

Licensing Sub-committee  
19 December 2019

WELWYN HATFIELD COUNCIL

RECORD OF PROCEEDINGS of a hearing by the LICENSING SUB-COMMITTEE of an application for a premises licence by Point One African Restaurant held on Thursday 19 December 2019 at 2.00 pm in the Council Chamber, Campus East, Welwyn Garden City, Herts, AL8 6AE.

PRESENT: Councillors J.Cragg (Chairman)  
H.Bower and C Juggins

OFFICIALS Licencing Officer (K. Payne)  
PRESENT: Principal Litigation Lawyer (A. Byrne)  
Environmental Health Officer (K. Riahi)  
Licensing Technical Officer (N. Tupling)  
Governance Services Officer (Clerk to the Hearing) (G. Paddan)

ALSO J. Moat (Police Licensing Officer, Hertfordshire Constabulary)  
PRESENT: P. Flanagan (Police Sergeant of the Community Safety Unit , Hatfield  
Police Station)

Mr C. O (Licence Holder)  
Mr B. O. (Representative of Mr C. O. Licence Holder)

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11. APPOINTMENT OF CHAIRMAN

Councillor J. Cragg was appointed Chairman of the Sub-Committee.

12. DECLARATIONS OF INTERESTS BY MEMBERS

None.

13. APPLICATION FOR A PREMISES LICENCE FOR POINT ONE AFRICAN RESTAURANT 11-13 THE ARCADE HATFIELD AL10 0JY

Introduction and Procedures

The purpose of the meeting was to consider an application for the grant of a premise licence by Mr O under the Licensing Act 2003.

The application applied for was for a licence to run from grant until 11 November 2026.

The Chairman welcomed those present to the meeting and introduced the Members of the Sub-Committee, the Police and Environment Health Officer and the Officers serving the Sub-Committee, explained the hearings procedure which

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had been adopted by the Council, copies of which had previously been circulated.

The licence holder and his representative confirmed their identity to the Sub-Committee.

#### Documentary Evidence

A copy of the Licensing Officer's report, the premises licence, application for review of the license by the Police and a site location map had previously been circulated.

#### Report of the Licensing Officer

The Licensing Officer presented her report which contained the application for the grant of a licence for Point One African Restaurant. The applicant received from the Applicant under the licensing Act 2003 for a licence to sell alcohol, have late night refreshment and recorded music. The hours applied for were 13.00 – 23.30 Sunday-Wednesday and 13.00 – 03.00 Thursday to Saturday. It was noted that it is a two unit restaurant situated in the town centre previously a coffee shop and then Incognito African restaurant prior to this application.

#### Applicant:

The Applicant accepted that there had been issues with the former owner. The applicant wished to sell alcohol and have music on the premises until 3am. He was willing to work with the Police and adopt proposals that have been suggested by the Environmental Health. He had spoken to the former owner to see what the issues were but unfortunately the previous owner did not co-operate with the Police in relation to crimes that had taken place off the premises.

The applicant would have two security officers on the premises and he confirmed that between the hours 12 midnight – 1am; those customers that leave at 1am would not be allowed to return. There would be CCTV outside the premises. It was highlighted that the previous problems related to the business manager not the business model.

#### There were two representations from responsible authorities:

One from the Police who felt that the application undermined the licensing objectives of Preventing Crime and Disorder and Public Safety. They are not satisfied that the operating schedule demonstrates control measures that would support the licensing objectives. The proposed opening times were not appropriate for the use of a premises as a restaurant or the support of the licensing objectives. Their full concern would be elaborated at the hearing. Representation was attached to the report at Appendix D.

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The second representation was from the Environmental Health due to concerns relating to public nuisance. This included the unsociable opening hours until 03.00, previous problems of noise disturbance under the previous owner. The full representation was attached to the report at Appendix E.

#### Representations by Police

The Police representatives presented the case as per their report and evidence previously circulated. It was noted that the previous licence had been breached consistently and the previous premises licence holder had showed consistent disregard for the licensing objective of the preventions of crime and disorder and the promotion of public safety. Also the previous licence holder had continued to breach the previous premises licence by failing to engage effectively despite contact from Hertfordshire Constabulary; in terms of providing CCTV records, trained staff and displaying suitable signage.

The licence had been revoked in January 2019 following evidence from the Police of serious life changing assaults.

The Sub-Committee noted that the current business model seemed to be exactly the same as the previous one. The Police were not against the premises having a licence for times appropriate to a restaurant up to 11.30pm. The times requested would see the premises operating as a late night bar later into the night including Thursday. It was noted that no restaurants in Hertfordshire operated past 11.30pm.

The Police added that they did not believe that the applicant was suitable for premises to be open late into the evening or a designated premises supervisor, as there was no evidence of any appropriate experience.

There was also inadequate measures shown in the application and no contact with the Police to hold discussions. Insufficient information had been provided on measures to be adopted. The Police were concerned that the previous owner was still involved; also concerned of the true nature of the business to be carried on at the premises. There was no evidence of food being served at the premises when the Police had deliberately walked past the premises on numerous occasions.

The Police had produced two lists of proposed conditions for the Sub-Committee to consider, one for a licence up to 11.30pm and the second for a licence later than 11.30pm.

#### Representation by Environmental Health:

The Officer reported that the main concern was the noise emanating from the premises. It was noted that previously out of hours monitoring had shown that even the door closed the noise could be heard down the arcade. The proposed conditions should deal with the issues that have been raised.

