

LICENSING PANEL MINUTES

15 DECEMBER 2016

Chair: * Councillor Kairul Kareema Marikar

Councillors: * Varsha Parmar * Kanti Rabadia

* Denotes Member present

109. Appointment of Chair

RESOLVED: That Councillor Kairul Kareema Marikar be appointed Chair of the Licensing Panel Hearing.

110. Declarations of Interest

RESOLVED: To note that there were no declarations of interest made by Members.

111. Minutes

(See Note at conclusion of these minutes).

112. Licensing Procedures

The Chairman asked the Panel Members, officer/s, Responsible Authority/ies and other attendees at the meeting to introduce themselves and then outlined the procedure for the conduct of an oral hearing, which was set out in the agenda.

RESOLVED ITEMS

113. Application for a variation to the premises licence for Cinnamon Place, First Floor, 406 Kenton Lane, Harrow, HA3 8RQ

In attendance:

| | |
|-----------------------------|--|
| Legal Adviser: | Baljeet Virdee (Harrow Council) |
| Licensing Officer: | Ash Wagela, Samina Khan (Harrow Council) |
| Applicant: | Uhama Kumara Naidu |
| Applicant's Representative: | Shankar Sivashankar |
| Objectors: | Mr and Mrs T Patel |

RESOLVED:

- (1) to modify the conditions to the licence by extending the hours for opening and licensable activities as follows:

| Variation approved as follows | | | | | |
|-------------------------------|----------------------|-------------------------------------|--|---|------------------------|
| Day | Hours open to public | Alcohol sales (on and off-premises) | Live music , Recorded music , Performance of dance | Performance of anything similar recorded music and performance of dance | Late night refreshment |
| Mon | 1000 - 2400 | 1000 - 2400 | 2300 – 2400 | 1000 – 2400 | 2300 – 2400 |
| Tues | 1000 - 2400 | 1000 - 2400 | 2300 – 2400 | 1000 – 2400 | 2300 – 2400 |
| Weds | 1000 - 2400 | 1000 - 2400 | 2300 – 2400 | 1000 – 2400 | 2300 – 2400 |
| Thurs | 1000 - 2400 | 1000 - 2400 | 2300 – 2400 | 1000 – 2400 | 2300 – 2400 |
| Fri | 1000 - 0100 | 1000 - 0100 | 2300 – 0100 | 1000 – 0100 | 2300 – 0100 |
| Sat | 1000 - 0100 | 1000 - 0100 | 2300 – 0100 | 1000 – 0100 | 2300 – 0100 |
| Sun | 1000 - 2400 | 1000 - 2400 | 2300 – 2400 | 1000 – 2400 | 2300 – 2400 |

and;

- (2) to reject the seasonal variation proposed in the application.

REASONS: The licensing panel carefully considered all the relevant information including:

- All written and oral representations by all parties
- The Licensing Act 2003
- The Guidance issued under section 182 of the Licensing Act 2003
- Harrow Council's Licensing Policy
- Human Rights Act 1998

The panel heard an application from premises licence holder, Mr Uhama Kumara Naidu, of Cinnamon Place, ("CP"), to vary CP's opening hours and hours of licensable activities and to permit seasonal variations, namely to permit CP to extend licensable activities and hours open to the public to 0400 the following morning, provided the following day was a weekend or non-working day.

The panel heard from the applicant's representative that it proposed to delay the opening hours for CP, and for licensable activities to continue up to an hour before closing time so that customers had a chance to finish their drinks and disperse from the premises. The exception to this would be the service of late night refreshment, which was proposed to continue up to the delayed closing time so that customers could enjoy a non-alcoholic beverage before leaving.

The panel heard from the applicant's representative, who set out the basis of the application and who reiterated that the proposed seasonal variation would only apply if there was a prior booked event.

The panel heard further submissions from the applicant that there were no representations from the Police or any complaints regarding noise nuisance or public noise emanating from CP.

The panel was directed by the applicant to the map on page 19 of the Agenda in order to show the panel the location of CP and a car parking area behind the premises, which is accessible via a side road. It was submitted that there were no objections before the panel from those living near that car park area or Kenton Lane car park. The applicant's representative also stated that they provide their customers with information regarding these car parks.

The panel heard from the applicant that regarding the objectors from Kingshill Drive, CP currently shuts at 2300 and they have had some temporary events at CP when they closed around 0200 – 0300 and have received no complaints.

In response to questions by the panel, the applicant explained that under, the regime under the Licensing Act 1964, they could apply to a Magistrate to open until 0100, and that the parking behind the venue was on private land, could accommodate around 20 cars and was shared between a couple of the businesses on that parade. The applicant also stated to the panel that the venue holds about 150 people, so it was estimated this could account for 20-30 cars which could increase to about 50 cars if there was a party. The applicant also stated that CP had 4 Temporary Event Notice (TEN) events in 2015 and had had about 4 so far this year.

The panel asked the applicant to explain further the reasons behind seeking the extended opening hours and was informed that the main function of CP is a restaurant, people were going later and more restaurants were opening later as a result. The panel was informed that since Mr Naidu bought the property, he has let it out but is now looking to take it over and run it as a restaurant.

