

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 24 MARCH 2010**

COUNCILLORS

PRESENT John Boast, Andreas Constantinides and Norman Ford

ABSENT

OFFICERS: Mark Galvayne (Principal Licensing Officer), Dina Boodhun (Legal representative), Jane Creer (Democratic Services Secretary)

Also Attending: Councillor Annette Dreblow, Chase Ward Councillor Mr and Mrs Henryk Pluskowski (Applicant) and Mr McCarthy (Representative) – The Hollybush Public House
13 Interested Parties - The Hollybush Public House
Mr Kyriacos Loizou (Applicant) – Hunters Restaurant
4 Interested Parties - Hunters Restaurant

908

WELCOME AND INTRODUCTIONS

The Chairman welcomed all those present and introduced the Sub-Committee members.

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DECLARATION OF INTERESTS

There were no declarations of interest in respect of items on the agenda.

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APPLICATION(S) UNDER THE LICENSING ACT 2003

RECEIVED the report of the Principal Licensing Officer (Report No. 249).

911

REF 01 - THE HOLLYBUSH, 200, LANCASTER ROAD, ENFIELD, EN2

RECEIVED an application by Mr Henryk Pluskowski for the premises known as and situated at The Hollybush, 200 Lancaster Road, Enfield, EN2 for variation of the Premises Licence.

NOTED

1. The opening statement of Mark Galvayne, Principal Licensing Officer, including the following points:
 - a. This application was to vary the existing Premises Licence.

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- b. The existing licensing hours were set out on page 7 of the agenda pack.
 - c. The variations sought were set out on page 8 of the agenda.
 - d. The principal variations sought were an extension of opening hours on Friday and Saturday to 02:00 with sale of alcohol until 01:30 and extension of certain entertainments.
 - e. Representations had been received from residents at 26 separate addresses.
2. In response to Mr Carter's queries, it was confirmed that applications under the Licensing Act may be received by the Council at any time and each would be considered on its merits, and that interested parties may apply to have a licence reviewed at any time.
3. The opening statement of Mr Peter Carter, spokesperson for the 13 interested parties present, including the following points
- a. The time of opening in the morning on Friday and Saturday was immaterial to local residents, but their concern at the extension of opening hours to 02:00 and longer hours for supply of alcohol, music and dancing / entertainment was obvious from the number of letters of objection.
 - b. Currently 02:00 was a quiet time in the neighbourhood, and though residents accepted there would be some inconvenience from living close to a pub, this was considered too late a closing time.
 - c. There had been no material changes since the previous application to extend the opening hours was rejected when the Sub-Committee accepted the probability of noise nuisance occurring at times that were not acceptable.
 - d. It was understood that the lease was up for sale and had been for some time, and it was feared that the current licence holder had a very short term interest in the pub and its environment.
 - e. Residents had no confidence in the licensee's willingness to communicate with local residents, as they had not been consulted before a satellite dish or smoking shelter were erected last year, and no confidence that conditions would be enforced.
 - f. The current Condition 11 had a limited effect and was difficult to enforce on the outside patio area adjoining the pavement, and it seemed that no conditions could reduce the present level of disturbance suffered by residents. Any extension of hours would inevitably exacerbate the level of disturbance.
 - g. It was assumed from the address given in the application that the licensee did not reside on the premises and would not be affected by difficulties once the pub closed. At the Chairman's request, Mr Pluskowski confirmed that he lived at The Hollybush premises with his wife and children, and also had a second home.
 - h. Residents feared that if the variation was granted, the pub would become a magnet for late night drinkers and people who were more likely to cause nuisance. As re-entry would not be permitted after

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00:00, customers may stay longer than they intended and would be more likely to leave in groups. It was more likely that people leaving the pub would be drunk and speaking loudly in the streets and banging car doors up to 02:30 and beyond. This would be unacceptable in what was a quiet residential area.

i. This Saturday night, local residents were awoken at 00:00 by people shouting outside the pub and there was no effective monitoring; they would not want that nuisance at 02:00.

j. He highlighted a number of points made by interested parties within the letters included in the agenda pack, including:

- The licence holder had not shown a willingness to enter into dialogue with neighbouring residents despite giving an assurance to consult with neighbours prior to making any further application.
- In the email reproduced on page 22, Mr Pluskowski had amended the time for live music on the application to 23:30 as a convenience to our local residents, but changed the time for disco/recorded music to 01:30, so there would still be noise, but of a different type.
- Rowdiness, broken glass, etc happened shortly after the time the pub closed and could be assumed to emanate from customers of the pub, and it was not acceptable that it was left to residents to deal with.
- Issues happening now were listed throughout the letters including noise, anti-social behaviour, car doors slamming, urination in doorways and worse, and occasional criminal damage and confrontations. Many local residents were elderly or had young families and considered that these issues would be exacerbated if hours were extended.
- There was noise nuisance from customers waiting for taxis, which would be less acceptable at a later hour.
- Neighbouring residents reported personally having confrontations with pub customers, and having witnessed arguments and fighting outside the premises.
- That an elderly gentleman and beacon of the community was affected by noise, graffiti, vomit, urine and excrement on his front step, and threatening anti-social behaviour was intolerable.

4. The opening statement of Mr McCarthy, representing Mr Henryk Pluskowski, the applicant, including the following points:
- a. Mr Pluskowski had worked in the licensing industry for around 25 years, mainly in security.
 - b. Mr Pluskowski had taken over the Premises Licence of The Hollybush around two years ago; since then the pub had dramatically improved and he had spent a significant amount of money on refurbishments.
 - c. He was not aware of any issues raised by the Police in relation to this premises, and the brewery were very happy with the way it was run.
 - d. In this time of recession, Mr Pluskowski had explored the opportunity of selling the business.

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- e. He did not recognise the rowdiness and incidents reported by interested parties and highlighted that Mr Pluskowski chose to live at these premises with his children. Issues appeared to be hearsay, and he hoped serious factual incidents would be responded to by the Police. There were six to eight other pubs locally and issues did not necessarily arise from customers of The Hollybush.
 - f. The failure to apply for planning permission for the satellite dish installation was a technicality which had been overlooked and had been addressed.
 - g. Concerns in relation to the outside tables at the front of the premises could be addressed.
 - h. The pub did have noise meters installed, and he was not aware of any complaints to the Council regarding noise.
5. Mr McCarthy responded to questions as follows:
- a. In response to Mr Carter's query as to whether it was accepted that problems would get worse if licensing hours were extended, Mr McCarthy advised that the situation would be better as customers would be under more supervision with two door security staff working after 21:00 in the premises and outside. They would ensure customers were supervised to taxi cabs, and would ask people to move on. There would be no waiting outside for taxis as the pub would liaise between customers and the cab firm and the cab drivers would open and close the doors.
 - b. In response to Mr Carter's queries about sale of the lease, Mr Pluskowski advised that some interest had been shown in the business and an approach made by a commercial estate agent, but confirmed that the lease was no longer for sale and he would ensure the sales particulars were removed from the internet.
 - c. In response to Mr Carter's question regarding a disturbance the previous Saturday night, Mr Pluskowski clarified that this was not in The Hollybush or by people who had been drinking in his pub.
 - d. In response to Mr Carter's question as to why the law had not been followed when the satellite dish was erected, Mr Pluskowski advised that he had not known that planning permission was required. He subsequently applied for permission for a satellite dish and a gazebo in a single application which was refused so both were taken down.
6. The closing statement of Mark Galvayne, Principal Licensing Officer, drawing Members' attention to the relevant parts of the Council's Licensing Policy, highlighting paragraphs 8.3 and 8.4.
7. The closing statement of the interested parties, including the following points:
- a. Councillor Dreblow, Chase Ward Councillor, stated that she was aware of complaints related to this premises over a long period and a lot of what was reported by residents was fact and not hearsay

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evidence. The annoyance caused by the pub was reflected by the number of people attending this meeting.

b. Mrs Hinckley stated that noise heard by residents was from the karaoke and discos at the pub; it was a fact that that was where the music was from and residents did not want to be disturbed until the early hours.

c. Mr Simons stated that he lived two doors away from the pub and could hear every word of the music played, and highlighted that the pub was located in a wholly residential area and a huge number of residential properties were affected. There was also no car park so customers would park in local residential streets and wake people up.

