrs of any incident. The following details shall be recorded:-
Date
Time

Location
Persons concerned
Summary of incident
Identification of any Emergency Services Personnel who attended

7. Ensure that a refusals book or electronic system to record all refusals of sales shall be maintained on the premises and made available to the police and local authority upon request.

7. THE DECISION:

The Licensing Sub-Committee decided to **Grant** the licence in relation to the above application for a new premises licence subject to the modifications made at the Licensing Sub-Committee hearing. The decision was made taking into consideration the following:

- a) The above application as a whole.
- b) All the licensing objectives, the relevant licensing policies and guidelines, and all the steps which the applicant intends to take to promote the licensing objectives.
- c) All points raised by all parties in the application bundle and at the Licensing Sub-Committee hearing.
- d) That the applicant agreed to all the Metropolitan Police.
- e) That the applicant took into consideration the objections and concerns raised, reduce the opening hours and to hours and the sale of alcohol to include drinking up time half an hour before closing time.
- f) The applicant has indicated the intention to uphold the licensing objectives, and has agreed to all the relevant policies and conditions.
- g) The relevant Licensing Act provides for a review process for any licensing premises which can be utilised as and when required.

The Sub-Committee believes that the above mentioned reasons and conditions that are incorporated into the premises licence are 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 new 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.**

Licensing Sub-Committee
24 October 2022

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

The Meeting ended at 12.00 pm

Chairman