

Minutes

LICENSING SUB-COMMITTEE

9 February 2021



Meeting held at VIRTUAL - Live on the Council's YouTube channel: Hillingdon London

	<p>Committee Members Present: Councillors Simon Arnold (Chairman) Janet Gardner John Hensley</p> <p>LBH Officers Present: Steven Dormer, Licensing Officer Daniel Ferrer, Licensing Team Manager Kerrie Munro Liz Penny, Democratic Services Officer</p> <p>Responsible Authorities: Daniel Ferrer, on behalf of the Licensing Authority</p> <p>The Applicant: Mr Mohammad Goga</p> <p>The Applicant's Representative Mr Affan Pathan</p>
1.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>There were no apologies for absence.</p>
2.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>None.</p>
3.	<p>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND ITEMS MARKED PART II WILL BE CONSIDERED IN PRIVATE (<i>Agenda Item 3</i>)</p> <p>It was confirmed that all items of business were marked Part I and would be considered in public.</p>
4.	<p>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT (<i>Agenda Item 4</i>)</p> <p>None.</p>
5.	<p>APPLICATION FOR NEW PREMISES LICENCE: MYST WEST LOUNGE, NOVOTEL, BATH ROAD, HEATHROW VILLAGES (<i>Agenda Item 5</i>)</p>

Introduction by Licensing Officer

Steve Dormer, Licensing Officer at the London Borough of Hillingdon, introduced the report relating to the application for a new Premises Licence for Myst West Lounge, Novotel, Bath Road, Heathrow Villages. The background and chronology of events were provided. Members were informed that Myst West was currently operating as a restaurant / shisha lounge. Members of the public had raised concerns regarding the establishment hence officers had attended to ascertain the nature of the business and how it was being run. It had been clear to officers that the focus was on making profit rather than on being properly regulated. The Sub-Committee heard that Myst West had failed to comply with smoke-free and Covid-19 regulations. A Fixed Penalty Notice had been issued in November 2020 as people had been witnessed smoking shisha in the car park of the Novotel during lockdown.

The applicant had since hired Mr Affan Pathan as a consultant. Some changes had been introduced and a Premises Licence applied for to serve hot drinks and food between the hours of 23:00 and 05:00.

Officers were recommending that the application be refused on the grounds that the operating schedule did not support the licensing objectives.

In response to questions from the Sub-Committee, it was confirmed that it was unclear when Myst West had started operating; the premises had first been brought to the attention of officers in August 2020. Members were advised that the applicant would be able to provide further information in respect of CCTV coverage.

With regards to the playing of recorded music, Members enquired whether a sound limiter was installed at the premises. It was thought that no such sound limiter was currently in place.

In response to Members' requests for clarification, it was explained that the applicant no longer wished to include the sale of alcohol in his application – only soft drinks and food would be served at Myst West. Members heard that the Novotel was not in possession of an off sales licence and wished to operate as a separate concern. The hotel was unwilling to sanction drinks being purchased at the hotel for consumption at Myst West.

In response to further questions from the Sub-Committee, it was confirmed that, when officers had visited the premises in October 2020, it had been clear that Covid-19 restrictions were not being adhered to – there had been no controls in place, little space between tables and groups mixing freely. It had appeared that Myst West was operating at maximum capacity.

Representation by Applicant / Applicant's representative

Mr Affan Pathan, the Applicant's representative and Mr Mohammad Goga, the Applicant, addressed the Sub-Committee. It was confirmed that Mr Goga had taken over the business in August 2020 having previously run a courier company for 20 years. Mr Goga had no previous experience in the hospitality industry and therefore relied on information passed to him by licence holders of similar establishments. The Sub-Committee heard that Mr Goga sincerely regretted his actions and had appointed Mr Pathan as his representative in December 2020 in order to move forward and correct his previous mistakes. It was recognised that the incident in November 2020 should not have happened; Mr Goga had paid the fine and had immediately stopped

trading thereafter. Mr Pathan had advised Mr Goga to apply for a Premises Licence – once accredited he would be able to gain experience in the industry and comply with all the regulations.

It was confirmed that Mr Goga and his staff had already completed a number of training courses. Members heard that CCTV was in place at Myst West Lounge, the Applicant was in the process of getting a sound limiter installed and SIA staff would be hired for security purposes. The Applicant had met with the Manager of the Novotel to discuss the matter of off sales and it had been agreed that the consumption of alcohol purchased from the hotel would not be part of the application.

Members asked Mr Goga to list the four Licensing Objectives. He was unable to do so. In response to further questions from the Sub-Committee, it was confirmed that the entire curtilage of Myst West Lounge was covered by CCTV. Music played at the premises would be background music only at a maximum volume of 64 decibels.

Councillors enquired why Mr Goga had been unaware of the need to comply with Covid regulations. The Applicant advised Members that he was very sorry for his error of judgement. He had consulted with the licence holders of similar lounges operating in Park Royal and East London and had been advised that they were continuing to allow the smoking of shisha in outside areas. Mr Goga had copied their example; however, Members were informed that, since making this mistake, he had complied with all regulations and had closed the premises completely since December 2020.

Representations by Responsible Authorities

The Licensing Authority

Daniel Ferrer, on behalf of the Licensing Authority, addressed the Committee Members highlighting the additional information provided prior to the meeting in the addendum, appendices and photos which had been circulated to all parties. It was noted that the proposal for the consumption of alcohol had been withdrawn and other measures had been proposed. However, the Sub-Committee was informed that Mr Ferrer's representation was maintained on the basis of the licensing objectives; notably the Prevention of Crime and Disorder given the breach of Covid-19 regulations. It was noted that a Fixed Penalty Notice had been issued and the breach of regulations had been a serious incident. At the time of the incident (6 November 2020), Covid-19 restrictions had been in place and shisha lounges were not permitted to operate. When officers had attended, approximately 100 customers had been witnessed smoking shisha at Myst West Lounge. This was unacceptable and a lack of understanding / ignorance of the regulations were not valid excuses.