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Committee Questions:

Following questions from the Sub-Committee, it was confirmed that:

That Mr O had signed the lease and would ensure that staff are trained and a SA approved security officer is on site. He also confirmed that he would work with the Police and the Council.

The Sub-Committee felt that the premises was associated with serious crime and disorder. It was felt that the premises was not being run as a restaurant but as a club by the owner.

The Sub-Committee also raised concern regarding the use of the car park by the previous owner/applicant of the premises. It was confirmed that the car park in question was a public car park.

Premises License Holder Representative:

The representative of the premises license holder informed the Sub-Committee that the premises licence holder Mr O was willing to engage with the Police and the business provided for his family. It was confirmed that training would be provided for staff. Those customers that are intoxicated would not be served alcohol. Drink in glasses would not be allowed outside the premises.

The property had been sold and the lease assigned to the current applicant. It was noted that crime was associated with the area and not with African people.

He also added that security guards would be for outside and SIA. Documentation could be provided to show a distinction with the previous owner. That the new business model was that if anyone left the premises for whatever reason they would not be allowed back. He would install and maintain a CCTV system and intend to keep the hard drive for a year.

He further outlined what measures he would put into place for his business.

Determination:

The Sub-Committee then withdrew from the Council Chamber to consider its decision.

1. The Sub-Committee considered an application for the grant of a premises licence to allow the sale and supply of alcohol, late night refreshment and recorded music, hours applied for 13.00 until 23.30 Sunday – Wednesday, 13.00 – 03.00 Thursday to Saturday.
2. The Sub-Committee heard from the Applicant and the representatives from Hertfordshire Constabulary and Environmental Health.

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3. The Sub-Committee considered the contents of the application, the representations by e-mail from Herts Constabulary, report from Environmental Health and the verbal representations by all parties at the meeting.
4. The Sub-Committee considered the licensing objectives of the prevention of crime and disorder, public safety and the prevention of public nuisance, these have all been raised in the representations from Herts Constabulary and Environmental Health. It also considered the national guidance and the Council's Licensing Policy.
5. The Sub-Committee considered the area of the premises, it is located within Hatfield town centre. The Sub-Committee was advised that there are going to be a number of residential properties within the Town centre. The Sub-Committee noted that Environmental Health believe that with proper management of the premises public nuisance should be able to be avoided.
6. The Sub-Committee noted that the incidents occurred when the premises was operated under a different name and prior to Mr O taking over running of the premises. It was noted that there had been serious incidents of assault and violence in the past and that there had been no further issues since January.
7. The Sub-Committee took into account the representation that the previous premises licence had been revoked a year ago (March 2019). However also noted that there had been no recent complaints and that this was prior to Mr O taking over running of the premises.
8. The Sub-Committee took into account fully the risks that the Police had raised. The Sub Committee were extremely concerned about the risks to public safety and of crime within the area.
9. Having regard to all of these matters and seeking to achieve an appropriate balance between the hours sought and the impact it could have, the Sub-Committee had regard to the fact that the intention was to run a restaurant at the premises. In the light of the representations made, and in particular with regard to the history of noise, disturbance and criminal activity the Sub-Committee considered that the application should be granted from 1pm to 11.30 pm Monday to Sunday.
10. The Sub-Committee felt that the concerns raised about the application could be met by the following conditions.
11. The Sub-Committee considered that the above conditions were proportionate and appropriate given the hours granted, the location of the premises, and the representations and objections made.
12. On the above basis the Sub-Committee was prepared to grant the application, mindful of the fact that if any issues arose as a result of the operation of the Premises, residents and responsible authorities would be able to bring a review of the premises licence which would bring the whole licence back before the Sub-Committee.

On returning, the Chairman gave notice of the Sub-Committee's decision that following conditions (listed below) were proportionate and appropriate given the

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hours granted, the location of the premises and the representations and the objections made.

Conditions:

1. The opening hours of the premises 1300hrs to 2330hrs Monday to Sunday.
2. Supply of alcohol 1300hrs to 2300hrs Monday to Sunday allowing 30 minutes drinking up time.
3. Challenge 25 will be adopted in relation to the sale, supply of alcohol.
4. To ensure any advertising in relation to the premises clearly explains that alcohol is only served when consumed with a table meal at all times.
5. No customers will be able to leave the premises with alcohol.
6. A maximum of six customers will be allowed outside the front of the premises at any one time for the purposes of using any appropriately designed smoking area.
7. The sale/supply of alcohol at the premises shall only be by waiter service to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
8. There shall be no admittance to the premises after 2230hrs.
9. The premises will install and maintain a CCTV system. All entry, exit and point of sale areas will be covered by the cameras and the images shall enable frontal identification of every person entering in any light conditions. The system shall continually record whilst the premises is open for licensable activities and during all times when staff and customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stampings. Recordings shall be made available to a Police office, a Police licensing officer or authorised officer of the licensing authority upon request and in any case within 24hrs throughout the preceding 31 day period, providing that such requests are in connection with the prevention or detection of crime.
10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. The staff member shall be able to show a Police officer, Police licensing officer or an authorised officer of the Licensing authority data or footage upon request.
11. The premises shall keep a suitable store of necessary recording media (such as DVDs, SD cards or similar) to enable footage to be recorded from the CCTV system.

The parties present were notified that they may appeal this decision to the magistrates' court within 21 days beginning with the date of the notification of this decision.

Meeting closed 3.45pm  
GP

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