

MINUTES OF LICENSING SUB-COMMITTEE

Tuesday, 20 December 2022
(7:05 - 9:15 pm)

Present: Cllr Adegboyega Oluwole (Chair), Cllr Faraaz Shaukat (Deputy Chair) and Cllr Sabbir Zamee

3. Declaration of Members' Interests

There were no declarations of interest.

4. Licensing Act 2003 - Application for a Premises Licence: Venue 121 - 121 Broad Street, Dagenham, RM10 9HP

The Council's Licensing Case Officer presented a report in respect of an application for a premises licence for Venue 121, 121 Broad Street, Dagenham, RM10 9HP.

The applicant sought the following licensable activities:

Live Music: Monday to Sunday 11:00hrs to 02:00hrs

Recorded Music: Monday to Sunday 11:00hrs to 02:00hrs

Late Night Refreshment: Monday to Sunday 23:00hrs to 02:00hrs

Opening Hours: Monday to Sunday 11:00hrs to 02:00hrs

Three representations had been received in relation to the application. A representation was received from the Council's Licensing Authority Responsible Authority Officer under the licensing objective of the Prevention of Public Nuisance. A second representation was received from a responsible authority namely the Metropolitan Police Licensing Officer under the licensing objective – Prevention of Public Nuisance and Protection of Children from harm. The third representation was received from the Council's Environmental Protection Officer under the licensing objective of Prevention of Public Nuisance.

The Licensing team had been communicating with the applicant via email during the consultation period to reach to an agreement. At the time of publishing the report, the applicant had accepted all the conditions suggested by the Licensing Authority Responsible Authority Officer; however, he had requested if the Licensing Authority could consider the terminal hours of 23.59.

The Sub-Committee first heard from Chris Hurst, Environmental Protection Officer (EPO). The EPO advised that following on from his representation contained within the agenda a noise impact assessment had been undertaken by the applicant, which had been published as a supplementary agenda. The report from the assessment indicated that the venue had poor levels of sound insulation which would result in significant music breakout from the venue. This had been evidenced by the level of complaints over the last few years; however, it was noted that the applicant was not in the premise at that time. The assessor could not gain access to the first floor flat at 123 Broad Street, which shared a party wall with the premise and the EPO advised that a further assessment would need to be

undertaken to include 123 Broad Street. The EPO advised that the application submitted by the applicant did not do enough to promote the licensing objective, 'the prevention of public nuisance' taking into consideration the result of the noise impact assessment.

The Legal Advisor to the Council asked the EPO to confirm if the rooftop area, which had been subject to complaints previously, was included in the application. The EPO confirmed that it was not included. Following further questions from the Legal Advisor, the EPO advised that mitigation works to the property based on the assessment would cost a significant amount of money.

The EPO advised that if the Sub-Committee were minded to approve the application, he would suggest further conditions on the licence. These proposed conditions were then circulated to those present.

In response to questions from the Sub-Committee, the EPO advised:

- That the outcome of the acoustic assessment indicated that internal music would need to be run at a level significantly less than what would be considered reasonable for entertainment. There would still be breakout of noise from the front and side of the premise if the volume was turned down at 12am; and
- There was no national or local standards guidance on acceptable noise levels.

PC Owen Dunn then addressed the Sub-Committee, setting out his representation as included in the agenda. PC Dunn referred to complaints received by the Police in relation to music and noise, as recently as 20.11.2022 by way of a phone call to the police and a complaint made to the Councils noise nuisance team on the 3.12.22, while the application was still in the consultation period.

In response to questions from Members, PC Dunn advised:

- At the time of preparing his report, PC Dunn was unaware of who was in control of the premise as he was only given an email contact of 'Admin';
- The premises was not known to be residential in recent years;
- The applicant had indicated that he was not open when the recent complaints had been received. There were various businesses within 121 Broad Street.

The Applicant, Mr Muhammed Hussain, then addressed the Sub-Committee. Mr Hussain advised:

- He was bringing a new business into the borough and wanted to give an old premise a new face with a new business model;
- The application did not include alcohol, which may alleviate some of the issues faced by the premises previously;
- The premise used to be one venue and during the times it was open there were very little complaints received. Since the venue had been separated into several, there had been several complaints received. Mr Hussain advised that he had spoken to others within the premises to warn them against holding events where complaints may be received;
- That whilst he did agree some points raised by the EPO, he did not agree with others, however the mitigations suggested could not be accepted due to the excessive cost needed. The venue had already been renovated at a

- significant cost to the applicant;
- The Police reports submitted by PC Dunn had included incidences where the Police had arrived and found the premises to be quiet with no issues;
- The application was originally applied for up to 02:00 so that events could go on later if required, however it was anticipated that most events would finish at 00:30; and
- The company which provided the Noise Impact Assessment had brought their own speakers with them as it was deemed the sound system within the premises was not sufficient for the assessment to be undertaken.

In response to questions from the Sub-Committee, Mr Hussain advised:

- The premises was currently not in operation, although a soft opening event had been held earlier in the month;
- The premises would predominantly be run as a function room for family parties and weddings;
- The precise occupancy numbers were unknown; however, Mr Hussain suggested 400 people could be sat downstairs and the capacity was about 1000;
- CCTV had been installed at the premises.

The Chair invited all parties present to sum up their representations before the Sub-Committee retired to make its decision.

Decision

The Licensing Sub Committee had regard to the s.182 guidance and relevant legislation, and also had regard for the contents of the agenda and all matters stated in the hearing.

The Sub Committee resolved to refuse the application.

Primarily, the Sub Committee noted that there was insufficient information available to ensure they could promote the licensing objectives. Specifically, noise assessments had been completed at the last minute and were incomplete so far as the neighbouring premises was concerned. The operating schedule was significantly lacking in details. There was no Fire Risk Assessment and no occupancy figures. The Sub Committee was mindful of the recent tragic events at the O2 in Brixton resulting from a crowd crush. In order to assess the public safety objective it was necessary to consider occupancy and crowd control measures, which was impossible given the current information. Further, given the absence of information regarding noise mitigation for one of the neighbouring (adjoining) properties, the Sub Committee had no information before it to establish suitable conditions to prevent public nuisance arising from noise so far as this premises was concerned.

The Sub Committee noted the applicants submissions regarding past conduct. Whilst it does not hold the applicant in any way personally accountable for this, the fact remains that the building as currently constructed had given rise to significant noise issues. This was confirmed in the applicants own noise report. Unless and until those measures were carried out, the LSC could not be satisfied that public nuisance could be prevented.

The Sub Committee considered whether it could impose the conditions recommended in the noise report; however, noted that the applicant's operating schedule provided for noise reduction after 12.a.m. The recommendations were for noise reduction after 11.p.m. To impose this requirement would be to impose a condition inconsistent with the operating schedule, which was not permissible under s18(2)(a) and 4(a)(i).