

MINUTES OF THE LICENSING (HEARING) SUB-COMMITTEE

HELD ON WEDNESDAY 24th JANUARY 2024, 2:00PM

Sub Committee:

Deputy John Fletcher (Chairman)
Ceri Wilkins
Brendan Barns

Officers:

Raquel Pinto – Town Clerk's Department
Aggie Minas – Licensing Manager, Environment Department
Robert Breese – Licensing Officer, Environment Department
Jennifer Phillips - City Solicitor

Applicant:

Mr Inderpal Gaba
Mr S Panchal (Applicant's Counsel)

Making representations:

Alderwoman Martha Grekos
Eamonn Mullaly

Licensing Act 2003 (Hearings) Regulations 2005

A Public Hearing was held at 2:00pm to consider representations submitted in respect of an Application for a Premises Licence by Mr Inderpal Singh Gaba, 116 Redfern Avenue, Whitton, Hounslow, TW4 5LZ, for Easy Shop & Go, 148 Fleet Street, London, EC4A 2BU.

The Sub-Committee had before it the following documents:

- Hearing Procedure
- Appendix 1: Report of the Executive Director Environment
- Appendix 2: Copy of Application
- Appendix 3: Representations from Other Persons
 - Resident 1
 - Resident 2
 - Resident 3
 - Resident 4
 - Resident 5
 - Resident 6
 - Resident 7
- Appendix 4: Conditions consistent with the operating schedule

- Appendix 5: Map of subject premises together with other licensed premises in the area and their latest terminal time for alcohol sales
- Appendix 6: Plan of Premises

The Hearing commenced at 2:00pm. The Chairman introduced himself before asking the Sub Committee, the City of London Corporation officers and other parties present to introduce themselves.

The Chair confirmed the nature of the application which was the sale of alcohol for consumption off the premises. The Chair also explained the order of proceedings, as set out in the agenda pack circulated to all parties.

During the presentation from the applicant, the following points were noted:

- The Applicant was an experience licence holder, with more than 8 businesses since 2009, around the Hounslow area.
- There was a business opportunity to apply for this license in this location.
- The Applicant understood the licensing objectives fully, and as such submitted their own conditions and their operating schedule as per page 25 of the agenda pack.
- As per page nine of the pack, conditions had been agreed with the police and the responsible authority. There were no objections from the responsible authority.
- The Applicant understood the concerns raised by those who had submitted representations.
- The Applicant highlighted that point 14.19 of the Licensing Act 2003, stated that 'need' was not something the Sub-Committee could take into account in their deliberations, and the argument posed by those making representations mainly focused on need.
- The Applicant wanted to re-assure the representatives and the Committee that all four licensing objectives would be robustly promoted if granted as follows:
 - There would be a staff training manual in the premises, and they would provide their staff with training prior to their employment commencing. This would then follow further training every three months by DPS with an examination.
 - A right to work checklist would be in place in accordance to Home Office regulations.
 - A record of authorisation for sale of alcohol would be recorded for staff who purchase this.
 - To combat public nuisance, they would have a sign signposting their CCTV. If their CCTV was not working, then no licensable activity would be conducted.
 - Further posters would be put up regarding 'Challenge 25' and advising customers that there would not be sale of single cans of alcohol as per their conditions.
 - There would be a refusal book required by law in premises as well as an incident book.
- As there had been no license previous there is no evidence to suggest that there were any breaches pertaining to the sale of alcohol.
- It was agreed with the police that in order to prevent street drinkers coming to premises to purchase alcohol, no alcohol above 5.% would be sold.

During questions, the following points were noted:

- The Applicant started their business in 2009 with up to 8 businesses which were all family ran.
- The Applicant hoped to attract business from tourists as this was their experience from their other premise in Brixton, who would expect they would take their drinks back to their hotel. The Applicant was trying help drive the nighttime economy in the area which had been lost for some time.
- The Applicant did not have evidence of the numbers of tourist which visited Fleet Street or nearby hotels.
- The reason for wanting to extend their hours from Thursday to Saturday was even though demand from tourists would be 7 days a week, is that the Applicant was only able to fund and employ extra staff for those days.

