

Decisions of the Licensing Sub-Committee

8 July 2021

Members Present

Cllr John Hart

Cllr Linda Freedman

Cllr Claire Farrier

1. APPOINTMENT OF CHAIRMAN (Agenda Item 1):

RESOLVED that Councillor Linda Freedman be appointed Chairman for this Licensing Sub-Committee meeting.

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

None.

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

None.

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

The Chairman explained the procedure that would be followed for the meeting.

5. NEW PREMISES LICENSE - NOIR LTD - 1302 HIGH ROAD, LONDON, N20 9HJ (Agenda Item 5):

The Sub-Committee considered an application for a new premises license for Noir Ltd – 1302 High Road, London, N20 9HJ.

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

RESOLVED that the parties be excluded from the meeting, together with the press and public, in accordance with the Regulation 14(2) of the Licensing Act 2003 (Hearings and Regulations 2005).

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

This is an application for a premises licence made pursuant to section 17 of the Licensing Act 2003 in relation to **Noir, 1302 High Road, London, N20 9HJ** (hereinafter referred to as “the Premises”).

The licensable activity applied for is the provision of late night refreshment. The licensable hours applied for were Sunday to Thursday from 23:00 until 02:00 the following day and Friday and Saturday from 23:00 until 03:00 the following day, with the Premises closing at the same time.

However, following consultation with the Police, the Applicant had agreed to reduce the hours sought for the licensable activity to the following:

Sunday to Thursday from 23:00 until 00:30 the following day; and,

Friday and Saturday from 23:00 until 01:30.

The Premises are to close 30 minutes after the licensable activity ceases.

The Applicant had also agreed conditions with the Police in respect of the provision of CCTV and the maintaining of an incident log at the Premises.

The Premises does not currently have a licence.

The Sub-Committee heard from Mr Wood on behalf of the Applicant. Mr Wood explained that the Premises would be operating as an Indian restaurant and serve modern Indian cuisine. He elaborated that this generally involved having lots of smaller plates of different food, and was not dissimilar to tapas. Mr Wood said the Premises was aiming to be at the higher end of the market and attract a more up-market clientele. Mr Wood said that the Premises would neither be selling alcohol, nor would customers be permitted to bring their own alcohol. Mr Wood said that the current plan was that there would be no shisha smoking at the Premises.

When asked by the Sub-Committee, Mr Wood conceded that the original hours applied for were probably misjudged. He explained that the Covid 19 pandemic had made it difficult to assess trends and know what the demand was likely to be for the Premises. Mr Wood also explained that having long opening hours made it easier to control numbers in the Premises and maintain anti-covid measures.

Mr Wood said that in terms of community engagement, another restaurant he ran in the Midlands had a WhatsApp group that both local residents and management of the restaurant were members of. Complaints could be raised directly using that group. He said it would be possible to run something similar for the Premises, but that he would need to see what was feasible in the area. Mr Wood said that there would be signs on exit asking customers to be quiet and hostesses would do the same.

The Sub-Committee asked Mr Wood about the bar shown on the plan. Mr Wood replied that it is to be a dry bar and would only serve non-alcoholic drinks. Mr Wood also confirmed that there would be no takeaway food sold by the Premises. Mr Wood said that it was hoped that the majority of tables would be pre-booked and customers would be encouraged to book in order to control the flow of tables.

The Sub-Committee again asked about the smoking of shisha. Mr Wood said that it had always been the plan to offer shisha at the Premises. However, financial pressure meant that it was necessary to open the Premises as a restaurant only. He said that the provision of shisha may be revisited in the future. The Sub-Committee asked if the clientele for shisha would be different from those that wanted food. Mr Wood said that the Sub-Committee would be surprised and that the audience for shisha had changed a lot.

Unfortunately, none of the residents that had submitted objections to the application made by the Premises attended the meeting to expand upon their concerns. Councillor Cornelius who had also submitted an objection was unable to attend the meeting. She had provided a written statement which expanded upon her objections. This was read to the Sub-Committee.

Environmental Health, who had made an objection to the application did attend the meeting and the Sub-Committee heard from Ms Patmore. Ms Patmore explained that

smoking in an enclosed public space and failing to prevent someone from smoking in an enclosed public space were both offences. Ms Patmore highlighted that the website for the Premises still featured a prominent section relating to the smoking of shisha.

Ms Patmore further explained that in line with the law, any smoking area had to be 50% open and that if a door or window or some other aperture could be closed then it would count as closed and not towards the 50%. Ms Patmore said the arrangements for smoking shisha Environmental Health had found in March 2021 were not compliant with legislation.

Ms Patmore said granting the licence would be in contradiction to the licensing objective of the prevention of crime and disorder. She urged the Sub-Committee not to grant the application.

The Sub-Committee carefully considered all of the written and oral representations that they had received as well as all relevant legislation, statutory guidance, the licensing objectives and the Council's own licensing policy.

The Sub-Committee put weight on the Applicant's willingness to work with the Police and reduce their opening hours and agree to further conditions. The Sub-Committee noted that the majority of the representations received against the application did not take into account the reduced opening hours that the Applicant had agreed with the Police.

The Sub-Committee accepted Environmental Health's submission that the smoking of shisha in the Premises as it is currently set up would likely amount to the committing of an offence under the Health Act 2006. However, the Sub-Committee also accepted Mr Wood's submission that shisha was not currently being smoked at the Premises. The Sub-Committee did not find that there was any evidence that granting the licence as applied for would cause the licensing objective in respect of the prevention of crime and disorder to be undermined. While the Sub-Committee noted that Mr Wood had said that the smoking of shisha may be revisited in the future, they also noted that Mr Wood had heard what Environmental Health had said about the committing of smoking related offences and the suitability of the Premises for the smoking of shisha. The Sub-Committee expects that if the Applicant does intend to offer shisha at the Premises in the future they will bear in mind what Environmental Health had said at this meeting and co-operate with them to ensure shisha is offered in a way that complies with the law.

The Sub-Committee placed weight on the assurance that no alcohol would be consumed at the Premises. The Sub-Committee was of the view that this would prevent the objectives in respect of crime and disorder and public nuisance, raised in representations, from being undermined. The Sub-Committee were of the view that this should also be added to the licence as a condition. The Sub-Committee were also of the view that in light of the concerns raised in the representations, and Mr Wood's submission that these would be put in place anyway, that it should be a condition of the licence for signs to be displayed near all exits asking customers to leave quietly.

The Sub-Committee therefore resolved to grant the licence subject to the reduced hours and conditions already agreed with the Police and the further following conditions:

1. No consumption of alcohol on the Premises whether by the sale of alcohol or by customers bringing their own alcohol to the Premises.

2. Signs to be displayed near the exits from the Premises asking customers to leave quietly and respect the needs of local residents.

The Sub-Committee were satisfied that these conditions are appropriate and proportionate for the promotion of the licensing objectives. If issues arise regarding the use of the Premises recourse is available by way of review of the Premises licence.

Right to Appeal

Any party aggrieved with the decision of the Licensing Sub-Committee on one or more grounds set out in schedule 5 of the Licensing Act 2003 may appeal to the Magistrate's Court within 21 days of the date of this decision.

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

The public were re-admitted to the meeting. The Chairman announced the decision of the Sub-Committee and notified the applicant that a formal written decision would be provided to them within 5 working days.

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

None.

The meeting finished at 11.35am.