

LICENSING SUB COMMITTEE

31 OCTOBER 2013

Present: Councillor K Crout (Chair)
Councillors K Crout, P Jeffree and H Lynch

Also present: Mr Frank Fender, Applicant's Agent
Mrs Karen Rose Melo, Applicant
Mr Mohammed Khalik, Interested Party
Councillor Mo Mills, Ward Councillor

Officers: Legal and Democratic Section Head
Licensing Manager
Committee Scrutiny Support Officer (JK)

19 COMMITTEE MEMBERSHIP/ ELECTION OF A CHAIR

The Committee and Scrutiny Support Officer confirmed that the Sub-Committee would comprise Councillors K Crout, P Jeffree and H Lynch.

The Sub-Committee was asked to elect a Chair for the Hearing.

RESOLVED –

that Councillor K Crout be elected Chair for this Hearing.

20 DISCLOSURE OF INTERESTS (IF ANY)

There were no disclosures of interest.

21 APPLICATION FOR A NEW PREMISES LICENCE: MELO CAFÉ, 160 WHIPPENDELL ROAD, WATFORD (13/01094/LAPRE)

The Sub-Committee received a report of the Head of Community and Customer Services setting out details of an application for a new premises licence by Melo Cafe and details of the representations received.

All parties present introduced themselves.

The Licensing Manager introduced the report. He informed the Sub-Committee that this was an application for a new premises licence for a small café which specialised in Brazilian and Portuguese products. There was a capacity of approximately 30 customers and a small outdoor area of two tables and four chairs. Following discussions with the Applicant, the outdoor area would not be

licensed for alcohol sales. The only licensable activity which was being sought was the consumption of alcohol on the premises until 9 pm each day with the premises closing at 10 pm. The Operating Schedule detailed the specific controls that had been offered by the Applicant and he outlined what these would be. Two representations had been received. Mr Khalik was present to outline his concerns and the representation from Mrs Doheny concentrated on the issue of noise from customers in the premises. He considered that this aspect of the representation may have been over-represented in the officer's report. There was no specific reference to antisocial behaviour in her representation and it did not detail why women may feel intimidated nor any evidence for this. The premises were defined under policy LP1 as a cafe/bar and the hours sought were within the hours in the policy. He invited the Sub-Committee to consider how much weight the representations should carry and whether any additional conditions would be appropriate. He referred to the draft licence which had been circulated and the conditions included in that document.

Mr Khalik referred to the nature of the neighbourhood which was a residential one. He described the problems with smoking and drugs that he was aware of. He asked if the Licensing Manager had visited the area and whether he considered the application would have a good impact on the neighbourhood. The Licensing Manager answered that this was for the Sub-Committee to determine.

Mr Khalik gave a further description of the problems he had encountered in accessing his flat and the fights there had been. The Chair asked whether there had been any representations which reflected Mr Khalik's concerns. The Licensing Manager responded that there had not been any representations from the Police or other statutory agencies.

Mr Fender referred to the apparent duplication of conditions on page 19 of the agenda. These were a replication of the proposed measures in the application. The first condition, number 8, referred to people leaving the premises. Condition 9 should state that those customers using the outside area should leave that area quietly. The phrase "who are leaving the premises" in condition 9 should not be there.

Mr Khalik presented his representation to the Sub-Committee. He noted that the premises was situated on the corner and his view was that alcohol should not be served on the premises. He said that people congregated outside to smoke, drink and take drugs. It was sometimes difficult for him to access his flat. He referred to an incident earlier in the year where he had been attacked. He said it was important to visit the area and consider the effects of the application. It was not a suitable area for alcohol to be sold. He said the Police were called frequently to the neighbourhood. He noted that alcohol was available in other areas, such the town centre, which were more suitable.

Mr Fender asked why the Police had been called. He asked Mr Khalik whether he was in dispute with the landlord of the premises in question. Mr Khalik said that he had been hit and denied that he was in dispute with the landlord.

Following a further question from Mr Fender, Mr Khalik denied that he had tried to buy the property at 160 Whippendell Road.

Councillor Jeffree asked about the nature of Mr Khalik's business which was next door to the cafe. Mr Khalik responded that it was a hairdressers.

Councillor Jeffree asked whether Mr Khalik understood that the application was for alcohol on the premises only. Mr Khalik replied that he had understood this but was not satisfied. He said that people came from the cafe and went outside, particularly to the alleyway located to the side of the premises. He said that he never saw Mrs Melo at the premises.

Councillor Jeffree asked when the Applicant took over the premises. Mr Fender responded that it was on 10 March 2013. Mr Khalik said that there had been an incident earlier in October 2013.

