



HILLINGDON
LONDON

Licensing Sub-Committee

Decision Notice

Application to Vary a Premises Licence for The Re
Bar, 163 Field End Road, Eastcote HA5 1QL

Sub-Committee: Cllr David Yarrow (Chairman)
Cllr Judy Kelly
Cllr Janet Gardner

Legal Adviser: Tim Brown
Licensing Officer: Charlene Ellis
Committee Clerk: Khalid Ahmed

Chairman..... *DA. Yarrow*
Cllr David Yarrow

Dated: 16 September 2015

This notice confirms the decision of the Licensing Sub-Committee made at a public hearing on 16 September 2015.

THE APPLICATION

This was an application by Daniel Farrell to vary the premises licence for The Re Bar, 163 Field End Road, Eastcote HA5 1QL ('the premises'). The variation proposes to extend the terminal hour for the sale alcohol, live music, recorded music and late night refreshment until 02.00 hours and opening hours until 02.30 hours on Fridays and Saturdays (all other licensable activities, permitted hours and opening hours to remain as existing).

**Page references in this Decision Notice relate to pages in the published agenda pack unless specified otherwise*

ATTENDANCE

This application was heard on 16 September 2015. The Sub-Committee was satisfied that timely notice had been served on all parties and that all those entitled to attend and speak to the Sub-Committee had the opportunity to do so.

Charlene Ellis, of the Licensing Service presented the report to the Sub-Committee. The premises licence holder, was represented by Jayne Hanson.

The following Responsible authorities attended having made relevant representations: the Licensing Authority was represented by Claire Freeman, the Metropolitan Police were represented by Acting Police Sergeant Ian Wares, Dr Steve Hajjof represented the Public Health Service and Jo Smith represented the Environmental Protection Unit (EPU).

The following interested parties attended to address the Sub-Committee having made relevant representations: Adam Stitson on behalf of the Council's Anti-Social Behaviour Investigations Team (ASBIT), local residents Sarah West and Jane

Cogan; and Cllr Becky Haggart speaking on behalf of the Eastcote and East Ruislip ward Councillors (Cllr Nick Denys having made the representation on their behalf).

THE HEARING

The Licensing Officer, Charlene Ellis, introduced the application and report to the Sub-Committee. The background to the application was explained and in addition it was noted that a recent compliance visit to the premises on 8 September 2015 found no major issues but did highlight a training need as staff were unsure of how to view CCTV recordings. Ms Ellis confirmed her opinion that the complaints received in relation to this application could be adequately addressed through conditions and as such recommended approval of the variation, subject to conditions proposed by the Responsible Authorities.

Jayne Hanson on behalf of the Applicant then addressed the Sub-Committee. It was said that the extra hour trading was sought to put the premises trading hours in line with other bars on the road. To mitigate the impacts it was stated extra bar staff would be employed along with an additional security staff (1 deployed specifically at the rear entrance). It was clarified that the Applicant is not seeking the extended hours to apply to special event days, as these were existing on the licence when it was transferred.

Sarah West then spoke to the Sub-Committee on behalf of local residents, it being noted that Ms West organised the petition at pages 61-64. It was said that the basis for this objection was the significant existing noise nuisance and the potential for this to increase if hours are extended. As such the licensing objective of preventing public nuisance would not be met.

It was stated that very loud music emanating from the premises is currently heard by residents of the Close, who live 60 metres away and have their double glazed windows and doors closed. Ms West stated that music is heard by residents even when the rear door to the premises is shut.

Ms West noted that the premises had agreed to keep the rear door closed after 20:00 [an informal agreement was in fact made with the Councils ASBIT to keep the rear door closed from 22:00]. However, the rear door has been frequently and consistently opened in breach of this agreement, showing disrespect for the Council and disregard for local residents. Recent examples given of the rear door being open after 20.00 were given as 25 August 2015, several times on 5 September 2015 and on 11 September 2015.

