

Decisions of the Licensing Sub-Committee

29 April 2014

Sub-Committee:-

Councillor Wendy Prentice (Chairman)

Councillor Claire Farrier

Councillor Lisa Rutter

Officers to Panel

Bob Huffam - Legal Services

Maria Lugangira - Governance Services

Licensing Department

Michelle Rudland - Senior Licensing Officer

Planning Department

Mark Springthorpe - Senior Planning Enforcement Officer

1. APPOINTMENT OF CHAIRMAN (Agenda Item 1):

Councillor Wendy Prentice was appointed Chairman.

2. ABSENCE OF MEMBERS (IF ANY) (Agenda Item 2):

There were none.

3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY) (Agenda Item 3):

There were none.

4. LICENSING SUB-COMMITTEE HEARING PROCEDURE (Agenda Item 4):

The Chairman introduced the sub-Committee Members explained the procedure that would be followed at the meeting.

5. MEZEM RESTAURANT, 111 HIGH ROAD, EAST FINCHLEY, LONDON N2 8AG (Agenda Item 5):

The Sub-Committee considered an application for a variation of premises licence under section 34 of the Licensing Act 2003.

The Sub-Committee heard oral representations from the Licensing Officer and the Planning Enforcement Officer.

6. MOTION TO EXCLUDE THE PRESS AND PUBLIC (Agenda Item 6):

That, under Regulation 14(2) of the Licensing Act 2003 (Hearings Regulations 2005), the parties be excluded from the meeting for the following item of business.

7. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION (Agenda Item 7):

The Sub-Committee deliberated in private session.

8. RE-ADMISSION OF THE PRESS AND PUBLIC: ANNOUNCEMENT OF THE DECISION OF THE SUB-COMMITTEE (Agenda Item 8):

The Sub-Committee had before it an application by Mezem Restaurant, 111 High Road, East Finchley, N2 8AG for a variation to their premises licence.

The application insofar as the sale of alcohol is concerned does not involve later hours, but does request an earlier start time of 09:00 hours and the ability to remain open during the afternoon instead of closing between 15:00 hours and 18:00 hours.

There was also an application for live and recorded music and dance. This was withdrawn.

Late night refreshment is requested until 00:00hours Sunday to Thursday and until 00:30 hours Friday and Saturday.

Finally the opening hours are requested to be extended to include opening at 08:00 hours every day, not closing during the afternoon, and not closing until 00:30 hours Sunday to Thursday, or 01:00 hours Friday and Saturday.

Two representations against the application were received. The first has been withdrawn in view of the amended application. The second is from the Planning Department of the Council and refers to the planning conditions on the premises restricting its opening hours. The guidelines to the Licensing Act state that the Licensing and Planning Authorities should liaise but they do not state that possible breaches of planning conditions amount to a valid objection in Licensing applications. The law is clear in that the systems are separate. This does not mean that any grant of an application by the Licensing Authority supersedes any planning conditions. If the hours requested are granted the Applicant is still bound by the planning conditions until they are amended by the Planning Authority.

The main subject of the representations however relates to the licensing objective of the prevention of public nuisance by noise or vibration. While the sub-Committee noted that no representations had been received from local residents they heard from the Planning officer that there have been complaints about the noise and vibration from an extractor fan on the premises. In particular the resident above the restaurant has experienced what is described as amounting to public nuisance. It was put forward that any increase in hours for late night refreshment would exacerbate the problem for local residents in that the fan would be operating for later hours.

The Applicant's representative made representation in a letter dated 25 April 2014 but they did not attend today and the letter also confirmed their non-attendance. The letter stated that the objection from planning should be ignored as irrelevant, but did not refer at all to the question of noise or vibration. In the absence of hearing from the applicant on this issue the Sub-Committee had little alternative but to accept the planning officer's report concerning the nuisance.

The Sub-Committee granted the application concerning the hours for the sale of alcohol and opening times. They considered whether any conditions would be appropriate insofar as preventing public nuisance by the extractor fan but having heard of the problems in enforcing the planning condition they did not believe that this was appropriate, and refused the application for late night refreshment.

If the applicant is able to attend to the nuisance caused by the extractor fan he may wish to make a further application in this respect.

Informative

The Applicant has the right of appeal to Willesden Magistrates' Court, 448 High Road, London, NW10 2DZ, before the expiration of a period of 21 days.

9. ANY OTHER ITEM(S) THE CHAIRMAN DECIDES ARE URGENT (Agenda Item 9):

There were none.

The meeting finished at 11.35 am