

# LICENSING PANEL MINUTES

## 14 AUGUST 2018

**Chair:** \* Councillor Ramji Chauhan

**Councillors:** \* Pamela Fitzpatrick \* Angella Murphy-Strachan

\* Denotes Member present

### 7. **Appointment of Chair**

**RESOLVED:** That Councillor Ramji Chauhan be appointed Chair of the Licensing Panel Hearing.

### 8. **Declarations of Interest**

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

### 9. **Minutes**

(See Note at conclusion of these minutes).

### 10. **Licensing Procedures**

The Chairman asked the Panel Members, officers 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

### 11. Application for a New Premises Licence - Coffee 2 Cocktails, 51 High Street, Harrow, Middlesex, HA1 3HT

#### In attendance:

Legal Adviser:	Andrew Lucas
Licensing Officer:	Maher Khan
Applicant:	Sunny Ruparellia (with Davika Thakkar)
Applicant's Representatives:	Puthrasingam Sivashankar, Sandip Rupareha
Objectors:	David Anderson, Gillian Anderson, Doug Benham, Linda Benham, Marek Fletcher

The Sub-Committee did not consider the irrelevant factor referred to in the representations of the Applicants, made by Mr Sivashankar, being the cost of the refurbishment works to the Premises and the need to be open later in order to recoup those costs and make a profit.

The Sub-Committee were grateful to the Objectors for their attendance, their practical approach to the meeting and their thoughtful questions and proposals.

In his representations, Mr Sivashankar set out, for the benefit of the Objectors why certain conditions were only sought from 23:00. He explained that the front forecourt did not form part of the Premises to be licensed but that there would be 'off' sales from within the Premises to customers sitting in the front forecourt. In response to questions, Mr Sivashankar confirmed that off sales would only be those customers using the front forecourt and that sales of alcohol would not be made to non-customers or the general public in the same way that, for example, an off licence would do.

Mr Sivashankar also explained that the Premises intended to close an hour after the licensable activities ceased in order to allow for a longer dispersal time to minimise disruption to local residents.

Mr Sivahshankar confirmed that the Applicant agreed to all proposed conditions set out at Appendix 4, found at pages 41 and 42 of the Agenda.

Looking at the Objections contained within the Agenda, Mr Sivashankar submitted that this application could not be compared to the last licence, that this was a new premises licence and had to be viewed in its own right; that the Applicant agreed that the pavement should not be blocked by people eating or drinking, and that this would only take place on the forecourt; that submissions relating to conservation and character of the area were planning

matters; and, that with apps such as Uber the days of cabs sitting outside Premises, sounding their horn waiting for their fares had passed.

Mr Sivashankar was then extensively questioned by the Objectors. He explained that the Premises would be a café by day and a bar in the evening, but that it would primarily be food led. The Applicant confirmed that the food would be a fusion of Indian, Mexican and Italian. When asked about music, the Applicant said that although deregulation and the conditions applied for allowed for live and recorded music to be played, the intention was that mostly there would only be background music playing. It was asked whether there would ever be live music. Mr Sivashankar said that he could not say that there would never be live music, but that there were no current plans in this regard.

It was asked whether the Applicant would agree to a condition in respect of the number of smokers using the forecourt after 23:00. Mr Sivashankar said that generally it was estimated that approximately 10% of capacity would be smokers; the capacity of the Premises is 150, making it likely 15 people would want to use the forecourt for smoking at any one time. The Objectors asked if the Applicant would agree to a condition limiting the maximum number of smokers in the forecourt area to 15 after 23:00. Mr Sivashankar confirmed that this was agreed.

When asked whether music with the door open would cause a nuisance, Mr Sivashankar pointed out that the Applicant was agreeing to a clause that *"No noise shall emanate from the premises or vibration be transmitted through the structure of the Premises which gives rise to nuisance"*. Mr Sivashankar submitted that this was a strong promise that the Applicant would do all they could to prevent a nuisance. It was confirmed that the bi-fold doors at the front of the Premises would be shut if, for example, there was live music and that the doors would be shut at 23:00 in any event.

