

LICENSING SUB-COMMITTEE – 5 August 2020

LICENSING ACT 2003:

APPLICATION FOR A NEW PREMISES LICENCE FOR

APR EVENTS LTD, REAR OF, 63 NORTH ACTON ROAD, PARK ROYAL, NW10 6PJ

This meeting was a virtual meeting and therefore did not take place in a physical location pursuant to regulations made under Section 78 of the Coronavirus Act 2020.

PRESENT: Councillors Block (Chair), Jammu and Sumner.

ALSO PRESENT:

Premises:

Mr Sajad Al-Hairi, Agent for the Applicant/Premises
People Legal Advice
Services

Mr Majed Salim APR Events Ltd, trading as
Director Victoria Venue

Objectors

P C Vickie McCartney-Hewison Ealing Police Licensing Team
P C Kerry Smart Ealing Police Licensing Team
Simon Boniface LBE Noise Nuisance Team
Eibhlis Harrington Resident
Theresa Magee Resident
Hamid Omar Resident

Ealing Borough Council

Alison Luff Legal Officer
Anjali Garcha Presenting Licensing Officer
Cornelia Harding Democratic Services Officer
Cheryl McLean Committees Team
Misha Jalil Democratic Services Officer

Introduction

The Chair introduced the Sub Committee Members and outlined the procedure that would be followed at the hearing.

The Chair invited the Licensing Officer to present the report. Anjali Garcha, presenting licensing officer, then summarised the report that was before the Sub Committee. She stated that the premises are situated behind the Global Cars showroom on the East

side of North Acton Road, NW10 6PJ. On the West side of the road are residential properties.

Presentation on behalf of the Applicant

Sajad Al-Hairi, agent for the Applicant, addressed the sub-committee, indicating that it was the Applicant's case that:

- This was a new application.
- Objections raised relate to the previous owner/former management of the premises.
- Objections raised by Cllr K Crawford related to alcohol consumption. Under this new management, alcohol will not be consumed on the premises and will be confiscated.
- Objections raised by PC Hewison regarding security, noise and parking would be addressed as follows:
 - There would be 2-3 security wardens patrolling parking and dispersal of patrons.
 - On arrival, patrons would be handed a plan of the site and of the surrounding areas showing them where they could park. Following which, patrons would hand their car keys over to the security, to be collected at the end of the event.
 - The Applicant anticipated a maximum of 30-40 vehicles visiting the site at any one time, carrying patrons attending weddings, private parties or similar events. This would not amount to an overuse of the site.
 - Patrons would be informed that the noise should not exceed 35 decibels, and if exceeded they would forfeit future bookings. Sound limiting devices would also be used.
- The video the objectors had asked to be considered by the panel shows the proprietors had tried to reach a compromise with the neighbours.
- If the venue fell into dis-use that would encourage anti-social behaviour and criminality in the area, such as rough sleeping and drug use. There had already been three attempted burglaries of the premises.
- Failure to grant the application would result in a loss of business rates income to the local authority and a loss of employment.
- The premises were located on an industrial estate, there was evidence of the site being used as a restaurant since 1997. In 2007 an application for the restaurant to be altered had been granted by Ealing Council.

The Applicant and their agent gave the following responses to questions asked by the police, pollution authority, residents and the sub-committee:

- The previous premises licence holder, Mr Peshawa Majid, no longer had involvement in the current business was involved only so far as was required to pass on the responsibility of running a business.
- Any family relationship between Mr Peshawa Majid and Mr Majed Salim should have no bearing on this application.
- A TENS licence application had not been made for the event on 7th March 2020 as it had taken place before 11pm; the building had permission for A2 use and so could serve customers until 11pm. Those attending had agreed to take any risk concerning coronavirus and the proprietors did not believe this amounted to regulated entertainment. A restaurant venue can have music until 11pm.
- The legal adviser present clarified that a licence was needed before 11pm if the venue did not have an alcohol licence and recorded music that was not ambient was being played.
- The current management paid rent to Mr Dana Tofek. A lease with 15 years to run had been signed on 31st October 2019 between Mr Dana Tofek and Mr Majed Salim.
- Mr Majed Salim had not responded to the police's email requests about CCTV footage as he had been busy and under pressure due to a lack of funds as a result of the coronavirus. In any event the emails could have been sent to the agent as well. Mr Salim was busy trying to maintain his livelihood.
- There were no complaints or photos from residents about the area immediately outside the premises.
- Risk assessments are completed when a booking is made and risks are mitigated or nullified. The venue could accommodate 18 tables and 180 patrons. Shisha smoking was carried on outside and that was a separate business. The Applicant anticipated that the personnel required would amount to:
 - 2-3 security staff
 - 2-5 catering staff
 - 2-3 chefs
 - 3 cleaners
- Mr Majed Salim had experience of managing a venue called Babylon in Holland and also of managing the Emir, an establishment in Harrow and Wealdstone in 2010.
- The business grant that had been paid to the management of the venue, as part of government measures to mitigate the impact of COVID -19, had been spent on paying off arrears of rent and on repairs to the premises.
- The premises management could hire parking spaces at 114 North Acton Road for 40 to 50 cars.
- Mr Al-Hairi clarified that Dana Tofek is the current leaseholder, Majed Salim is the current premises manager.

