

All minutes are draft until agreed at the next meeting of the committee/panel. To find out the date of the next meeting please check the calendar of events at your local library or online at www.merton.gov.uk/committee.

LICENSING SUB-COMMITTEE

28 MAY 2015

(10.30 am - 1.45 pm)

PRESENT Councillor Linda Taylor (in the Chair),
Councillor Philip Jones, Councillor Linda Taylor and
Councillor Jill West

ALSO PRESENT Paul Iddon – Review Applicant,
Local Residents - David and Jenny Dent
Leigh Terrafranca, WEHRA
Councillor Abdul Latif – Ward Councillor

For Po Na Na:

Andrew Woods, Saadia Ahmad, Lee Nicholson, Peter Chow,
Emma Bigg, Helen Clarke Bell (I Love Wimbledon)

Stephen Beedell - Licensing Officer,
Marc Dubet - Senior Environmental Health Officer
Andrew Pickup - Environmental Health Officer,
Amy Potter - Consultant in Public Health
Guy Bishop - Legal Advisor,
Hilary Gullen- Democratic Services Officer,
Lisa Jewell- Democratic Services Officer

1 APPOINTMENT OF CHAIR (Agenda Item 1)

Councillor Linda Taylor was appointed to the Chair

2 DECLARATIONS OF INTEREST (Agenda Item 2)

No declarations of interest were received

3 PO NA NA SOUK, 82 THE BROADWAY, WIMBLEDON, SW19 1RH (Agenda Item 4)

The notes were agreed accurate, apart from the distance Mr Iddon lives from Po Na Na, which should read as 15m.

The Licensing Officer stated that he was expecting Public Health to withdraw their objection following successful negotiation.

The Chair explained the procedure and that the meeting was recorded.

Mr Iddon presented his submission, including the following points:

His sleep was disturbed by shouting from the roof garden, and the dispersal of people from the Po Na Na and because bass vibrations could be felt. Mr Iddon pointed out that this is not related to volume, and that he could feel his window vibrate, and water in a glass would ripple. Long term exposure to this had not been taken into account, and it was nerve racking. Someone visiting briefly would not notice this, but after a week or so it was perceived.

Mr Iddon expressed concern about the long opening hours to 3.30am, which lead to too much drinking and problems such as shouting, fighting, vomiting, windows being smashed and issues with people urinating in gardens. There were issues with rubbish and vomit on the street. Mr Iddon referred to the Metropolitan Police report with regard to the alcohol related incidents. Mr Iddon asked that the licensing hours be reduced and the roof garden closed at midnight.

Mr Iddon's video clips were shown.

In response to a Panel members' question, Mr Iddon said he had declined to co-operate with sound checks because in order to understand the full effect someone needed to be there for some time, and sometimes the noise was not audible as it was a problem with vibration. It was also a sporadic problem and therefore there was no point in a quick visit.

Amy Potter gave detail on her submission and stated the five conditions which had been agreed.

Marc Dubet read his submission including detail noting the doors opening caused breakout of noise, and that there was strong feeling from residents about this. There had been a visit from his team at midnight on 22nd May, and no noise was heard at the front or rear of the premises.

In response to questions, Marc Dubet confirmed that no noise reading device had been used for this test and that the tester had only been present for a couple of minutes.

In response to a question from a Panel member, Marc Dubet explained that some people have good hearing in the low range and that low frequency sound could cause nuisance.

Mr and Mrs Dent gave further information about the noise caused when the doors open, that people on the roof terrace are very noisy, and that this goes on until 3.30am every night. They felt the noise escalated upwards and there was some 'bouncing' acoustic effect.

Cllr Abdul Latif spoke on behalf of WEHRA, giving details of their submission relating to the loud music, how more police are required to deal with late night opening, and how residents and children are kept awake. Po Na Na had a significant impact on residents, and the issue had been raised in local community forums on a number of occasions. Cllr Latif also spoke about nuisance caused by shouting, fighting and people urinating in gardens.

Leigh Terrafranca, speaking in her role representing WEHRA, noted that Po Na Na had been co-operative and helpful, but gave the problems as in her written submission. Leigh Terrafranca also noted the vomit on pavements, broken glass and blood stains that stayed on the pavement.

Andrew Woods, speaking on behalf of Po Na Na explained they take the matters raised extremely seriously, and how they want to work in partnership with local residents and responsible authorities. He noted the measures they had in place already, and how they operated with high standards. Andrew Woods explained that a further five conditions had been agreed with the Metropolitan Police.

Andrew Woods had asked for a meeting with WEHRA representatives, and with Mr Iddon, but both had been declined. He had also invited Environmental Health to go into the premises for sound testing, but this had not happened.

Andrew Woods noted the premises had been operating to the 3am licence for over 5 years, and that there was a 220 occupancy on the licence.

Andrew Woods said that the fire door was not used to exit customers from the premises and that it was alarmed and not generally used.

In summary he stated his desire to work with the local authority in resolving issues, that the manager was a member of 'Pubwatch', and how they kept up to date with industry initiatives. He also questioned the validity of the video footage, as Po Na Na does not sell take away food, so the litter was not from the premises, and that some residents complaints were generic to the late licences in Wimbledon. Andrew Woods stated that nine additional conditions had been agreed with the police and public health and that these were appropriate and proportionate.