One of the Objectors, Mr Fletcher said that he had received e-mails from Mr Sivashankar to the effect that the licensable and opening hours proposed by the Applicant were the same as the previous business on the site, Café Café, but this was not the case. Mr Sivashankar said that he had thought this at the time and believed the hours to be the same. He then submitted that Café Café had had no complaints in its last 12 months of business. In their deliberations, the Sub-Committee were disappointed that Mr Sivashankar had not sought to confirm the terms of the Licence held by Café Café before making comment on it. The Sub-Committee noted that Mr Sivashankar was a licensing professional dealing with a lay objector.

In respect of the dispersal time, the objectors commented that having a longer dispersal time only 'increased the torture'. Mr Sivashankar said that the Applicant would be willing to close the Premises 30 minutes after licensable activity ceased if the Objectors would prefer. Mr Sivashankar said that both he and the Applicant were concerned that having a shorter dispersal time would lead to a greater number of people leaving the premises at around the same time and may potentially increase noise and nuisance for residents. The Objectors said that they knew what happened and with the best will in the world when people have been out to enjoy themselves and have had a drink

there will be disruption, caused by people getting in cars and taxis, and talking on their mobile phones and to each other. The Objectors were clear that they would prefer a shorter dispersal time and pressed the Applicant to re-consider the hours they were seeking overall.

Having consulted with the Applicant, Mr Sivashankar offered a reduction in the dispersal time from an hour to 30 minutes and for licensable activities to finish 30 minutes earlier on Fridays. The Objectors were happy with these concessions and were willing to agree to the Licence being amended in these terms.

The issue of having door supervisors was discussed. Mr Sivashankar said that the Applicant intended to keep the issue under review with the Police, and employ door supervisors if required. However, Mr Sivashankar said that the Applicant was not keen to have door supervisors at the moment for two reasons. Firstly, having them outside creates the impression that the venue is a nightclub, which the Premises is not. Secondly, sometimes the way door supervisors deal with, for example, asking people to leave at closing time can escalate any potentially inflammatory situations. Mr Sivashankar, said that the staff would ask customers to leave quietly, as would the Applicant who is also the DPS and would be at the Premises most of the time that it is open.

The Sub-Committee asked the Objectors whether they had any comments on the special extensions sought. While generally the Objectors had no comments, with Mr Fletcher saying he was more concerned with routine disturbance than one off events, concerns were raised about the hours sought over New Year. Mr Sivashankar said that this went back to special deregulation for the millennium, which some licences had preserved under grandfather rights. He said that the extension was sought to keep this licence in step with older licences. He said that the Premises did not intend to open for such a long period at New Year and would likely close at 01:00 or 02:00. Mr Anderson sought confirmation that the 23:00 cut off would still apply to the outside area on special extension says. Mr Sivashankar confirmed that it would.

The Sub-Committee asked whether a noise inhibitor should be installed at the premises. Mr Sivashankar said one could be installed but they were expensive, none of the upstairs neighbours had made representations against the Application and that the Applicant was already offering what he considered to be a stronger condition not to cause nuisance. Mr Sivashankar said that the installation of a noise inhibitor should be considered if the Premises Licence needed to be reviewed because of noise nuisance.

The Applicant asked the Objectors if they experienced nuisance from the nearby licensed premises, Blues (now called Eighty Six). The Objectors said that they did not. They said they had asked what the licensable hours were for that premises and they had been told that the licensable hours were less than those sought in this Application.

The Objectors closed. Mr Anderson said he was pretty happy with the concessions. Mr Benham said he felt all the points had been discussed and welcomed the response. Mr Fletcher said he felt the meeting had been

constructive, but he still had concerns about people leaving late and making a noise.

Mr Sivashankar closed for the Applicant. He highlighted the lack of objections from the responsible authorities. He said he thought the amendments to the Application were reasonable.

When considering all the information placed before them, the Sub-Committee were satisfied that the amendments to the Application, agreed with the Objectors should prevent the licensing objectives from being undermined. The Sub-Committee were therefore content not to further amend either the licensing hours or the hours the Premises would be open to the Public.

The condition offered in respect of the number of smokers in the private forecourt of the Premises was added to the Licence by the Sub-Committee. The Sub-Committee were also of the view that the stated intention of the Applicant not to allow drinks into the forecourt area after 23:00 and to clear the outside furniture away should also be made into conditions included on the licence; the Sub-Committee felt that it was axiomatic that allowing drinking on the street after 23:00, and leaving furniture there for people to do so in comfort could cause the licensing objectives to be undermined. Finally, the Sub-Committee were of the view that bins should be provided on the forecourt to prevent cigarette waste becoming a public nuisance.

