

LICENSING PANEL MINUTES

30 JULY 2018

Chair: * Councillor Angella Murphy-Strachan

Councillors: * Maxine Henson * Amir Moshenson

* Denotes Member present

1. Appointment of Chair

RESOLVED: That Councillor Angella Murphy-Strachan be appointed Chair of the Licensing Panel Hearing.

2. Declarations of Interest

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

3. Minutes

(See Note at conclusion of these minutes).

4. 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

5. Reasons for Lateness & Urgency

RESOLVED: That the reasons for lateness and urgency of the supplemental agenda be agreed.

6. Bianca's Kitchen, 8 Whittington Way, Pinner, Middlesex, HA5 5JT

In attendance:

Legal Adviser: Andrew Lucas

Licensing Officer: Ash Waghela

Applicant: P Sivashankar

Objectors: J Simons, P Nevile, M Nevile

RESOLVED: To grant the premises licence for the hours sought subject to the following conditions:

Hours Open to the Public and for Licensable Activities

Hours open to the Public

Sunday – Thursday 10:00 – 00:00

Friday – Saturday 10:00 – 01:30 (the following day)

Sale of retail alcohol

Sunday – Thursday 10:00 – 23:30

Friday – Saturday 10:00 – 01:00 (the following day)

Late night refreshment

Sunday – Thursday 10:00 – 23:30

Friday – Saturday 10:00 – 01:00 (the following day)

Conditions (which will form Annex 3 of the Licence):

The Panel resolved that the following conditions should be applied to the licence:

1. One SIA approved door supervisor to be on duty from 23:00 until close of business on Friday and Saturday nights.
2. No bottles to be emptied in to bins outside the Premises after 21:00 on any day of the week.
3. A bin is to be provided at the front of the Premises for the use of smokers, should one be required. The pavement to the front of the Premises to be kept clean.

REASONS:

The Panel carefully considered all the relevant information including:

- Written and oral representations by all the 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 considerations in s.17 of the Crime and Disorder Act 1998

The Panel did not consider any of the irrelevant factors which were referred to in the representations of the Objectors, which included need for or financial viability of the business to be run from the Premises, parking concerns, or concerns raised relating to the Pinner Arms, a public house opposite the Premises.

The Panel were grateful to the Objectors that attended for their attendance and participation in the meeting.

The Panel were also grateful to the Applicant for the concessions made at the meeting by their representative, Mr Sivashankar. The Panel felt that these concessions were a genuine attempt by the Applicant to reach a compromise with the Objectors. When deliberating, the Panel concluded that the additional conditions proposed by the Applicant should be incorporated into Annex 3 of the Licence without further amendment.

In addition to the conditions incorporated into Annex 3, Mr Sivashankar also offered a reduction in the licensable hours and opening times as follows: Sunday – Wednesday, licensable activities to stop at midnight with close by 00:30; Thursday licensable activities to stop at 01:00 with close by 01:30.

On behalf of the Applicant, Mr Sivashankar explained that the Premises would seat approximately 25 people and would serve Romanian cuisine. It is anticipated that the clientele would predominately be Eastern European and customers will largely pre-book before attending. Takeaway food would not be served.

The Panel placed weight on the fact that no responsible authority had objected to the Application, particularly noting the lack of objection from the Licensing Authority, the Police or Environmental Health. Mr Sivashankar confirmed that the Applicant accepted the proposed conditions set out in Annex 4 to the Agenda.

However, the Panel were also mindful of the concerns raised by the Objectors, particularly at the meeting, about the length of the hours applied for by the Applicant and the possible nuisance that this could cause to residents living in the immediate locality of the Premises, as well as the possible nuisance that could be caused by smokers obstructing the pavement and/or littering.

While the Panel were satisfied that, generally, the conditions proposed by the Applicant should prevent the licensing objective in respect of public nuisance from being undermined by smokers visiting the Premises, they were still concerned about the hours sought and the potential nuisance that could be caused to neighbours by late night customers of the Premises. Although the Panel accepted Mr Sivashankar's submission that only one of the Objectors was an immediate neighbour of the Property, they felt that the complaint of nuisance caused by the proposed late opening hours was one that needed careful consideration by them. The Panel also disagreed with Mr Sivashankar's submission about Mr Israel's representation, at page 41 of the Agenda. The Panel were of the view that Mr Israel's representation was not just a complaint about the Pinner Arms, but about the effect that another late licensed premises would have on the nuisance that he experienced and the detrimental effect that could have on his health.

The Panel were of the view that the hours applied for were excessive given the nature of the Premises and its location. The Panel noted the statement made in the Application that the Premises expected "mainly to have families celebrating small family occasions in this place" (Section 18, box a) General, page 24 of the Agenda). The Panel did not think many small family occasions were likely to last until 2.00 am.

The Panel also noted that the area around the Premises is largely residential in nature. There is residential accommodation directly above the premises and a row of residential properties starting next door but one

The Panel concluded that the hours proposed, even the reduced hours offered by Mr Sivashankar, were likely to cause the licensing objective in respect of the prevention of public nuisance to be undermined. The Panel were concerned about noise coming from the Premises and from customers of the Premises arriving and leaving, stepping outside to smoke and so on and the nuisance that this could cause on the immediate neighbours of the Premises were the Premises to be open until after midnight seven days a week. The Panel therefore resolved to further reduce both the hours for licensable activities and opening times of the Premises in order to promote the public nuisance objective.

The Panel noted that it remained open to the Applicant to apply to extend their licensable hours, if it could be shown after a period of successful operation that a public nuisance was not being caused by the Premises.

While the Panel felt that Mr Sivashankar's submissions in respect of serving a cold buffet and taking the premises outside the licensing regime were correct, they were unhelpful at the stage of the meeting that they were made at, particularly when dealing with Objectors not familiar with the intricacies of licensing law.

The Panel wishes to remind the Objectors that there is a mechanism for the review of a premises licence which can be invoked by any person, or a responsible authority, at any time because of any matter arising at the premises in connection with any of the four licensing objectives.

Right to appeal

Any party aggrieved with the decision of the Licensing Panel on one or more of the grounds set out in Schedule 5 to the Licensing Act 2003 may appeal to the Magistrates' Court within 21 days of notification of this decision.

(Note: The meeting, having commenced at 7.30 pm, closed at 8.25 pm).

(Signed) COUNCILLOR ANGELLA MURPHY-STRACHAN
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].