During the presentation from the Other representatives, the following points were noted:

- The objection was regarding the time and place of the premises.
- Fleet street was a construction zone with several residents and businesses.
- There was awareness that within meters of the premise there were rough sleepers, and there had been a number of people who had submitted their objection and have complained about the behaviour displayed by this group. Examples of this included defecation on the alleyways close by.
- This area was considered a hotspot for homelessness. Neighbours felt threatened by the large presence of rough sleepers and the main concern was that by making alcohol freely available it would likely exacerbate the situation.
- The problem was not just regarding sleepers, as with the area being abandoned it attracted people to this part of the City where people did whatever they liked.
- Overall concern was that to make alcohol readily available would make matters worse in the area, which would cause further public nuisance and violence.
- Residents who lived in the area would use shops that were a small distance away and not on this hotspot.
- The City was working on a bid to pump investment in the area and create opportunities to get that community back on its feet. At the moment this area was a huge construction site, undergoing development. The community was suffering a great deal as this was attracting anti-social behaviour and crime.
- Concerns regarding having licensing hours until 1am, put the community at risk of increased crime and disorder, which would be fuelled by alcohol.
- There had been a few establishments which had been broken into by homeless people.
- There was no need for the premise to be operating at such times, as the offsite market was not aimed at the local community, as the Applicant had mentioned this was aimed at tourists.
- Residents frequented the local Sainsbury's and Tesco, and they were not in need for those late hours.

- There was not enough footfall in the area. There were not enough tourists in the area due to the development work. Mainly the footfall would be seen during the day.
- The hotels in the area, catered mainly for business tourists.
- The area was stagnant after 4pm.
- Homelessness was a big issue in that area. Given the location of the premise which was closely located by the alleyway (which attracted homelessness) this would attract further anti-social behaviour and the gathering of rubbish which was already quite apparent.
- Objectors attended the Fleet Cluster Panel meetings which provided awareness that Fleet Street was a big hotspot for crime.
- Objectors had no objections regarding the CCTV proposed in the application, however, the problem would be that any anti-social behaviour would take place off the premises not a problem.
- Resident complaints were increasing as a result.

During questions, the following points were noted:

- The Applicant noted the concerns raised regarding the possible issues off the premises. It was explained that the premise would also have CCTV outside and they would be providing more light in the area. Furthermore, the Applicant would also ensure the cleanliness of his premises and they would be providing bins and they would also have service collection.
- The Applicant noted the concerns regarding having a late establishment and was happy to reduce the operating hours on Thursday, Friday and Saturday to 11pm.
- On the rubbish and cleaning point it was highlighted that the cleaning of the immediate space in front of the premise did not have an impact to the area. The City did not allow bins and the CCTV would not be able to capture much due to the ongoing construction work. The main concern was about preventing further crime.
- Representatives still objected to the reduction of hours as the decreasing of licensing hours would not make a difference as it did not stop anti-social behaviour or public nuisance. Most of the shops nearby closed by 5pm. The residents living in the area would still feel the impacts of public nuisance at 11pm.
- The Tipperary, a nearby world famous pub would soon be opening again and this was an asset of community value. It was felt that by having the premise competing with the same hours as the pub, it would create an issue locally. The view was that alcohol should not be sold at all.
- The Sub-Committee were reminded that under the Licensing Act 2003 under section 14.19, that need was not something they could consider. The overall ambience of the area, or local competition was not something that was covered by the licensing objectives either.
- The aim was to liven up the area, and the applicant had discussions with the police, and understood the criminal statistics of the area and therefore the conditions agreed with the police reflected that but not selling strong alcohol. of area and decided conditions. The Applicant emphasised that they want to work with the community to liven the area.
- It was noted that although the homelessness issue was the most prevalent there were others. The public nuisance was local to where the premise was, however,

a further 100 metres away in a different area this was not the case. It was reiterated that this area added to the public nuisance. Homelessness was established in this area, due to its abandoned look, and by making alcohol freely available it would promote further nuisance as it allowed for gatherings. Rough sleeping was increasing as seen in statistics in the last 12 months.