In respect of the special extensions, in light of the lack of objection, the Sub-Committee were content not to amend these further, save in respect of New Year's Eve. The Sub-Committee did not accept Mr Sivashankar's rationale for this extension and considered the hours sought excessive and likely to cause the licensing objectives to be undermined. Having heard that the Premises were likely to be open until 0100 or 0200 (the next day) on New Year's Eve the Sub-Committee concluded that it was appropriate to allow some extra time for this special occasion and that if the Applicant required more time than had been permitted in the Licence then they could make an application for a TEN.

The Sub-Committee 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.

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

##### **Sale of retail alcohol**

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

Recorded music, performance of dance, late night refreshment  
Sunday – Thursday 10:00 – 00:00  
Friday 10:00 – 00:30 (the following day)  
Saturday 10:00 – 01:00 (the following day)

Special Extensions

### **Hours open to the public**

On Sundays prior to a bank holiday until 01:30 (the following day)  
Thursday prior to Good Friday until 01:30 (the following day)  
New Year's Eve to continue until 03:30 (the following day)

### **Sale of retail alcohol**

On Sundays prior to a bank holiday until 01:00 (the following day)  
Thursday prior to Good Friday until 01:00 (the following day)  
New Year's Eve to continue until 03:00 (the following day)

### **Recorded music, performance of dance, late night refreshment**

On Sundays prior to a bank holiday until 01:00 (the following day)  
Thursday prior to Good Friday until 01:00 (the following day)  
New Year's Eve to continue until 03:00 (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:

### ***Prevention of Crime and Disorder*** **CCTV**

1. The Premises Licence Holder or Designated Premises Supervisor shall install and maintain a comprehensive CCTV system to the satisfaction of the Metropolitan Police. All entry and exit points must be covered enabling frontal identification of every person entering. The Premises Licence Holder or Designated Premises Supervisor shall ensure that the CCTV system shall continually record whilst the Premises is open for licensable activities and during all times when customers remain on the Premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping.
2. Recordings shall be made available immediately upon the request of the Police or authorised officer of the Licensing Authority providing such requests are in connection with the prevention or detection of crime. Recordings are to be supplied in the form of digital download burned onto a DVD or CD disc.
3. A staff member from the Premises who is conversant with the operation of the CCTV system shall be on the Premises at all times when the Premises is open to the public. This staff member shall be

able to show Police or an authorised officer of the Licensing Authority recent data or footage with the minimum delay when so requested.

4. All faults/defects in the CCTV system must be reported to the Metropolitan Police immediately the fault is discovered. The notification must be made to the Police non-emergency telephone number, 101, and a log number obtained from the Police and recorded in the incident book. The Harrow Police Licensing Unit must also be notified as soon as reasonably practicable.
5. All faults with the CCTV system shall be repaired as soon as possible and in any case within two working days after which time, if the system is still inoperative, no licensable activities shall take place without the agreement of the Harrow Police Licensing Unit and/or Licensing Authority until the fault is rectified.

### ***Prevention of Public Nuisance***

#### **External Areas**

1. The front forecourt will be protected and marked out to provide separation from the pavement. The front forecourt will be closed to the public at 23:00 and all glasses will be removed. All tables and chairs to be removed from the front forecourt area at 23:00.
2. Smokers will be allowed on the front forecourt area until the terminal time for hours open to the public. A maximum of 15 smokers at any one time to be permitted on the forecourt area. No glasses or bottles permitted to be taken on the front forecourt after 23:00.
3. Bins to be provided on the front forecourt for the disposal of cigarettes.
4. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
5. No noise shall emanate from the premises or vibration be transmitted through the structure of the Premises which gives rise to nuisance.

#### **Customer Dispersal**

1. Signage must be displayed in the customer area and at the exits requesting customers to leave the Premises quietly and not to disturb neighbouring residents.

#### ***Protection of Children from harm***

1. The age verification policy shall apply to person who appear to be under the age of 21 years old ("Challenge 21 Policy").

#### **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 Section 17 of the Crime and Disorder Act 1998

### **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 7.40 pm, closed at 8.45 pm).

(Signed) COUNCILLOR RAMJI CHAUHAN  
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].