- With respect to dispersal, if the licence was granted, the management would announce every 15 minutes from 11.30pm for people to leave in groups of 10 (vehicles) until all 40 vehicles had departed by 00.30am.

Presentation on behalf of Responsible Authorities

Vickie Hewison, WALP officer, addressed the Panel on behalf of the police. She noted that the police did not support the hours for the **Provision of Live Music, Provision of Recorded Music, Performance of Dance and Provision of anything of a similar description to Live Music, Recorded Music or Performances of Dance** applied for by the Applicant.

In the police's view, the previous licence holder was using other people to front the business while retaining his involvement. For example, police research showed that Dana Tofek resided at an address previously owned/resided at by the previous licence holder.

In view of the families residing in close proximity to the premises and because they were not confident that the licensing objectives would be adhered to, the police requested that the application be refused; or if granted, it be granted in respect of core hours only. In addition, the police requested that Mr Peshawa Majid should not be present on the premises at any time. CCTV and security personnel would help to mitigate the risk of an empty building.

Simon Boniface from the LBE Noise Nuisance team said people dispersing and entering 40 cars during residents' sleeping hours was not insignificant. This was mainly an industrial and residential area; the premises had not provided a dispersal policy to the noise nuisance team. Mr Boniface requested that the application was not granted or that it was granted only within core hours.

Presentation on behalf of Objectors

The residents made the following points:

- They had grave concerns about parking. If patrons parked two miles away, they may require minicabs to get them to their own cars which could result in noise and traffic congestion.
- The residents had had peace and quiet since the venue had been closed. They don't want to go back to the previous situation.
- The access road to the venue was narrow and parking was an issue in the area.
- Resident's feared for their children being able to get enough sleep.

- The premises management did not appear to have a parking plan and their credibility was in doubt.

Summing up

The parties reiterated their main arguments in the summing up. The agent for the Applicant re-stated the importance of keeping the building in occupation and suggested that the licence could be granted on a six month trial basis. A management plan could be provided to the objectors and responsible authorities in due course.

Ms Magee for the residents said that 114 North Acton Road was now a block of flats with only eight parking spaces, some of which had been allocated to the flats. A short video was shown on behalf of the residents. Residents had no confidence in the management.

DECISION

The sub-committee carefully considered the Application for a new premises licence as set out in the agenda pack and the verbal submissions made by the Applicant's agent, Mr Sajad Al-Hairi and by the Applicant's representative, Mr Majed Salim; together with the written and verbal representations from the Metropolitan Police and the Ealing Council Noise Nuisance/Pollution team (both being Responsible Authorities). There were also written and verbal representations from objectors who were residents in the area and written representations from the ward councillor, Councillor Kate Crawford. The sub-committee took into account Ealing Council's Statement of Licensing Policy, the Home Office Revised Guidance (April 2018) issued under S.182 of the Licensing Act 2003 and the Licensing Act 2003.

The sub-committee's decision was to refuse to grant the licence application.

REASONS FOR THE DECISION

The application is refused for the following reasons:

- The sub-committee did not have sight of a dispersal policy or parking plan;
- There are concerns about noise nuisance that could not be addressed by conditions;
- The sub-committee had no confidence in the management of the premises due to their lack of cooperation with the responsible authorities, and in particular, the police;
- The applicant had a lack of understanding about the Licencing Act 2003 and there was ambiguity about what they were asking for in the application.

The Sub Committee considered the case on its own merits and was satisfied that to refuse the new premises licence application on this occasion was the appropriate way to promote the licensing objectives and address the residents' concerns about noise nuisance and parking.

The applicant via his agent demonstrated a lack of knowledge of the provisions of the Licensing Act with regard to the definition of regulated entertainment, arguing both that a licence was not needed for recorded music before 23:00, and at the same time that there would be no recorded music at all.

Further, the Sub Committee was not satisfied that the applicant's proposals relating to parking (involving a rota for leaving events, parking some distance away and relying upon an as yet unarranged third-party agreement) would address the residents' and responsible authorities' concerns about the nuisance caused by parking and dispersal.

The Sub Committee additionally gave consideration to the evidence put forward by the responsible authorities that, there was still a connection between the previous owner and management of the premises and the current management. The Sub Committee was disappointed that the applicant did not reply to police requests for further information during the application process.

Hence, the Sub Committee was satisfied that to refuse the new premises licence application in its current form was most appropriate for the promotion of the licensing objectives and proportionate for what was intended to be achieved by those objectives.

RIGHT OF APPEAL

The Applicant, licence holder or any person who made relevant representations may appeal against the Sub-Committee's decision. An appeal must be made to the Ealing Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

Date: 11 August 2020