- It was noted that there was specific incidents and context that needed to be understood and it was raised that although the City police was consulted, the Ward police had not been consulted and they would have been able to provide that context.
- When question regarding specific breaks ins, there was a concern that the Applicant may be held to issues that have happened in the past or may happen. Statistics regarding break in would have been useful for the Panel to have sight of, to evidence the claims raised.
- The Sub-Committee confirmed that it was not one officer that had oversight over licensing issues but a whole dedicated and diligent team.

The Chair of the Sub-Committee explained that the crux of the representations made were that the Ward was already facing difficult circumstances, of which the Panel were incredibly sympathetic of. The Panel however, had not seen any evidence that the sale of alcohol up until 11pm from this premise, given other premises that were close by also sold alcohol until 11pm, would exacerbate the situation. The Chair asked representatives if they could provide any evidence which would show the Panel that the sale of alcohol up to 11pm will make matters worse. No further comments were made.

The Chair thanked the Applicant for the amendment to the application to reduce operating hours to 11pm, 7 days a week.

The Chair invited parties to sum up. The Applicant's Counsel stated that the Applicant was an experienced license holder who wanted to work with the community to improve the area. They emphasised the agreed conditions with the police and responsible authority and that their premise would not add to the cumulative impact zone. Those making representations stated that they were aware of the difficulties the area was facing and they were trying to do the best to help to create a vision for the area, and to help rough sleepers in the area. They urged the Subcommittee to refuse the application however they were mindful to the reduction of hours proposed by the Applicant. It was added that the aim should be about preventing rather than solving the issue after the fact and urged the Committee to be confident in their decision.

The Chair explained that the Sub Committee would retire to make a decision and all parties would be advised of the outcome within 5 clear working days. The Chair thanked all those present and closed the Hearing at 15:00.

Deliberations:

The Sub-Committee retired to carefully consider the application, on the representations submitted in writing and orally at the hearing by those making representations and the

applicant. It was evident that the most relevant licensing objectives requiring the Sub-Committee's consideration was the prevention of public nuisance and prevention of crime and disorder.

The Sub-Committee noted that the Applicant was an experienced license holder, who had been operating since 2009 and owned over eight premises. The Applicant wanted to apply for a license at this location as he saw a business opportunity in the area, that would attract tourists and help develop the night-time economy of the area. The Sub-Committee were pointed to the conditions that had already been agreed with the police and with the responsible authority and noted that no other responsible authority had objections. The Applicant noted the licensing objectives and provided examples on how these would address and followed robustly. This included:

- There would be a staff manual in the premises with training to be provided to staff prior their employment commencing.
- A right to work checklist would be put in place as per Home Office procedures.
- Staff alcohol purchases to be recorded.
- Training to be provided by DPS every three months followed by an examination.
- Signs would be put up regarding CCTV and 'Challenge 25', and no licensable activity would take place if the CCTV was out of order.
- A further sign would be put up advising customers that no single cans of alcohol would be sold.
- A refusal book and an incident book available at the premises.

Overall, the Applicant was mindful of the concerns raised by residents and representatives and assured the Sub-Committee that steps had been taken to ensure the licensable objectives would be held. Further, to prevent street drinkers coming to premises, it was agreed with the police that the sale of alcohol above 5.5% would not be sold.

