



London Borough of Hammersmith & Fulham

Licensing Sub-Committee

Minutes

Wednesday 28 November 2012

PRESENT

Committee members: Councillors Matt Thorley (Chairman), Michael Cartwright and Steve Hamilton

Responsible Authorities

Metropolitan Police (Applicant): Police Sergeant Stuart Ratcliffe
Planning Enforcement: Julian Renselar

Officers: Adesuwa Omoregie, Legal Advisor, Adrian Overton, Licensing Officer, and Owen Rees, Committee Coordinator

Licensee: Riza Yeldan (Owner) and Mahir Kilic (Legal Representative)

1. MINUTES

RESOLVED THAT:

The minutes of the meeting held on 12 October and 31 October 2012 be confirmed and signed as an accurate record of the proceedings.

2. APOLOGIES FOR ABSENCE

There were none

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. EROMA, 182 UXBRIDGE ROAD, LONDON, W12 7JP (APPLICATION NUMBER: 2012/01678/LAPRR)

The Sub-Committee received and considered an application for review of the premises licence at Eroma, 182 Uxbridge Road, London, W12 7JP.

Main Points of Evidence

Licensing Officer

Adrian Overton, Licensing Officer, introduced the application, which had been submitted on the 4th October 2012. He said that notice of the review was hand-delivered to the premises by the Police as applicant. Notice of the hearing date was sent to the premises licence holder ten working days before the hearing and delivered by hand to the premises during the previous week. He said that the residents who had made objections as part of the application had been unable to attend.

He said that the premises were located in the Shepherds Bush Cumulative Impact Zone.

Responsible Authorities

Planning Enforcement

Julian Renselar attended on behalf of Cathy Thornton. He said that the premises currently held planning permission for A1 use; operating as a sandwich bar. A planning application had been submitted to change the use from A1 to A3. This application was refused by the planning authority on policy grounds. The application was now the subject of an appeal. Mr. Renselar had no definitive evidence that the premises were currently operating as a restaurant and serving hot food. He said that should that appeal be upheld, the Council's planning policies for town centre restaurants meant that the hours of use beyond 12am would not be allowed.

He said that the hours of operation for the premises fell within what was considered the "quiet period" between 12am and 5am, when there was an expectation of no disturbance for residents. He would expect, in the event of the appeal being upheld, for the inspector to not grant permission for the premises to operate after 12am.

Metropolitan Police (applicant)

Police Sergeant Stuart Ratcliffe, Licensing Sergeant for the borough, outlined the reasons why the review had been brought by the Police. He said that the review had been brought on the grounds of the prevention of crime and disorder and the prevention of public nuisance. He said that the level of public nuisance could be gauged by the statements made by the public in support of the application, with one describing the area as "a community under siege". He said that a balance needed to be found between the needs of the night time economy and the rights of local residents. He noted that the premises were part of the Cumulative Impact Zone, and that a nearby premises had recently applied for, and been refused, an extension in hours; that premises had chosen not to appeal.

He said that the location of the premises was important to understanding the issues. He said that it was on the corner of Hopgood Street, an entirely residential street with a large number of high buildings with basements separating the premises from Shepherds Bush Green. The road begins at the junction with Uxbridge Road and due to the nature of the buildings, the noise bounces off the

high walls. He said that the residents of that street experience widespread disruption, as evidenced in their statements, both from the premises and from the FM Bar. His view was that if the original application for late night refreshment came before the committee today that the committee should consider refusing the application.

He then drew the Sub-Committee's attention to the crime summary submitted with the application. He started by confirming that in his view it is not appropriate to provide the exact particulars of each crime to view the pattern of incidents at the premises. Nonetheless he stated that he felt the crime summary submitted gave a sufficiently detailed picture to the Sub-Committee. He drew the Sub-Committee's attention to particular incidents on the summary, noting their severity:

- On the 18th July 2012, at 00.35 hours, a customer was stabbed while on the premises, suffering a punctured lung. Police are currently looking for the suspect and believe that he may have fled the country.
- On the 20th February 2012 between 23.30 and 00.01 hours, a fight broke out on the premises, when a large group set upon two men. During the fight, one man was hit with a glass bottle, while one suspect returned to the premises after the fight went outside and stole knives from the kitchen to use in the fight. Another man was stabbed. As those involved were unwilling to press charges, the incident had been recorded as an affray. During their investigation of the incident on the 20th February, police approached the premises for access to their CCTV system. They contacted or visited the premises seeking access to the system on the 21st, 22nd, 23rd, 27th, 29th of February and the 1st and 5th of March before seizing the CCTV equipment on the 7th March. Despite work by a specialist unit, not all footage required was recoverable.
- On the 25th February 2012, a female was assaulted on the premises, having been subject to sexual harassment. During the course of the altercation, she had her handbag stolen, was punched in the face and her arm was badly hurt.

Councillor Hamilton asked for confirmation that the incident on the 25th February occurred while the investigation into the events of the 20th was ongoing. PS Ratcliffe confirmed that it did.

PS Ratcliffe noted the time at which these crimes had occurred, and said that this was the time of day at which such crimes should not be occurring. He then asked to read from the statements submitted by residents in support of the application. He said that statements had been made by residents from across the community, from highly paid bankers to those resident in social housing. He said that names had been removed from the statements to protect their privacy, but none had any commercial interests in the area.

He highlighted key passages, noting the lack of sleep residents were forced to endure and that this was directly linked to operations at Eroma and the behaviour of its customers. The Chairman said that the Sub-Committee had read the application and did not need these elements repeated.

PS Ratcliffe said that the Police had considered conditions, but did not consider that conditions alone would be appropriate in addressing the problems with respect to crime and disorder and the prevention of public nuisance. He also noted that the licence holder had offered no conditions.

The crimes occurred in the early hours of the morning. He said that it was therefore considered necessary, in order to promote the licensing objectives, to reduce the hours of operation at the premises.

Applicant

Mahir Kilic, representative for the applicant, began by clarifying that there were no CCTV conditions on the existing licence. Mr Overton confirmed that this was the case.

He also stated that the planning and licensing regimes were separate, and that the decision made by the planning authority was subject to an appeal. It was necessary for the Sub-Committee to bear this in mind when considering the representation made by Mr Renselar on behalf of Planning Enforcement. The Chairman confirmed that the Sub-Committee were aware of the separation between the two regimes, and would observe this when making their decision.

Mr Kilic then gave the premises' response to the review. He said that the owner, Riza Yeldan, had bought a share in the premises in 2005, and made the successful application for the current hours in 2007. He said that Mr Yeldan had received the notice of the review date only in the previous week, as he had changed address and not informed the Council.

Mr Kilic said that he always recommended that his clients be represented by a barrister when their licence was under review, but, due to the shortened notice, he had been unable to make an instruction. He had asked for a postponement but the Police had refused this.

Mr Kilic said that he had also made a request for more information on the incidents included in the crime summary as he wanted to be able to demonstrate the link between the incidents and the facts. He said that the information presented was inadequate to gauge what, if anything, the involvement of the staff was, and what, if anything, the premises could have done to prevent such incidents occurring. He said that section 11.24 of the Section 182 Guidance supported him on this point, noting that the Sub-Committee was not a court of law and should not determine whether criminal conduct had occurred, but whether changes to a licence were necessary to promote the licensing objectives.

He repeated that the premises should not be held responsible, on the basis of the evidence provided, for the incidents that had occurred on the premises. He said that while he did not underestimate the seriousness of the crimes, the Sub-Committee did not have enough information to hold the premises responsible and that individuals were responsible in their own right and therefore the premises should not be blamed. He said that the example of the suspect who had fled the country was a good example of this.

He continued that the proximity of the FM Bar, a late night premises with an alcohol licence, which was also the subject of an application for review, may have led to the premises being blamed for incidents that originated from there. He said that PS Ratcliffe had alluded to noise in his verbal submission, but that was not the cause of the review and could be given only so much weight, given the time that had elapsed since the statements.

The Chairman asked how the premises would address the concerns set out in the application.

