MINUTES OF
LICENSING SUB-COMMITTEE

Wednesday, 9 August 2017
(7:04 - 7:52 pm)

Present: Cllr Kashif Haroon (Chair), Cllr Hardial Singh Rai (Deputy Chair) and Cllr Peter Chand

Apologies:

40. Declaration of Members' Interests

There were no declarations of interest.

41. Adjournment

The meeting was adjourned for 15 minutes to enable the Applicant’s legal advisors to arrive. The meeting was reconvened at 7.18 p.m.

42. Licensing Act 2003 - Application for a New Premises Licence in respect of The Butterfly, 212 Longbridge Road, 1 Faircross Parade, Barking, IG11 8UN

The Licensing Support Officer (LSO), Rachel Taylor, presented a report to the Sub-Committee in regard to an application, received on 23 June 2017, from Butterfly 77 Ltd for the creation of a Premises Licence for 212 Longbridge Road, 1 Faircross Parade, Barking, IG11 8UN. The premises are located on the ground floor and are currently known as The Butterfly.

A copy of the licence application, was attached to the report as Appendix A.

The Sub-Committee were advised that the application described the premises as a ‘Café / Restaurant’ and sought consent to the sale of alcohol ‘between 11.00 a.m. to 11.00p.m. each day of the week.

The Designated Premises Supervisor (DPS) named in the application was Mr Veselin Vasilev Vatev. Mr Vatev holds a Personal Licence issued by the London Borough of Newham. Mr Vatev is also a Director of Butterfly 77 Ltd.

The LSO advised that the Applicant anticipated that the premises would provide 30 covers / tabled seating (20 internal, six in the rear garden and four on the pavement to the front of the premises) and apologised that a plan, which had been provided by the Applicant, showing the proposed internal layout had inadvertently been left out of the agenda pack. The Chair agreed that the plan could be included and it was circulated to all present.

The LSO advised that representation had been received from responsible authorities’, namely the Licensing Authority Responsible Authority Officer (LARAO) and the Metropolitan Police Authority (Police). Those representations were made under the ‘crime prevention’, ‘public safety’ and ‘public nuisance’ licensing objectives. The representations had not opposed the application outright but were concerned with the primary use of the premises remaining food centred as a café /
restaurant’ and not evolving into a bar and ensuring the potential impacts of the premises upon local residents would be controlled.

The other objections were received from residents under ‘crime and disorder’ and / or public nuisance’ licensing objectives. Residents were also concerned that the premises might grow into a bar under any licence granted and about the impact upon local residents.

Details of the seven representations were set out in the report and its Appendix C.

Following receipt of the objections and discussions with the responsible authorities the Applicant had offered the inclusion of additional conditions, as set out in Appendix B to the report, which had resulted in the LARAO and Police withdrawing their representations.

Of the five residents that had registered objections, one had subsequently withdrawn their objections, although they had asked that two further additional points should be made to the Sub-Committee, and another had asked for additional points to be made to the Sub-Committee on their behalf. The Applicant had confirmed in writing that they had no objections to both of those objectors additional points / comments being read out and the Chair gave consent that they should be read. The comments were read out by the LSO as follows:

- Objector who has withdrawn their objection, additional comments:
  
  “1. Would the Licensing Committee please note the concerns expressed over ongoing anti-social behaviour at the top of Ventnor Gardens very near The Butterfly (see our letter of 17th July)

  2. Although the use of external tables and chairs has been restricted to 10.00 p.m., there will necessarily be noise after this time as the furniture is put away, which will impact the neighbouring flats.”

- Objector 1 on Appendix C was unable to attend and their original objection still stands but asked for some further points to be made.

  ‘If this Licence is granted the residents in the area will certainly experience more noise and anti-social behaviour much later in the evening as the premises will open till 11.00 p.m., which really means 11.30 p.m. by the time the last customers leave.

  Various members of my family have been licensees in the past and whenever alcohol is introduced it always causes problems both inside and outside the premises even if the owner asks the customers to leave quietly I guarantee the residents will experience more noise later into the evening from intoxicated customers leaving the premises.

  I understand the business owner wishing to make more profit but please not at the expense of the peace and quite and peace of mind of the residents in the area.”

The LSO then confirmed the details of all the objections and how they had been
The Applicant’s agent addressed the Sub-Committee on a number of the concerns that had been raised, particularly by residents. Those concerns centred on groups of youngsters using the area on both sides of the road, which had resulted in alleged anti-social behaviour and noise disturbance.

The primary concerns of residents appeared to be that The Butterfly would attract additional unacceptable behaviour and noise. To eliminate those concerns the Applicant was offering, in addition to the details set out in the application, and Appendix B, to take additional steps, including:

- Ceasing the use of external table and chairs at 8.30 p.m. and that had already been reflected this in the Street Trading Licence application,
- To restrict alcohol sales at the front and back garden to between 5.00 p.m. and 8.00 p.m. on weekdays.
- Sale of alcohol would only be with a sufficient table meal, served by waiters / waitresses, and would not be sold to those requesting just alcohol or take-away.
- Challenge 25 would be implemented and alcohol would not be sold to anybody appearing drunk or suspected of buying for somebody underage.
- Staff would be trained and regularly reminded of these requirements and a staff training record and sales / refusals / incident book would be kept.
- Signs would be put up to remind customers to respect the neighbours and to leave quietly.
- CCTV to clearly capture footage of all persons entering the premises with the recordings being kept for 31 days.