In relation to additional hours on 'special event days' as provided for by the existing licence, Ms West stated these days are an additional 25 days per year when the premises can open later, which residents were not aware of. It was noted that residents had no way of knowing about these extra days as the licence was not viewable, and the special event days were not mentioned in the consultation. This was seen as unfair and prejudiced residents' ability to properly respond to the application.

Ms West also stated that allowing this application would set a precedent for the local area and encourage irresponsible drinking proposals.

Finally, the Sub-Committee was asked to consider how they would feel if they were residents who had to live with their windows and door constantly shut while still being disturbed by very loud noise, depriving them of sleep and putting their health at risk.

Jane Cogan also spoke against the variation application noting an unacceptable level of noise from the premises since she moved into the area.

Dr Hajiof addressed the Sub-Committee stating that noise generally has a deleterious effect on health, causing sleep loss, stress etc. As such, Public Health has a general concern with noise producing premises being in close proximity to residential properties. In this particular case given the history of the premises and affect on local residents the position of Public Health is that an extension of hours should not be granted without measures being secured to mitigate the noise, which could be, for example, sound proofing or volume control on equipment.

Jo Smith then spoke to the Sub-Committee and stated that noise mitigation measures should be introduced at the premises if the application is granted. She confirmed that discussion had taken place with the Applicant on issues such as the installation of anti-vibration mounts for speakers and self-closing mechanism for the rear door. It was noted the premises already has a sign in place at the rear door requesting patrons not to use the rear patio after 20:00.

Ms Smith stated that a recently approved planning permission to allow an extension of the premises into the rear garden would be a preferable situation for EPU as this would reduce the opportunity for noise to escape the premises by the rear door. [The Legal Advisor noted that while a planning permission has been granted, no works have taken place and the Sub-Committee must consider the application before it].

On behalf of the Police, Acting Sergeant Wares confirmed his representation on the grounds of the prevention of crime and disorder and public nuisance, due to fear that increased hours will lead to greater risk of crime and anti-social behaviour. In general however, he noted there are has been no issues in the area and only one record of a crime reported (an affray in the street between two females) linked to the premises. Furthermore, licensing visits have found no major breaches of conditions.

The Police believe the variation could be granted with the amended times and conditions suggested at page 50. From their discussions, Acting Sergeant Wares stated the Applicant has indicated a willingness to work with the Police on these matters.

Claire Freeman spoke to the Sub-Committee noting the large number of complaints the Council has received about noise nuisance from the premises. These mainly relate to noise escape from the rear door and garden. While the Licensing Authority would not object to the variation in principle, to uphold the licensing objectives, additional conditions suggested on page 53 should also be added to the licence. Further Ms Freeman highlighted the Licensing Authority's concern about the special event days on the licence which allow for opening times to be extended by 1 or 2 hours on 25 specific days each year. This coupled with increased hours applied for

would mean the premises could shut as late as 04:30, which could exacerbate noise nuisance issues.

Cllr Haggar explained to the Sub-Committee the residential character of the area, which means that any extension of hours would have a harmful affect on neighbouring properties. The residents and Ward Cllrs have no confidence that the premises would comply and adhere to conditions on the licence, pointing to the numerous breaches of their informal agreement with ASBIT to keep the rear door closed. Concerns were also raised about the effect premises staying open later would have on local young people, and believe that dispersal of patrons at 03:00 or 04:00 would be slow, causing further disturbance in the street.

Adam Stitson stated ASBIT shares the residents concerns about the premises noting at least two incidents of statutory noise nuisance witnessed. He voiced concerns about the premises ability to keep the rear doors closed if such a condition was imposed due to the difficulty the premises could have enforcing that. Further concerns were shared about the affect of extending opening hours on the surrounding roads due to patrons leaving and the potential increase of incidents such as urinating in the street.