d. Residents raised concerns about noise from open windows at the pub and at the Chairman's request Mr Pluskowski confirmed that the pub had air conditioning and that windows had been screwed shut for the last eighteen months.

e. Mrs Kingsland confirmed that she heard noise from the disco room up to 00:00 and did not wish to tolerate that up to 01:30/02:00 especially as her son had to get up at 05:00 for work.

f. Mr Carter summarised the importance to residents of the pub closing time and the amount of licensable activities which would be permitted if the application was granted. The current noise and nuisance was demonstrated by the evidence given by residents and was bound to be exacerbated if there was an extension of opening hours. It was inconceivable in reality that problems happening in the immediate vicinity were not linked to The Hollybush. To meet the licensing objectives this application should be refused. Paragraphs 8.3 and 8.4 of the Council's Licensing Policy were key, with the conclusion that the application must be rejected.

8. The closing statement of Mr McCarthy, including the following points:
 - a. Noise was kept to permissible levels and the pub did have a noise restrictor in the function room and front bar.
 - b. The function room was not used on a frequent basis, and it would not be the case that the whole venue would be used until 02:00.
 - c. Residents' assertions that groups might meet up and have confrontations was unlikely as it did not happen here or outside other Enfield pubs currently, and no other pubs in the area opened until 02:00.
 - d. The applicant knew that if the application was granted and problems were to occur the licence would be taken away.

RESOLVED that

1. in accordance with the principles of Section 100(A) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

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The Panel retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

2. The Chairman made the following statement:

“We have studied the written representations and listened to the evidence most carefully.

We accept that considerable nuisance of various types occurs in the vicinity of these premises. We recognise that some of it may emanate from sources other than The Hollybush. However, on the balance of probabilities, we find that some of the nuisance complained of must arise from these premises.

We are not asked to seek to remedy this situation, that would be a matter for a review. We are, however, asked to extend the existing hours.

We have, therefore, to consider whether such extension would be contrary to the statutory licensing objectives and the Council’s Licensing Policy.

Our attention has been drawn to paragraph 8.4 of the Council’s Licensing Policy which states that stricter conditions may be required in residential areas. These premises are undoubtedly in a densely populated residential area.

Paragraph 8.3 states ‘Where there are representations against an application and the Sub-Committee believes that extending the licensing hours would undermine the Licensing Objectives, they may reject the application’. We believe that this paragraph is applicable to this application which is therefore rejected.”

3. The Licensing Sub-Committee resolved that the application be refused.

912

REF 02 - HUNTERS RESTAURANT, 12-13, HEDDON COURT PARADE, COCKFOSTERS ROAD, EN4

RECEIVED an application by Mr Kyriacos Loizou and Ms Maria Loizou for the premises known as and situated at Hunters Restaurant, 12-13 Heddon Court Parade, Cockfosters Road, Cockfosters, EN4 for variation of the Premises Licence.

NOTED

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1. The opening statement of Mark Galvayne, Principal Licensing Officer, including the following points:
 - a. This application was to vary the existing Premises Licence.
 - b. Details of the existing licence were set out on page 77 of the agenda pack.
 - c. The variations sought were set out on page 78 of the agenda.
 - d. The variation sought was for live music and facilities for dancing to 00:30 on Monday to Saturday and 00:00 on Sunday.
 - e. There was no application to amend hours for supply of alcohol.
 - f. The current licence permitted opening hours and recorded music 24 hours a day / 7 days a week, but if this application was granted opening hours and recorded music would be restricted to the same hours as live music.
 - g. Representations had been received from residents at five separate addresses.