The agent advised that this had been discussed with the Police Licensing Officer, who had indicated that they had been accepted.

The Sub-Committee were advised by the Applicant that they wished to be a positive part of the community. The Applicant stated that there had never been any problems at the premises since he had been there. The Applicant stressed that the ethos of the Butterfly was a place to have a ‘posh coffee’ and a meal, it was not to create a bar drinking establishment.

In response to a question about a demand survey, the Applicant indicated that the numbers of customers were 20 to 30 a day and about 70% of those customers had requested alcohol be available with a meal.

The agent advised that the Applicant had accordingly offered some further restrictions on external hours of operation and record keeping to meet the concerns of local residents further. The Applicant and their agent confirmed that to reflect their assurances above they would be happy to include new conditions, namely the inserts at 2(v) and new clauses 15 and 16 and subsequent
renumbering of former clauses 15 and 16.

DECISION

The Sub-Committee in reaching its decision, gave due regard to the Licensing Act 2003, Regulations, Guidance, Barking and Dagenham Statement of Licensing Policy for 2017-2022, including the Licensing Objectives.

The Sub-Committee considered all the representations before it, both oral submissions and documentation.

The Sub-Committee **RESOLVED:**

To approve the application for a new Premises Licence at 212 Longbridge Road, Barking, subject to the inclusion of additional clauses to meet the prevention of ‘crime and disorder’ and / or ‘public nuisance’ licensing objectives, namely to inserts at 2(v) and new clauses 15 and 16 and subsequent renumbering of former clause 15 and 16 of the former Appendix B to create the following conditions:

(a) The hours for the sale and supply of alcohol being restricted to 11.00 to 22.30 hrs each day of the week.

(b) The opening hours of the premises being set at 07.00 to 23.00 hrs each day of the week.

1. The premises shall operate as a restaurant:

   (i) where the supply of alcohol is by waiter or waitess service only;

   (ii) which provides food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non-disposable crockery;

   (iii) which does not provide any take-away service of food or drink for immediate consumption, and (iv) where alcohol shall not be sold, supplied, or consumed on the premises otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

2. An incident book shall be kept and maintained at the premises, which shall be made available to a police officer or an authorised officer of any responsible authority upon request. The incident book shall be used to record the date and time of any incident, the name of the staff member and a brief description of the customer concerned. All incidences of the following shall be recorded in the incident book within 24 hours and retained for a minimum of 12 months:

   (i) Any attempted underage alcohol purchase

   (ii) Any theft or attempted theft of alcoholic drinks

   (iii) Any acts of violence or criminal damage
(iv) Any other incidents involving crime or disorder
(v) Any instance of a customer entering the premises drunk

3. Closed Circuit Television (CCTV) systems that capture head and shoulders images of persons entering the premises and all points of sale shall be installed, operate and record video images at all times that the premises are open to the public.

4. All CCTV recordings made shall be retained for not less than 31 days and be made available to a Police or an authorised officer of any responsible authority within one hour upon request.

5. A member of staff capable of operating the CCTV system and downloading images shall be at the premises at all times that the premises are open to the public.

6. The CCTV system shall display on any recording, the correct date and time of the recording.

7. Sale of alcohol shall cease thirty (30) minutes prior to the end of trading hours to provide patrons with a drinking up period.

8. All alcohol that is displayed for sale shall be located within view of the cashier, and all spirits shall be stored behind the serving point to reduce the possibility of a snatch theft.

9. All reasonable steps shall be taken to verify that any documents produced by persons attempting to purchase alcohol are genuine and relate to the person producing them.

10. The premises licence holder shall operate a "Challenge 25" scheme at the premises whereby anyone who appears to be under the age of 25 is asked to provide proof of age that he or she is over 18. Proof of age shall only comprise of a passport, a photo card driving licence or an industry approved proof of age identity card.

11. Suitable signage shall be displayed at the point of entry and at the service area advising customers that the premises operates the “Challenge 25” proof of age scheme.

12. A prominent notice shall be displayed requesting that patrons leave quietly and respect the local area and residents.

13. All staff shall be trained in how to identify drunk or drug impaired customers. This training shall be repeated at least biannually and written records of the training kept and made available to Police and authorised Council officers on request.

14. All staff responsible for selling alcohol shall be trained regarding underage sales, the main offences under the Licensing Act 2003 and the conditions of the Premises Licence. This training shall be provided before the person starts working at the premises and shall be repeated at least biannually
thereafter.

15. The sale and supply of alcohol to customers using the external areas shall be restricted to the hours of 17.00 to 20.00 hrs on weekdays.

16. The use of the external tables and chairs by customers shall cease each night at 20.30 hrs.

17. All exit routes must be kept unobstructed, and maintained with non-slippery and even surfaces. Where tables and chairs are provided, internal gangways shall be kept unobstructed.

18. All exit doors shall be maintained readily available for use while members of the public and staff are upon the premises.