Mr Kilic said that the premises would accept any conditions that the Sub-Committee thought necessary, and would gladly incorporate CCTV conditions on their licence. He said that the premises were sorry that they had not been able to operate their system in a timely fashion, but that this had not been a breach of condition. He added that Mr Yeldan was now sole owner of the premises, and had appointed a new manager who could operate the existing system to a high standard.

Councillor Cartwright asked whether the premises should not have provided potential conditions themselves. Mr Kilic said that this was a function of the short notice.

The Chairman asked, in light of the incidents and the problems that the premises said stemmed from the FM Bar, whether the premises had taken any proactive measures. Mr Kilic stressed that each application should be treated on its own merits, and that the earlier refusal of an application by Subway for extended hours should not affect the Sub-Committee's decision. He said that the Council had made the right decision in agreeing the licence in 2007, and though the premises were in the CIZ, they did not sell alcohol. He said that, with regards to other conditions, door staff would not be appropriate, nor had they been effective at the FM Bar, where the crowd was managed poorly. He said that in line with 11.16 to 11.23 of the guidance, the premises could have changed its Designated Premises Supervisor, but as the manager had been changed and as there was no DPS for late night refreshment, this was not suitable. He said that the premises would be happy to ban problem individuals and keep a book recording that they had done so. He said that, whatever the Sub-Committee's decision, cold food would remain on sale throughout the night, and that, if the incidents were as serious as the Police argued, than a review could or should have been brought earlier. He said that he could not think of any conditions other than CCTV and the logbook of banned individuals that would be suitable.

Councillor Cartwright asked how much involvement that Mr Yeldan has with the premises. Mr Kilic said that Mr Yelden had only recently taken full control of the premises, and met with PS Ratcliffe after the review had been submitted. He had changed the manager and the premises had been refurbished. In response to a question from PS Ratcliffe, Mr Yeldan confirmed that he could speak English to a high standard.

Summing Up

Mr Overton and Mr Renselar said that they had no further comments.

PS Ratcliffe said that he was disappointed in the submission made by the premises. He said that the status of CCTV as a condition was irrelevant to the premises' earlier failure to supply the police with the evidence they need. He said that the premises' attitude appeared to be that problems at the premises could be left to the police to solve. He said that the crime summary, together with the evidence he had given, was more than sufficient to allow the Sub-Committee to form a view on the frequency with which serious incidents occurred at times when the premises was carrying out licensable activity.

He clarified that the issues with regards to noise related to the public nuisance objective, which the application also covered. He said that he had expected the premises to provide a list of conditions; he said that the failure to do so reflected that the problems could not be solved by conditions alone. He said that the fact that the original application to extend the hours had been approved reflected the then-novelty of the legislation and poor decision making by the Police at that time in deciding not to submit an objection. He said that upholding the current review application was the only way of addressing the problems being experienced.

Mr Kilic said that any decision by the Sub-Committee should be to stop problems in the area, which in his view were caused by the consumption of alcohol. He said that the customers at the premises were more likely to be mini-cab drivers and similar and were not the type to cause problems. He said that the premises would continue to serve cold food through the night, and that removing the licensable activity would therefore have little effect.

He said that with the offered conditions, including an incident logbook, in place, Mr Yeldan who was a trustworthy operator in sole charge, and the poor evidence of any connection between the premises and the crimes described, a reduction in hours could not be considered necessary. He added that the hours were important to the viability of the business, and the premises should not be blamed for the incidents that had occurred.

He concluded by reminding the Sub-Committee that Mr Yeldan had not committed an offence by failing to update his details as premises licensee.

The Sub-Committee retired to consider its decision at 8.05pm, returning at 8.18pm.

RESOLVED THAT

The Sub-Committee unanimously agreed that the hours for the sale of late night refreshment would be from 11pm until 12am every day of the week, the opening hours would be from 6am until 12am every day of the week and that 3 conditions would be imposed on the licence 2 in relation to CCTV and 1 in relation to a logbook.

Full reasons for decision are contained in the decision letter that accompanies these minutes.

Meeting started: 7.00pm

Meeting ended: 8.19pm

Chairman

Contact officer: Owen Rees
Committee Co-ordinator
Governance and Scrutiny
☎: 020 8753 2088
E-mail: owen.rees@lbhf.gov.uk