Mrs Melo confirmed in response to the Licensing Manager that her customers took coffees outside to the chairs and tables situated there.

Mr Fender outlined the application for his client. He explained that the premises was a small cafe and store. The hours of operation allowed the premises to serve breakfasts and there was also an hour between the last sale of alcohol and the closing time. He understood that the premises fell into a special policy area in respect of off-licences, and certain measures were therefore proposed to promote the licensing objectives. They would now be no off-sales at the premises following discussions with the Licensing Authority. Measures to deter street drinkers were also included and extra strength beers and sizes would not be sold. He noted that there were no representations from any other responsible authorities. He recognised the rights of the interested parties to make representations but invited Members to attach little weight to them. He felt that there was very little evidence to support their claims. He referred to the concern that women may feel intimidated. The Applicant was unaware of this type of behaviour and there was no explanation of this allegation in the representation. There was also no evidence that the vehicles referred to were connected with the premises. He referred to the definition in one representation that the premises was a corner shop and noted that this was not the case. There were young people who used the cafe, but this was normally with their parents. Challenge 25 would be in operation on the premises to ensure there were no underage sales. He felt it was a well-run premises and the measures proposed would serve to address the concerns raised in the representations.

Mr Khalik referred to be problems in the alleyway that he used to access his flat and noted that the premises was on a corner. Following a question from the Chair for clarification, Mr Fender said that the alleyway was between 160 and 158 Whippendell Road.

The Legal and Democratic Section Head stated that unless the issue of location related to the licensing objectives, it was not relevant to the application in question.

Mr Khalik asked why the Applicant wished to sell alcohol. Mrs Melo responded that there was a demand from Portuguese customers who would traditionally have wine or beer with their meals.

Councillor Jeffree asked what the current trading hours were. Mrs Melo advised that when the premises first opened the hours of trading were 7 am to 8 pm. The new opening times would be as set out in the application.

Following a second question from Councillor Jeffree, Mrs Melo confirmed that customers would be able to have a drink without a meal. However, customers would not be able to become intoxicated. Councillor Jeffree asked what their reaction would be should a condition be added to their licence that alcohol could only be served to food. Mr Fender noted that it would be difficult for groups of customers where not all wanted to have a meal.

Councillor Lynch referred to the sale of super-strength beers and lagers. She asked how they would determine which were super-strength. Mr Fender responded that the strongest Portuguese beer was 6.5% ABV and they would not sell anything stronger than that.

In response to a further question from Councillor Lynch, Mr Fender said that if the premises were to serve alcohol for consumption outside, this would be a breach of their licence.

Councillor Lynch referred to the training and supervision of staff and asked for more details. Mrs Melo advised the Sub-Committee that she was often at the premises. She would ensure that the staff were trained and that this was documented.

The Chair confirmed that the premises also sold Portuguese products. He asked whether customers would also wish to purchase alcohol at the same time. Mr Fender explained that this had been part of the original application, but off-sales were now not part of this application.

The Legal and Democratic Section Head asked the Applicant to confirm that those customers seated outside could not consume alcohol. Mr Fender advised that this had been part of the original application, but would now not be permitted.

Following a question from Councillor Lynch, the Applicant confirmed that the outdoor seating area was within the curtilage of the premises.

Councillor Jeffree asked whether Mrs Melo was a qualified designated premises supervisor (DPS). This was confirmed.

The Licensing Manager informed the Sub-Committee that the Antisocial Behaviour Coordinator was considering putting a gate on the alleyway in question.

Mr Fender summarised the case for the Applicant. He reiterated that the two representations received contained little evidence. The licence would allow alcohol to be sold on the premises only. The hours applied for and the proposed measures would in his view, promote the licensing objectives. He invited the Sub-Committee to approve the licence.

Mr Khalik said that the chairs outside were situated near the alleyway. He said that he did not think the premises should have an outdoor seating area. He reiterated his opposition to the premises being able to sell alcohol but he had no objections to the cafe itself.

The Sub-Committee retired to consider its decision.

On the Sub-Committee's return, the Chair announced the decision.

RESOLVED –

In coming to our decision, the Sub-Committee has taken into account the Licensing Act 2003, the Guidance to the Licensing Act dated June 2013, the Council's Statement of Licensing Policy (January 2011), the written representations received from two residents, the oral representations from one interested party and the statements made by the applicant.

We consider that the application is consistent with our Licensing Policy and that the draft conditions set out in the officer's report, which include prohibiting off-sales and restricting the consumption of alcohol to the internal areas of the premises, promote the licensing objectives.

The Sub-Committee therefore approves this application subject to the conditions set out in the officer's report and the draft licence.

Chair

The Meeting started at Time Not Specified
and finished at Time Not Specified