Upon questioning of the applicant by one of the objectors, the panel heard various issues regarding the parking for CP and that customers of CP have apparently parked their cars on Kingshill Drive. The panel also heard that there were other premises in the locality which opened until late and therefore it may not be the case that people parking on Kingshill Drive were all customers of CP as opposed to customers from other nearby venues.

Upon questioning by the panel about the proposed seasonal variation, the applicant stated it was not planning to stay open until 0400 whenever possible, but only where they had a prior booked event. The applicant explained that due to the time required to submit an application for a TEN, how many they could apply for during the year, and the number of late enquiries they received for a late night booking, they had to turn away a number of enquiries from people who had left it very late to make a booking.

The panel heard from one of the objectors who had submitted representations, who stated that there is a mechanism in place if they want to apply for a late night party but that if the applicant is given a blanket permission to open until 0400 without a TEN, they feared these events will happen all the time. The submitted that the area was already congested and that if residents on their road go out on a Friday or Saturday night, they are unable to find parking when they return home.

The objectors informed the panel there were 5 licensed premises in and around Belmont Circle and that they were aware other places offered parties up to midnight. They were concerned the area was becoming saturated.

The objectors informed the panel that they had attempted to complain about the venues before, both to Harrow Council and the Police, but were unaware until recently what the correct procedure was and that they could complain about non-residential premises.

The panel heard from the objectors that they could not be certain that all those parking on their road or making a noise nuisance were customers of CP but the objectors believed it was more likely to be their customers due to the proximity of the venue, it allegedly being easier to park on Kingshill Drive than behind CP and also due to other venues having parking available to customers. However, one of the objectors did say that he could see the entrances to CP, the adjacent Tesco and another venue from his house, and has watched people walking from CP to their road (and confirmed his address to all present at the Panel meeting).

The panel noted, upon questioning the objectors, that the Belmont Community Centre also held events during the year and that there was a car park on Kingshill Drive that anyone could use to park.

Upon the applicant's questioning of the objector, it was noted that the plans to CP shown on page 17 of the Agenda showed a fire escape, which it was alleged allowed access to the area being used as a car park by CP, although this appeared to be located behind the staff area. It was also noted that the objectors alleged that a lot of the noise nuisance was around midnight, whereas the current closing time of CP was 2300.

The applicant submitted to the panel in their summing up that there was no evidence of any wrongdoing by CP presented to the panel, no Police representations and that the objectors' complaints about parking was not a licensing issue but a planning issue. It was noted that there were five other venues in the nearby area and the applicant submitted that it was not possible for the objectors to say which venue the people causing a nuisance on their road were from.

The panel noted there had not been any reported issues with TENs operated at CP in the past and other residents closer to the venue had not made any complaints.

On the balance of the evidence before the panel, the panel resolved to allow an extension of the opening and licensable hours at CP, but not to the extent sought by the applicant, and it would not be permitting the seasonal variation sought by the applicant. The varied hours are as follows.:

| Variation approved as follows | | | | | |
|--------------------------------------|----------------------|-------------------------------------|--|---|------------------------|
| Day | Hours open to public | Alcohol sales (on and off-premises) | Live music , Recorded music , Performance of dance | Performance of anything similar recorded music and performance of dance | Late night refreshment |
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The panel makes its decision to allow the application as modified and shown above in order to promote the objectives pertaining to the prevention of public nuisance. The panel does not consider that any further steps are needed to promote the licensing objectives.

The panel notes that the Licensing Act 2003 enables licensing authorities, through representations, to consider what constitutes a public nuisance, such term to be given its widest interpretation, and what is appropriate to prevent it in terms of conditions attached to specific premises licences and the effect of the licensable activities at the premises on people living in the area.

The objections presented to the panel suggest that there is already some disruption caused by customers of CP, although it is noted that this could also be caused by customers of other licensed premises which, it has been submitted to the panel, remain open until midnight.

The licensable activities are currently ongoing until 2300 from Monday to Saturday and to 2230 on Sunday and it is proposed this is extended further in

to the very early hours, including days on which people in the nearby area would be expected to go to work (or even school) the next day.

The panel believes that if the opening and licensable hours are varied to the extent sought by the applicant, this will increase the likelihood of further public nuisance to residents in the area. Therefore, the panel has decided to vary the opening and licensable hours and extend the time as set out above in order to limit the extent of any further public nuisance.

On the same basis, the panel rejects the application for a seasonal variation. The panel also noted that in relation to the seasonal variation, the applicant had applied for 5 TENs in 2015 and only 4 so far in 2016, and had provided no evidence as to how many enquiries they had received at such a late stage as to prevent them applying for a TEN in the prescribed manner, which appears to be working satisfactorily.

(Note: The meeting, having commenced at 7.07 pm, closed at 8.37 pm).

(Signed) COUNCILLOR KAIRUL KAREEMA MARIKAR
Chair

[Note: Licensing Panel minutes are:-

- (1) approved following each meeting by the Members serving on that particular occasion and signed as a correct record by the Chair for that meeting;
- (2) not submitted to the next panel meeting for approval.

Reasons: The Licensing Panel is constituted from a pooled membership. Consequently, a subsequent Panel meeting is likely to comprise a different Chair and Members who took no part in the previous meeting's proceedings. The process referred to at (1) above provides appropriate approval scrutiny].