2. The opening statement of Mr D. Reavell, on behalf of the interested parties, including the following points:
 - a. Objections from residents were set out in letters reproduced on pages 95 to 99 of the agenda pack.
 - b. He lived directly behind and about 15 metres away from the restaurant. Notwithstanding the amendments to the conditions it was likely he would be disturbed by any music and dancing, especially in summer, when his two children living at the address were coming up to a critical time for their education.
 - c. There would be disturbance from people leaving who had parked their cars in Freston Gardens, with car doors slamming and loud voices in the early hours.
 - d. Provision for live music and dancing to 00:30 would exacerbate problems already being experienced. The noise would not be contained as rear doors were kept open continually and the conditions were insufficient to control the noise emanating from the premises.
 - e. The hours sought were too late and not reasonable in what was a residential area.
 - f. People living in the flats above had a history of disturbance from events at Hunters Restaurant, as evidenced in residents' letters on page 95/6.
 - g. The current operators were courteous and respectful and while residents appreciated the needs of their business, these licence variations would affect their lives and would apply to any future operator.
 - h. Ms Heather Rayner gave evidence as one of the co-owners of no. 27 Heddon Court and on behalf of Aly Bush who lived there full time, stating that the noise and vibrations went straight up through the entire block.
 - i. Residents appreciated that they could ask for a licence to be reviewed if problems occurred, but felt the onus should not be on them to have to do that.

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3. In response to the Chairman's query, it was confirmed that Mr Reavell's house was the building marked 'Surgery' on the map on page 80 of the agenda pack. It had been converted from a doctor's surgery into a residence and there was a private road between the property and the rear of the restaurant.
4. The opening statement of Mr Kyriacos Loizou, the owner and premises licence holder, including the following points:
 - a. There was a significant space between Hunters Restaurant and Mr Reavell's property. Within the restaurant there were also several rooms between the dining area and the door to the rear garden, including kitchens and store rooms, as shown in the restaurant plan on page 85 of the agenda.
 - b. The entertainment took place in the area of the plan marked 'Entrance'
 - c. There were fire doors between the restaurant and kitchens and the store rooms had closing doors.
 - d. Rear doors were opened to let in fresh air and used for deliveries.
 - e. He understood that Mr Reavell was a new resident and had not lived there during the summer and felt it was too early for him to comment on that.
5. Mr Loizou responded to questions as follows:
 - a. In response to the Chairman's queries about disturbance to Mr and Mrs Bush's flat, Mr Loizou advised he had been notified of a noise complaint to the Council last Christmas and he had made a personal visit to the two immediate neighbours before New Year's Eve and before making this application. He advised that no. 27 Heddon Court was not immediately above the restaurant and highlighted that the occupant of no. 23 Heddon Court had not sent a representation.
 - b. In response to Councillor Constantinides' question about the reason why rear doors should be kept open, Mr Loizou confirmed there was no reason they needed to be kept open as there were sufficient vents into the kitchen for air to be drawn in and he would be happy to abide by a requirement to keep them closed, though for fire regulations they would not be locked when people were on the premises.
6. The closing statement of Mark Galvayne, Principal Licensing Officer, advising that as the variation sought would result in a reduction to opening hours and times for recorded music there were no policies to draw to Members' attention and it was for the Panel to consider the matters for determination.
7. The closing statement of Mr Reavell, advising that there was no garden area to the rear of the restaurant, just a parking area then a road, and his home was only about 15 metres from the restaurant, and if the rear

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doors were not kept closed it was impossible that noise could be contained within the premises.

8. Mr Loizou did not wish to make a closing statement, but confirmed that deliveries, which took place via the rear doors, were made before 18:00 and licensable entertainments would be permitted from 18:00 if the application was granted.

RESOLVED that

1. in accordance with the principles of Section 100(A) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

The Panel retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

2. The Chairman made the following statement:

“We have considered the evidence we have heard and read today. We sympathise with the concerns of the interested parties but believe that the imposition of Condition 13, which applies to live music, and Condition 14, which applies to music of any kind if it is amplified should, if properly adhered to, alleviate any problems.

In addition we are imposing an additional condition, number 15, which reads as follows:

‘The doors at the rear of the premises shall be kept shut, except when it is necessary for staff to leave by these doors, during all times during regulated entertainment taking place.’

Should these conditions fail to achieve their objective for any reason, a review should be sought.

Subject to the above, this application is granted.”

3. The Licensing Sub-Committee resolved that the application be granted subject to conditions 1 to 14, in accordance with Annex 02/05 to the report and the additional condition above.

913 MINUTES

AGREED that the minutes of the meeting held on 10/02/10 were confirmed as a correct record.

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