

LICENSING SUB COMMITTEE

21 November 2016

Present: Councillor K Crout (Chair)
Councillors S Bolton, J Connal and K Crout

Also present: Jamie MacKenzie, Business Compliance Officer, Watford
Borough Council
Frank Fender, Applicant's Agent
Karen Melo, Applicant
Romil Patel, Interested Party
Councillor M Mills, Ward Councillor

Officers: Committee and Scrutiny Support Officer (JK)
Senior Licensing Officer (AY)
Senior Solicitor

1 **Committee membership/ election of a Chair**

The Committee and Scrutiny Support Officer confirmed that the Sub-Committee would comprise Councillors Bolton, Connal and Crout.

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

RESOLVED –

that Councillor Crout be elected Chair for this hearing.

2 **Disclosure of interests (if any)**

There were no disclosures of interest.

Application to vary premises licence: Melo Cafe, 160 Whippendell Road, Watford, WD18 7NB**Introduction to the application**

The Sub-Committee received a report of the Head of Community and Customer Services setting out details of an application to vary the premises licence at the above premises.

There had been discussions between the Licensing Authority and the Applicant, it was agreed that the Sub-Committee would be updated on these negotiations after the application had been introduced.

The Senior Licensing Officer introduced the report outlining the key issues for the application. These included how the premises was classified and the location of the premises. The application was to vary the existing hours and to add late night refreshments and off-sales of alcohol. Representations had been received from residents and the Licensing Authority. The Crime Status Report, referred to in appendix 5A, had not been received.

The Applicant's Agent confirmed that he had seen the additional photographs from the interested party, Mr Patel, and agreed for them to be circulated.

The premises was located in one of the Sensitive Licensing Areas where particular attention was paid to address historical issues in the area. For clarification, the Senior Licensing Officer explained that on receipt of the application he had been in contact with the Agent as the Responsible Authority. Due to the absence of a colleague, he took on the role of the processor of the application and Mr MacKenzie had submitted an objection on behalf of the Licensing Authority.

There were no questions for the officer.

Representations

Mr MacKenzie was invited to update the Licensing Sub-Committee following his discussions with the Applicant.

There had been negotiations over the conditions proposed in his representation. The following conditions had been agreed:

1. Maximum terminal hour of 22:30 for all licensable activities Monday to Sunday. The premises shall close at 23:00 Monday to Sunday. As a result of these amendments, the application for the provision of late night refreshment as a licensable activity was withdrawn.

2. That there shall be a clearly defined barrier placed around the outside area at this premises at all times that the premises are open to the public, clearly demarking this area as separate from the public highway. This boundary marking must be removed when the premises are closed to the public.
3. All windows and doors shall remain closed after 20:00, except for access and egress.
4. The outside area immediately in front of the premises shall not be used after 20:00, with the exception of persons who wish to smoke.
5. No more than four customers shall be permitted to smoke in the outside area after 20:00 on any day.
6. Customers using the outside area after 20:00 on any given day shall not be permitted to take any food or drink with them whilst doing so.
7. No customers shall be permitted to use the outside area after 22:00 on any day.
8. There will be no self-service of spirits at the premises.
9. No beers, lagers, or ciders shall be sold for consumption off of the premises which are above 5.5% ABV, except for Brazilian and Portuguese beers, lagers and ciders, which may be sold up to 6.6% ABV.
10. No single bottles or cans of beer, lager, or cider, shall be sold at the premises for consumption off of the premises.
11. Alcohol which is to be sold for consumption off of the premises will be kept behind roller blinds/shutters during the hours when the premises are not permitted to sell alcohol for consumption off of the premises.
12. Any source used for the playing of music shall be located in a secured cupboard or similar which shall only be accessible by senior members of staff.

The application relating to non-standard timings was also withdrawn.

Condition 12 was designed to address the potential for noise, replacing two proposed conditions related to consuming alcohol with food. The risk with vertical drinking was the potential for noise nuisance during occasional events with higher numbers of people in the premises. Mr MacKenzie underlined the importance of only allowing senior members of staff to access the cupboard to adjust the music. Mrs Melo was content with this and advised that the premises was staffed by herself, her husband and her sister.

The proposed condition relating to late-night refreshment was removed as this would not form part of the application, given the amended hours.

In response to questions from Members, Mr MacKenzie confirmed that the agreed conditions addressed the concerns of the Licensing Authority.

There were no questions from the applicant.

In response to questions from the Senior Licensing Officer, Mr MacKenzie confirmed that conditions 12 and 13 proposed in his representation were withdrawn and condition 14 was void.

There were no questions from the Council's Legal Advisor.

