

Licensing Sub-Committee of the Regulatory Committee

9.30 am, Friday, 1 June 2018

Late Hours Catering Licence Application

Item number	6.2
Report number	
Executive/routine	
Council Commitments	
Wards	All

Executive Summary

This report relates to an application for late hours catering hours submitted by the applicant Mrs Rabeye Haque Eva for her premises at 104 St John's Road Edinburgh.

The report was requested by the Licensing Sub Committee following on from an initial hearing on 1 May 2018. The application was continued at this time to allow for a report to be prepared by the Regulatory Services Manager on the six points raised in the objector's letters, and detailing any late licences held by neighbouring properties within 50 metres in either direction of the applicant premises.

Late Hours Catering Licence application – 104 St Johns Road Edinburgh

1. Recommendations

- 1.1 After hearing from the applicant and Council Officers, it is recommended that the Licensing Sub Committee should determine whether or not a licence should be granted to the applicant.

2. Background

- 2.1 This is an application for a late hours catering licence by the applicant Mrs Rabeye Haque Eva for her premises at 104 St John's Road Edinburgh.
- 2.2 This application was submitted following a visit by Council officers who were responding to a complaint about the premises operating beyond 11 pm without a late hours catering licence.
- 2.3 This application was first heard by the Licensing Sub Committee on 1 May 2018 and continued for consideration of the application to a meeting of the Sub-Committee on 1 June 2018. A report by the Regulatory Services Manager was requested, on the six points raised in the objector's letters and details of any late licences held at neighbouring properties (50 metres in either direction).

3. Main report

- 3.1 There are two objectors to this application. Both raised a number of points which have been investigated.

- 3.2 **The commercial business had been operating outwith their advertised and legal trading times**

Following a January 2018 complaint from the objector Ms Paolo Nicosia, an investigation was carried out by Council licensing officers. As part of this investigation officers spoke with the manager of the premises Mr Anor Ali and a Mohammand Akhand, both of whom confirmed that they had been opening after 11 pm and that they were unaware that to do so they would require a Late Hours Catering licence. Following advice that was given, officers carried out a number of spot checks on the premises to ensure they were closed by 11 pm each evening. These checks took place on seven occasions during January, February and March 2018. On each occasion the premises was found not to be trading beyond 11pm.

3.3 A complaint of construction work taking place at night during a refurbishment of the premises.

At the time of his complaint Mr Bertolotto was advised by the investigating officer that, should the problem persist, his tenant Ms Paolo Nicososa should contact the Noise team within the Directorate. There were, however, no further calls received and the case was closed.

3.4 A commercial fan in the premises was causing vibrations. A Statutory Notice had been placed on the fan, however it was still operating.

A Statutory Notice was served on the business on 7th February 2018 due to the ventilation system causing excessive noise. This notice gave the premises four weeks to abate the nuisance. Further visits and noise measurements took place in March 2018 when it was established that there had been a reduction in noise and vibration within Mr Bertolotto's property. However, the reduction was insufficient, meaning that the statutory notice had not been fully complied with. Further works were then carried out, with significant improvements being made to the ventilation system. A noise re-survey was carried out on 25th April 2018 and this confirmed that the noise and vibration issues were now resolved and that the Statutory Notice had now been complied with.

3.5 On a regular basis the applicant placed their commercial bins in the shared walkway of Ms Paolo Nicososa.

This matter was investigated by the Council's Environmental Wardens who found that the premises were reducing the size of their bin so that it could be kept behind a locked gate. As the bins were on private land there was no action that they could take should the applicant decide to leave his bins outwith the locked gate area.

3.6 The commercial business has dumped waste to the rear of the property which the objectors fear may be a hygiene and fire risk.

Ms Paolo Nicososa has been unable to sleep as a result of these actions and has raised her concerns with the Council after receiving comments from individuals associated with the commercial business

The Council's Environment Health Officers visited the premises with respect to Mr Bertolotto's complaint of unhygienic conditions within the premises, the accumulation of waste lying around, and bins blocking exits. The officers found some minor contraventions but nothing that they would consider an imminent risk to food hygiene. In addition, they did not find any large accumulations of waste lying around. In respect to the bins blocking the exits this information was referred to Scottish Fire and Rescue Service for action as appropriate.

3.7 With regards to other licensed premises within 50m in either direction, the following premises were found to be operating on the north side of St Johns Road Edinburgh, that being the same part of the street as the applicant

- The Toby Carvery Pub and Hotel 114-166 St Johns Road Hours Mon-Sun 0900hrs to 0100hrs - ON SALES of liquor and fuel

- The Torphin Pub and Hotel 108 St Johns Road Hours Mon-Sat 0900hrs-0100hrs, Sun 1100hrs-0100hrs
- St Johns Curry Club Restaurant & Takeaway 100 St Johns Road Hours Mon-Sun 1615hrs- 2300hrs

The White Lady Pub and Hotel 92-98 St Johns Road Hours Mon – Sun 0900-0100hrs ON SALES

3.8 The following premises are operating on the south side of St Johns Road, Edinburgh, on the opposite side of the street from the applicant

- The Chicken Club 141A St Johns Road Hours – appears to be trading Mon-Thurs 1200hrs-0000hrs, Fri 1200hrs-0100hrs, Sat 1400hrs-0100hrs, Sun 1400hrs-2300hrs. Matter under investigation as no Late Hours Catering Licence in place.
- Dominos Pizza Takeaway 165 St Johns Road Edinburgh Hours 1100hrs-2300hrs
- Pizza Hut Takeaway 187 St Johns Road - appears to be trading Sun-Thurs 1200hrs-2300hrs Fri-Sat 1200hrs-0000hrs. Matter under investigation as no Late Hours Catering Licence in place

3.9 In the general locus there are four street waste bins being regularly serviced by the Council. Two waste bins on the north side - one outside the Toby Carvery Pub and Hotel beside the bus stop around 114 St Johns Road Edinburgh, and another at 78 St Johns Road Edinburgh. On the other (south) side of St Johns Road Edinburgh there is one bin at the TSB Bank, 163 St Johns Road Edinburgh, and one outside Pizza Hut at 187 St Johns Road Edinburgh.

4 Measures of success

4.1 Not relevant, as decisions on individual registrations have to be considered on their own merits.

5 Financial impact

5.1 None.

6 Risk, policy, compliance and governance impact

6.1 The process outlined takes account of the relevant statutory provisions.

6.2 The applicant has a right of appeal against any decision made. The appeal lies to the Sheriff Court.

7 Equalities impact

7.1 There is no equalities impact arising from the contents of this report.

8 Sustainability impact

8.1 There is no environmental impact arising from the contents of this report.

9 Consultation and engagement

9.1 None.

10 Background reading/external references

10.1 None

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11 Appendices

None