Mr Ferrer informed Members that he lacked confidence in the management of Myst West Lounge. He had met with the Commercial Director of the Novotel who had confirmed that no consent had been given to Myst West and he was uncomfortable with the arrangement. Mr Ferrer also highlighted concerns regarding the CCTV provision at the premises and the lack of an incident log.

In respect of the Prevention of Public Nuisance, Mr Ferrer expressed concern regarding the recorded music applied for. To protect local residents, measures were recommended to include a sound limiter, signage and adequate training for all staff. It was noted that a dispersal policy had been submitted but precise dates and timings had yet to be received.

In terms of Public Safety, Mr Ferrer highlighted concerns expressed in his letter dated 12 January 2021 which was included in the agenda pack. These included the incident on 6 November 2020 which raised questions as to how members of the public were being kept safe during Covid restrictions when the premises should not have been operating. The need for further measures regarding the means of escape, emergency warning equipment and the maintenance of the electrical installation and mechanical equipment at the premises were also highlighted.

With regards to the Protection of Children from Harm, it was noted that the proposal regarding consumption of alcohol purchased at the Novotel had been withdrawn. However, concerns were raised regarding the exposure of children to an environment where shisha was being smoked late at night. Tight controls in terms of the times children were allowed on the premises would be essential to protect them from harm.

Members enquired whether the smoking area was adequate. It was confirmed that advice had been given to Myst West regarding compliance with the Health Act; however, it appeared that the action required had yet to be taken to ensure compliance.

The Sub-Committee noted that the dispersal policy had been received on 15 January 2021 which was after the representations had been made. It was further noted that Myst West proposed year-round outdoor activity at the premises; this would be challenging in inclement weather. Members heard that smoking indoors would not be allowed – the need for compliance with the Health Act had been explained to Myst West.

Discussion

Members noted the proprietor's lack of experience and sought reassurance as to how the owners could ensure the business would operate in accordance with the licensing requirements. Mr Pathan (the applicant's representative) advised the Sub-Committee that he would personally ensure all the licensing objectives were met on a day-to-day basis. Councillors heard that Mr Pathan would be present at the premises 7 days a week until Mr Goga and the Operating Manager at Myst West had completed all the required training to enable them to run the business effectively and correctly. Once the Applicant and the Operating Manager had been fully trained, Mr Pathan would be in attendance at Myst West 3 days a week.

In response to questions from the Sub-Committee, it was confirmed that a metallic grill had been ordered which was being manufactured at present. Myst West would not trade until the grills were in place.

Closing remarks

The Licensing Officer, Steve Dormer, observed that Myst West should have regulated themselves prior to operating the business rather than offering to do so at this late stage.

Daniel Ferrer, on behalf of the Licensing authority, acknowledged the efforts that were being made but maintained his representation stating that he had considerable concerns regarding the licensing objectives and lacked confidence in the management at Myst West.

In terms of the Prevention of Crime and Disorder, the Applicant's representative, Mr

Pathan, informed Members that CCTV footage would be retained for 31 days and would be available on request. The Myst West team was receiving training on the use of the CCTV. An incident reporting book was on site ready to be used once the premises re-opened.

With regards to the Prevention of Public Nuisance, the Sub-Committee heard that a sound limiter would soon be in place and recorded music would be played at a maximum of 64 decibels. Music would only be played until midnight during the week and until 01:00 or 02:00 at weekends. The matter of signage would be explored further.

In respect of Public Safety, Mr Pathan assured Members that a full report and fire risk assessment had been carried out and would be received by the end of the week. A Health and Safety risk assessment had been booked for 15 April 2021. The Licensing Team would be forwarded copies of the reports in due courses.

Finally, with regards to the Protection of Children from Harm, Mr Pathan confirmed that alcohol would not be consumed at the premises. A policy would be drafted specifying that children would only be allowed on site until an agreed time e.g. 10pm. Mr Goga, the Applicant, reassured Members that under-18s were never allowed on the premises while shisha was being consumed.

Committee Deliberation

All parties were asked to leave the virtual meeting. The Sub-Committee would deliberate and consider its decision. The decision would be announced on the Council's Youtube Channel, and would be communicated in writing to all interested parties.

The Decision

The Sub-Committee has considered all the advance relevant written evidence and verbal submissions at the hearing. The Sub-Committee has taken into account the Licensing Objectives, Licensing Act 2003 as amended, the Hillingdon Council's Statement and Licensing Policy, Guidance issued by the Secretary of State under Section 182 of the Act, in particular paragraphs 1.7, 2.1 - 2.3, 2.15-2.21, 9.42-9.44, and 10.10. The Sub-committee has had due regard to its Public Sector Equality Duty, under s.149 Equality Act 2010, as amended.

The decision of the Sub-Committee is to REFUSE the application for a new Premises Licence. The Sub-Committee's reasons for this decision will be published in the written Decision Notice.

Right of Appeal

The relevant Applicant for the Premises Licence (or any other person who made

relevant representations to the application) may appeal against the Council's decision to the Justice Clerk at the Uxbridge Magistrates Court. Such an appeal may be brought within 21 days of receipt of this Notice of Decision.

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

The meeting, which commenced at 2.30 pm, closed at 3.40 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Liz Penny on 01895 250636. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

The public part of this meeting was filmed live on the Council's YouTube Channel to increase transparency in decision-making; however, these minutes remain the official and definitive record of proceedings.