

ROYAL BOROUGH OF GREENWICH

LICENSING SUB-COMMITTEE B

WEDNESDAY, 2 NOVEMBER 2016 AT 6.30 PM

MINUTES

PRESENT:

Members:

Councillor Mandy Brinkhurst (Chair), Councillors Don Austen and Barbara Barwick

Officers

Licensing Lead Officer, Senior Prosecutions and Licensing Lawyer and Committee Officer

Item

No.

1 Apologies for Absence

There were no apologies for absence.

2 Urgent Business

There was no urgent business.

3 Declarations of Interest

Resolved –

That the list of Councillors' memberships as Council appointed representatives on outside bodies, joint committees and school governing bodies be noted.

the street that did not necessarily relate to the use of the restaurant. He highlighted that paragraph 6.5 of the report stated that the applicant was not responsible for the behaviour of those who had left the premises. He disagreed with the representations use of the word “fair” as the applicant was legally entitled to modify his licence. He disagreed with the analogy made with the Fish Bar as that was a take away whereas this application was for a restaurant. With regard to the allegations about noise from the ventilation unit he said that did not relate to supply of alcohol and was a planning matter. He commented that the petition letters were not in fact from “many residents” and that one would expect “serious impact on the peace and quiet of the street” to relate to more than someone talking on a mobile phone.

In response to questions from the Sub-Committee the applicant’s representative replied that the applicant would be willing to accept a reduction in hours of licensable activities. He indicated that the company which supplied the ventilation unit had been contacted and they would service the unit soon; he added that the applicant would volunteer a condition to the effect that the unit be serviced at regular intervals.

In response to questions from the Sub-Committee the applicant replied that the ventilation system was new and Council Officers could inspect it at any time. He was not able to give a date as to when the unit would be serviced. He said no one had complained to him about noise from the unit.

The Sub-Committee was addressed by Claire Chamberlain and Terry Saunders. They suggested that there was a public nuisance caused by odour from the premises. They stressed that while the planning condition relating to the ventilation unit was a planning matter, the noise generated from the ventilation unit as a result of licensable activities should be considered. They refuted the suggestion made by the applicant’s representative that their double glazing was insufficient and said the problem was the noise from people in the street. They said it was an otherwise quiet street, but this premises changed the character of the street.

Claire Chamberlain and Terry Saunders stated that they had emailed filmed evidence from 22 September, of an individual going in and out of the restaurant and holding a noisy conversation on their mobile phone, to Committee Services. The Committee Officer advised Members that it had not been received.

In response to questions from the Sub-Committee, Claire Chamberlain and Terry Saunders replied that they had not been aware at the time that the premises had been operating under Temporary Event Notices, and they

regretted not complaining at that time to Noise Pollution Officers. It was stressed that the problem was the noise generated by the premises, whether from the ventilation unit, or from drunken customers when they went out onto the street, it was a hub for noise. They said they were aware that a resident above the premises had complained to the applicant about the noise from the ventilation unit. They were concerned about the premises operating late into the night, and that the noise already experienced from the ventilation unit would cause more problems. That the other premises shut early and this one did not, made a difference to residents. Even if not everyone in the area had made representation they were all affected.

The Sub-Committee was addressed by Agnieszka Wojcik Adanczuk. She complained that the ventilation unit made a lot of noise and disrupted her sleep and caused her stress.

There was a discussion of the matter.

Those making representations raised an issue about late night deliveries. The applicant and his representative stated that deliveries were only made during the day. Claire Chamberlain said they were not official deliveries but made by car.

Claire Chamberlain felt that the applicant had no consideration for residents. The applicant commented that he had a good relationship with the community.

The Chair advised those making representation that planning matters had to be taken up with the planning authority.

All parties, with the exception of the Legal Advisor and Committee Officer, withdrew to allow the Sub-Committee to deliberate at 7.27pm. All parties returned at 8.01pm.

The Chair read out the decision.

In reaching its decision the Sub Committee considered the Council's statement of Licensing Policy, the Licensing Act 2003, the Regulations made there under and the Guidance issued by the Secretary of State under S.182 of that Act. In discharging its functions the Sub Committee did so with a view to promoting the licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

Having considered all the evidence put before it the Sub-Committee

Resolved -

to grant the Premises Licence under the Licensing Act 2003 in respect of the

Chinipan, 15 Old Dover Road, London, SE3 7BT

as follows:

That the hours for licensable activities

the supply of alcohol shall be

Monday – Saturday	12:00 – 22:30
Sunday	12:00 – 22:00

the hours that the premises shall be open to the public shall be:

Monday – Saturday	12:00 – 23:00
Sunday	12:00 – 22:30

The licence is granted subject to the conditions as are consistent with the Operating Schedule and the conditions volunteered by the applicant as set out as follows:

- (1) All staff shall be suitably trained for their job function for the premises. The training shall be written into a programme ongoing and under constant review and shall be made available to a relevant responsible authority when called upon.
- (2) Alcohol shall be supplied as an ancillary to a table meal only. No alcohol shall be sold without the purchaser having also bought a table meal.
- (3) Alcohol shall be supplied to customers by waiter service only. No alcohol may be bought and consumed at the bar.
- (4) A suitable CCTV system shall be installed operated and maintained. It shall incorporate a recording facility and all recordings shall be securely stored for a minimum of 31 days. The system shall be maintained and fully operational throughout the hours that the premises are open for any licensable activity.
- (5) A staff member from the premises who can operate the CCTV system shall be on the premises at all times when the premises are

open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.