The Sub-Committee also noted representation from those who were opposing the granting of this license, which particularly focused on the location of the premise and the time the applicant had applied for. This area of Fleet Street was primarily a construction zone with residents and businesses nearby. This area had become a hotspot for rough sleepers, and anti-social behaviour, resulting in concerns being raised by residents regarding their safety. Therefore, it was felt that if the Sub-Committee were mindful to grant this license which would make alcohol more freely available it would exacerbate the problem. There were other provisions which were not in the hotspot area, and within walking distance which residents and others could use. Other concerns raised were regarding the licensable hours, as it was felt that by operating until 1am, it would attract further anti-social behaviour, noise and crime which would put the community at risk. This would create public nuisance, which would be fuelled by the selling of alcohol as this was activity off the premises which would impact street-cleanliness. Finally, given the nature of Fleet Street and its current re-development, its footfall was extremely low. Therefore, to have a late running premise which sold alcohol until late was seen as not needed as there were not enough tourists,

which the Applicant had stated his business was aimed at, and there were other premises nearby.

The Sub Committee noted that an amendment regarding the operating hours and the sale of alcohol. The new operating hours would be from 07:00-23:00 Sunday-Saturday, and for the sale of alcohol, from 07:00-23:00 as the Applicant they felt this was more mindful with the guidance and it noted the concerns of the community.

The Sub-Committee had extreme sympathy for residents and their representatives over the challenges they have concerning homelessness and youth nuisance in area. However, the Sub-Committee were mindful that in the provisions of the Licensing Act 2003, under 14.19 which explains that ““Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.” The Sub-Committee saw no evidence which suggested that the opening of this premise only to 11pm would exacerbate this problem given the number of other outlets in area with similar operating hours, and given the conditions already attached to the application by the police and the responsible authority it could not justify the refusal the of the application.

In reaching its decision, the Sub-Committee was mindful of the provisions of the Licensing Act 2003 (‘the Act’), in particular the statutory licensing objectives, together with the guidance issued by the Secretary of State in pursuance of the Act and the City of London’s own Statement of Licensing Policy dated 2022.

In determining what constituted a public nuisance, the Sub-Committee relied upon the common law definition of ‘public nuisance’ as: *‘one which inflicts damage, injury or inconvenience on all the King’s subjects or on all members of a class who come within the sphere or neighbourhood of its operation. The character of the neighbourhood is relevant to determination of the question of whether a particular activity constitutes a “public nuisance”’.*

DECISION

The Sub-Committee determined that the license should be granted as set out below:

<u>Activity</u>	<u>Proposed licence hours</u>
Supply of alcohol for consumption off the	Sun–Sat 07:00-23:00
Opening Hours	Sun–Sat 07:00- 23:00

The Sub-Committee had regard to the conditions that parties had agreed upon in advance of the hearing and felt that no further conditions needed were necessary.

The Sub-Committee therefore agreed that the following conditions should be attached to the premises licence:

1. An incident log shall be kept at the premises and made available on request to the Police or an authorised officer of the City of London Corporation. The log shall record the following with the date and time of the incident/refusal:
 - (a) all crimes reported to the venue
 - (b) all ejections of customers
 - (c) all refusals of entry
 - (d) all refused sales of alcohol to persons under the age of 18, or appearing under the age of 25 without valid ID
 - (e) any incidents of disorder (disturbance caused either by one person or a group of people)
 - (f) any seizures of drugs or offensive weapons. **(MC03)**

2. Prominent signage shall be displayed at all exits from the premises requesting that customers leave quietly. **(MC15)**

3. A Challenge 25 Scheme shall operate to ensure that any person attempting to purchase alcohol who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age. Proof of age ID must bear a photograph, date of birth and a holographic mark or an ultraviolet feature. **(MC20)**

4. The premises shall install and maintain a comprehensive digital colour CCTV system. All public areas of the licensed premises, including all public entry and exit points will be covered enabling facial identification of every person entering in any light condition. The CCTV cameras shall continually record whilst the premises are open to the public and recordings shall be kept available for a minimum of 31 days with date and time stamping. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public. This staff member shall be able to show the police or the Licensing Authority recordings of the preceding two days immediately when requested. **(MC01)**

5. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles and cans.

6. No single cans or bottles of beer or cider shall be sold at the premises. **(MC23)**

7. All spirits will only be on display behind the counter.

8. No more than 15% of the total sales floor area of the licensed premises will be dedicated to the sale of alcoholic drinks.

Chairman

The meeting ended at 3pm.