Discussion

Following questions from members of the Sub-Committee, Ms Hanson confirmed that after 20:00 the only entrance/exit is via the front door and all smokers go out the front after 20:00. Additionally it was asserted that the size of the speakers in the premises had already been reduced. However, the Applicant stated that premises staff have to open the rear door after 20:00 as they need to go outside the back of the premises to change beer barrels.

Cllr Gardner asked Dr Hajiof whether the movement of all smokers to the front of the premises with residential premises directly above (with reference to the photograph on page 38) would have any health effects on occupiers. It was said that at a distance smoke causes annoyance but is unlikely to have any negative health effects unless people have particular sensitivities, such brittle asthma. Dr Hajiof did agree that the noise from smokers using the front of the premises could have an effect of

the health of those living above. Mr Stitson agreed that noise complaints would be more likely in this regard, as smokers when on a public street cannot be effectively policed by door staff once they are outside the control of the premises.

Following a question from the Chairman, Jo Smith stated that noise limiting devices are not always effective, working in some premises and not in others, often depending on the type of music played. After a query from the Legal Advisor, Ms Smith informed the Sub-Committee that noise limiting devices range in price from around £300 - £3,000 and can usually be installed by an electrician at a reasonable cost. In her opinion installing such a device would be a proportionate step for the premises in the context of this variation application.

The Applicant clarified on a question from the legal advisor that they were orally amending their application to exclude the 25 special event days.

Closing

In closing, Ms Hanson stated the Applicant would make sure all the resident complaints were taken into account, for example by putting on additional security and making arrangement with local cab offices.

No closing was submitted by any Responsible Authorities or interested parties.

THE DECISION

The Sub-Committee has considered all the relevant representations made available to it and in doing so has taken into account the Licensing Act 2003, the Guidance issued by the Secretary of State under Section 182 of that Act, the Council's Statement of Licensing Policy, the Licensing objectives and the Public Sector Equality Duty.

The decision of the Sub-Committee is to REFUSE the variation application.

REASONS

The Sub-Committee noted the following reasons for its decision:

- There have been a very large number of complaints about loud noise both escaping from the premises through the rear door/patio area and from music played. These include incidences of statutory noise nuisance witnessed by Council officers. As such the Sub-Committee found extending the hours for licensable activities (either as per the application or in part) would have an unacceptable impact on the licensing objective of the prevention of public nuisance. It then considered whether conditions could be added to the premises licence to overcome this impact.
- The premises has failed to adhere to the informal agreement reached with ASBIT to keep the rear door closed. Also, the Applicant stated that after 20:00 premises staff will need to access the garden to change barrels and obtain supplies which are kept in the garden. A combination of those factors meant that the Sub-Committee did not believe a condition requiring the rear door to be closed after 20:00 was capable of overcoming the additional noise nuisance harm from extended hours.
- Evidence from EPU stated that noise limiting devices have mixed ability to succeed in reducing noise nuisance and in any event require careful monitoring and maintenance of the premises management to be operated effectively. As such it was found that a condition requiring a noise limiting device to be operation would not be sufficient to uphold the licensing objectives should the variation be granted. It was also noted that Applicant

had stated the speakers within the premises had already been reduced in size, which had not prevented complaints from residents.

- Other conditions suggested by the Responsible Authorities were fully considered but were not found to be sufficient to uphold the licensing objectives of the prevention of public nuisance.
- Additionally, the extended hours and shutting off the rear garden would move smokers to the front of the premises later at night causing noise and disturbance in the road, potentially harming the residents living above the premises. The Sub-Committee took account of the evidence of ASBIT and Public Health on the potential negative impact of this, as well as the evidence on the difficulties in controlling patrons when outside of the premises on a public road.
- The Applicant had failed to demonstrate a comprehensive understanding of noise nuisance coming from the premises and importantly, of ways to mitigate that impact.

RIGHT OF APPEAL

The relevant applicant for the variation of 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.

You will be deemed to have received the Decision Notice, two days after the date on the accompanying letter, which will be posted by 1st class mail.