- (6) Signage indicating that a CCTV recording system is in operation shall be displayed prominently in the premises.
- (7) Notices shall be displayed stating a zero tolerance policy in relation to illegal drugs.
- (8) Persons shall not be permitted to leave the premises with any beverage.
- (9) A premises daily register shall be kept at the premises. This register shall be maintained and kept for a rolling period of 12 months. The register shall record the name of the person responsible for the premises on each given day. The register shall record all calls made to the premises where there is a complaint made by a resident or neighbour of noise nuisance or antisocial behaviour by persons attending or leaving the premises. The register shall record the details of the caller, the time and date of the call, the time and date of the incident about which the call is made and any actions taken to deal with the call. The register shall be readily available for inspection by an authorised person upon reasonable request.
- (10) An adequate and appropriate supply of first aid equipment and materials shall be available on the premises.
- (11) Prominent, clear notices shall be displayed at all exits requesting that customers respect the needs of local residents and leave the premises and the area quietly.
- (12) Patrons smoking outside the premises shall be monitored regularly to ensure the potential for noise nuisance is controlled.
- (13) The premises' frontage shall be regularly monitored to keep it clean and clear of litter.
- (14) There shall be no children unaccompanied by a responsible adult on the premises after 19:00.
- (15) The Challenge 25/Think 25 proof of age scheme shall be operated at the premises. All customers who appear under the age of 25 will be challenged to prove that they are over 18 when attempting to purchase alcohol. Acceptable forms of ID include a photo

driving licence, passport, or home office approved identity card bearing the holographic 'PASS' mark. If the person seeking alcohol is unable to produce an acceptable form of identification, no sale or supply of alcohol shall be made to or for that person.

- (16) All staff shall be trained in the law about the sale of alcohol. Such training will include challenging every individual who appears to be under 25 years of age and to refuse service where individuals cannot produce acceptable means of identification, acceptable forms of ID and using the refusals register. Such training (including any refresher training) will be logged and provided not less than every six months. The training log will be made available for inspection by Police and "authorised persons"
- (17) A refusals log must be kept at the premises, and made immediately available on request to the police or an "authorised person". The refusals log is to be inspected on a monthly basis by the DPS and noted in the log and a record made in the log of any actions that appear to be needed to protect young people from harm. The log must record all refused sales of alcohol and include the following:
 - (a) the identity of the member of staff who refused the sale;
 - (b) the date and time of the refusal;
 - (c) the alcohol requested and reason for refusal;
 - (d) description of the person refused alcohol
- (18) The following poster shall be displayed conspicuously on the premises in customer facing areas:
 - 'Think 25' or similar poster to advise potential purchasers that suitable proof of age will be required for all purchasers who appear to be under 25.

The licence is granted subject to the Mandatory conditions for sale of alcohol as set out in the Licensing Act 2003 as amended by the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and Order 2014 as set out as follows:

- I. No supply of alcohol may be made under the Premises Licence –
 - (a) At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
 - (b) At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.

2. Every supply of alcohol under the Premises Licence must be made, or authorised by, a person who holds a Personal Licence.
3. -
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5. -
 - (1) The premises licence holder or club premises certificate holder must

ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

6. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

7. -

- (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- (2) For the purposes of the condition set out in paragraph 1 –
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) “permitted price” is the price found by applying the formula:
 $P=D+(D \times V)$; where –
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
- (3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (4) -
- (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
 - (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

The Sub Committee’s decision was based on issues raised concerning the prevention of public nuisance and the protection of children from harm

In reaching their decision the Sub-Committee considered the representations put forward by the Applicant’s representative that no representations had been made by the responsible authorities and that consideration ought to be given to the weight that the Sub-Committee attaches to the residents’ representations.

The Applicant’s representative stated that the representations made no mention of the public nuisance that was being experienced and highlighted that the noise from the ventilator was an issue to be addressed by planning enforcement. The Applicant’s representative was of the view that residents

were not able to make a determination on whether customers to Chinipan were drunk and were not placed to make an assessment as to what was considered a reasonable level of peace and quiet. It was suggested that there may be a problem with the double glazing on the windows of residents Claire Chamberlain and Terry Saunders and the applicant should not be held responsible for this.

In respect of Mr Riley's representation the Applicant accepted the suggested hours for the supply of alcohol after being questioned by the Sub-Committee as to whether these hours would be acceptable.

The Sub-Committee also heard representations from local residents who were concerned about the impact to the licensing objective of prevention of public nuisance in allowing the premises late night refreshments. Evidence was provided in respect of two incidents of drunken loud behaviour directly attributable to Chinipan when it had been granted TENs. An issue mentioned was that of persons coming in and out of the restaurant repeatedly, causing a constant stream of noise which was different to the noise when somebody is passing down the street.

The Sub-Committee in resolving to grant the licence with amended hours for the supply of alcohol and opening hours took into account the representations of local residents in respect of the noise nuisance caused particularly after 23:00 and the acceptance of the applicant to reduce hours in line with Mr Riley's representation. The Sub-Committee were of the view that a suitable drinking up period needed to be included and therefore reduced the supply of alcohol to 22:30 Monday – Saturday and 22:00 Sunday. Opening hours were reduced to 23:00 Monday – Saturday and 22:30 Sunday.

The Sub-Committee were satisfied that the amendment to the hours as set out above were sufficient to enable the licensing objectives to be upheld.

The Chair announced that should the applicant or those making representations be aggrieved by the Council's decision, they had the right to appeal to the Magistrates Court. Such an appeal must be submitted to the Magistrates Court within 21 days of the date from when the appeal period is deemed to have started, which will be stated in the cover email or letter to the Notice of Decision.

The meeting closed at 8.05 pm

Chair