In response to questions, Andrew Woods explained that the readings had been taken at the fence, and that the door could not be locked as it was a fire escape. The steel gate at the end of the alleyway was locked at 10pm and opened when trading ended. Discussion ensued about whether one street warden would be able to control dozens of people, whether the smoking terrace could be regulated by door staff, and about how the back door should never be opened, and how the speakers were isolated with acoustic foam at present.

In summing up, Paul Iddon explained how the noise escapes every time someone enters or exits the premises, and that he wanted taken into account this noise, the rubbish and how the licence should stop at 1am.

In response to a question from a Panel member, the Licensing Officer stated that there is another licensed premises in the area open to 3am and some others to 2am, but there are fewer premises open as the night goes on.

The Panel went into closed session at 12.30pm.

The Legal Officer gave guidance on the Thwaites case, evidence, how the committee needed to ensure their decision was appropriate and proportionate, and general information about changes in the guidance and the Luminar Leisure case.

The Licensing Sub-Committee reconvened at 1.30pm.

Decision

The Licensing Sub-Committee decided to reduce the hours the premises operated and impose further conditions.

Reduction in hours:

The Licensing Sub-Committee decided to reduce the licensing hours on Sundays, Mondays, Tuesdays, Wednesdays and Thursdays to 2am for licensable activities and 2.30am for the premises from 3.00am or 3.30am respectively.

The following conditions were imposed:

Conditions agreed with the Metropolitan Police:

1. An electronic identification scanning device will be used at the premises and customers entering the premises may be asked to produce photographic identification and agree to the identification being used for scanning onto the device.
2. If the electronic scanning device fails, then the device will be replaced within five working days.

3. On Fridays and Saturdays after 22.00pm until closing a street warden shall be employed to monitor the outside of the premises so as to promote the licensing objectives.
4. All staff to receive training on the Licensing Act 2003 and the licensing objectives, on a regular basis.
5. All glasses used for drinking on the premises shall be polycarbonate.

Conditions agreed with Public Health:

1. Drinking water should be made proactively available (i.e. not only on request) in all parts of the premises where alcohol is sold for consumption on the premises.
2. No drinks are to be taken off the premises in open containers (e.g. glasses or open bottles (preventing use of containers as weapons, and to prevent consumption of alcohol in surrounding streets after individuals have left the premises).
3. 'Drinkaware' will be promoted throughout the business website and drinking sensibly and appropriately will feature on any menus and marketing literature.
4. Prominent signage shall be displayed at all exits from the premises, requesting that customers leave quietly

The Licensing Sub-Committee also imposed the following conditions:

- a) That the roof terrace shall close at 11pm on Sundays, Mondays, Tuesdays, Wednesdays and Thursdays, and shall close at 00.00 midnight on Fridays and Saturdays.
- b) That acoustic attenuation measures shall be put in place for the rear fire exit door, to the satisfaction of the Environmental Health Pollution Control Manager.
- c) That the rear door shall be closed, save for emergency exit and egress, and an SIA door supervisor shall regularly monitor that the door is not open and that there are no customers located in the rear alleyway.
- d) The speakers shall be isolated from the structure of the building to the satisfaction of the Environmental Health Pollution Control Manager.
- e) A noise limiter shall be operated on the premises and its settings shall be assessed and approved by the Environmental Health Pollution Control Manager.
- f) That a litter pick and street cleansing shall take place outside the premises on Kings Road and The Broadway on a daily basis.

The Licensing Sub-Committee made the following recommendations:

- It would be preferred that there be two street wardens in attendance, one at the front and one at the rear of the premises between 22.00pm and 02.30am.
- It would be preferred that a zero tolerance approach is taken to anti-social behaviour issues by the street wardens, the aim being to move those loitering on as quickly as possible.
- It would be preferred that the terrace is used for smoking only.
- That the front entrance is managed to prevent loitering and excessive noise, through the SIA door supervisor, street wardens and management.

The reasons for the decision were as follows:

1. The Licensing Sub-Committee considered that there had been noise escape from the roof smoking area, where 50 customers were permitted to smoke and consume alcohol .
2. The Licensing Sub-Committee considered that the rear door was being opened or left open, or was not being fully managed. The Licensing Sub-Committee considered that there was noise escape from the operation of the premises.
3. The Licensing Sub-Committee considered that the Metropolitan Police evidence showed that there had been crimes connected to this particular premises involving 25 allegations between 28th April 2014 to 28th April 2015 including 13 thefts, 10 assaults, 1 affray, and 1 drug related offence.
4. The general and generic evidence provided did indicate that there were problems within the general area that were generating high levels of crime and disorder including those of public nuisance. Those were associated in part with this premises in the sense other premises were closed at the time that those issues were arising, but was evidenced by the Police evidence. It appeared that the premises was becoming or was a destination premises when other premises were closed or closing and that customers and other people loitered outside the premises late at night.

The Licensing Sub-Committee noted that some of the Public Health evidence was indicative of the area and not the actual premises' performance.