Mr Patel advised that as long as the conditions were complied with, he was content that they would address the issues raised in his representation. His concern was the noise and nuisance which occurred after 22:00. He was mindful of the families and children who lived in the area. The level of noise should be controlled by the conditions.

In response to a councillor's suggestion, the applicant said that she was happy for Mr Patel to contact her should he have any further concerns. The Chair advised that if Mr Patel was not satisfied in the future after speaking to the licence holder, he should contact the Licensing Team.

Regarding the barrier outside the premises, Mr MacKenzie noted that it was only a small space and demarcating the area would assist with monitoring. The area was not part of the public footway.

Responding to a query about compliance, Mr Fender reassured the Sub-Committee that the conditions governing the use of the outside area would be complied with. It was a small area and the premises had a lot of regular customers who they could educate.

Mr Fender confirmed, in response to a question about the sale of beers, lagers and ciders up to 6.6% ABV, that the premises only sold Portuguese and Brazilian products. The application itself also limited off-sales to Portuguese and Brazilian products.

Summary

The Chair invited the Applicant to make a statement to the Sub-Committee.

Mr Fender said he had little to add to the comprehensive report and the amendments that had been agreed. The hours had been significantly reduced. The agreement had been reached following representations from the Licensing authority and local residents. He asked that the application be granted with the amendments.

In response to questions from Members Mr Fender confirmed the opening times and the hours for licensable activities which had been agreed, as shown below.

	Existing	Proposed
	Alcohol (on-sales)	Alcohol (on and off- sales)
Monday	10:00 - 21:00	10:00 - 22:30
Tuesday	10:00 - 21:00	10:00 - 22:30
Wednesday	10:00 - 21:00	10:00 - 22:30
Thursday	10:00 - 21:00	10:00 - 22:30
Friday	10:00 - 21:00	10:00 - 22:30
Saturday	10:00 - 21:00	10:00 - 22:30
Sunday	10:00 - 21:00	10:00 - 22:30
	Existing	Proposed
	Opening hours	Opening hours
Monday	07:00 - 22:00	06:30 - 23:00
Tuesday	07:00 - 22:00	06:30 - 23:00
Wednesday	07:00 - 22:00	06:30 - 23:00
Thursday	07:00 - 22:00	06:30 - 23:00
Friday	07:00 - 22:00	06:30 - 23:00
Saturday	07:00 - 22:00	06:30 - 23:00
Sunday	07:00 - 22:00	06:30 - 23:00

In response to a question from the Senior Licensing Officer, the wording of the conditions relating to the strength of beers, ciders and lagers was confirmed.

There were no questions from the Council's Legal Advisor.

There was a brief discussion about Temporary Event Notices and it was noted that Environment Health made representations when appropriate.

Decision

The Sub-Committee retired to consider its decision.

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

RESOLVED –

Having heard evidence from the applicant, the Licensing Authority and the interested party and taking into account the provisions of the Licensing Act 2003, the Secretary of State's Guidance and the Council's Statement of Licensing Policy, the Licensing Sub-Committee grants the application as amended at the hearing, subject to the conditions agreed with the Licensing Authority as confirmed at the hearing.

The amendments agreed were:

1. Maximum terminal hour of 22:30 for all licensable activities Monday to Sunday. The premises shall close at 23:00 Monday to Sunday. As a result of these amendments, the application for the provision of late night refreshment as a licensable activity was withdrawn.
2. That there shall be a clearly defined barrier placed around the outside area at this premises at all times that the premises are open to the public, clearly demarking this area as separate from the public highway. This boundary marking must be removed when the premises are closed to the public.
3. All windows and doors shall remain closed after 20:00, except for access and egress.
4. The outside area immediately in front of the premises shall not be used after 20:00, with the exception of persons who wish to smoke.
5. No more than four customers shall be permitted to smoke in the outside area after 20:00 on any day.
6. Customers using the outside area after 20:00 on any given day shall not be permitted to take any food or drink with them whilst doing so.
7. No customers shall be permitted to use the outside area after 22:00 on any day.
8. There will be no self-service of spirits at the premises.
9. No beers, lagers, or ciders shall be sold for consumption off of the premises which are above 5.5% ABV, except for Brazilian and Portuguese beers, lagers and ciders, which may be sold up to 6.6% ABV.
10. No single bottles or cans of beer, lager, or cider, shall be sold at the premises for consumption off of the premises.
11. Alcohol which is to be sold for consumption off of the premises will be kept behind roller blinds/shutters during the hours when the premises are not permitted to sell alcohol for consumption off of the premises.
12. Any source used for the playing of music shall be located in a secured cupboard or similar which shall only be accessible by senior members of staff.

The application relating to non-standard timings was also withdrawn.

Chair

The Meeting started at 10.30 am
and finished at 11.50 am