



LICENSING SUB-COMMITTEE

Tuesday 2 January 2018 at 7.00 pm

MINUTES

PRESENT: Councillor Linda Bray, Councillor Paul McGlone and Councillor Liz Atkins

APOLOGIES:

ALSO PRESENT:

1 ELECTION OF CHAIR

MOVED by Councillor Liz Atkins, SECONDED by Councillor Linda Bray

RESOLVED: That Councillor Paul McGlone be elected Chair.

2 DECLARATION OF PECUNIARY INTERESTS

None were declared.

3 MINUTES

RESOLVED: That the minutes of the previous meeting held on 30 November 2017 be approved and signed by the Chair as a correct record of the proceedings.

4 LICENSING APPLICATIONS FOR THE GRANT / REVIEW OF A PREMISES LICENCE

4a PORTUGUESE PASSION, 105 NORWOOD HIGH STREET, LONDON SE27 9JF

Presentation by the Licensing Officer

The Sub-Committee was informed that this was a new application for a premises licence. The Sub-Committee's attention was drawn to Chapters 2, 3, 8, 9, and 15 of the Statutory Guidance, and to Sections 5, 6, 7, 8, 9 and 16 (appendices 4,6, 7, 8, 9, 10, 17) of the Statement of Licensing Policy, as the ones particularly relevant to this application. The options available to the Sub-Committee were set out in paragraph 6.2 of the report on page 23 of the agenda papers.

The Licensing Officer confirmed:

- The application was for the sale of alcohol on Monday-Sunday from 10:00-23:00 and 10:00 to 01:00 for the days of New Year's Eve and Christmas Eve.
- The application had been objected to by three residents, none of whom were present at this meeting.
- The application could be found on pages 24-42 of the agenda papers.
- The layout of the premises could be found on page 43 of the agenda papers.
- Representations from residents and correspondence could be found on pages 45-60 of the agenda papers.
- The list of agreed conditions could be found on pages 129 to 132 of the agenda papers.
- A revised Appendix E had been circulated to all parties, except the applicant who would receive it at this meeting.

In response to questions from Members, the Licensing Officer informed the Sub-Committee that:

- A previous application that had been submitted by the applicant in 2016 was refused by the Sub-Committee at that time.

Presentation by the applicant

The applicant, Mr Ruben Filipe Da Silva and his representative informed the Sub-Committee that:

- The applicant had sought advice from Licensing Officers regarding how to run the premises and had followed any advice given to him.
- The applicant had held 13 temporary events without any issues arising.
- The applicant did not wish to cause nuisance in the area for residents and had reduced the proposed operating hours.
- The applicant had an open door policy. Residents were welcome to go to the premises and engage in meetings with him at least once a month.
- The applicant had been made aware that he needed to consult further with local residents and the applicant would become part of the BCRP.
- Many of the issues in the area related to other licensed premises nearby, namely Scandals and the Sugarbar, which closed late at night.
- Most patrons attending licensed premises in the area would start to arrive at around 00:00.

In response to questions from Members, Mr Da Silva and his representative informed the Sub-Committee that:

- The proposed live music would generally be performed by a member of the Portuguese community. It would not be a professional musician or DJ.
- A sound limiter was in place at the premises which was physically secure in a way that it could not be tampered with by an individual.
- Regular checks had been made to see if the premises emanated any noise

towards local residents in the area and no noise could be heard coming out of the premises.

- The back door of the premises would only be used, after the use of the rear garden would cease for the day, solely for patrons to access the toilets.
- After the use of the rear garden would cease, people would not be allowed to go outside into the rear area unless they needed to use the toilets.
- Full meals would only be served in the restaurant area.
- After 21:00 Sunday-Thursday and 22:00 Friday and Saturday, no patrons would be allowed into the garden unless they needed to use the toilet.
- There was to be no vertical drinking in the garden area.
- People were allowed to smoke in the garden area until 21:00 Sunday-Thursday and 22:00 on Friday and Saturday. After this time, a maximum of four people would be allowed to smoke at the front of the premises only.
- The applicant would agree to a condition whereby no vertical drinking would be allowed in the garden area.
- Condition 33 on page 63 of the agenda papers already outlined that five people would be allowed smoke at the front when the use of the rear garden ceased.
- When the use of the rear garden would cease for the day, the tables located at the front would be brought inside to create a smoking area.
- The applicant had a licence for the use of the front area.
- The temporary events that had been held by the applicant demonstrated his responsibility and capability as a premises licence holder. Patrons would be told when last drinks were being served, there were enough notices in the building informing people to leave quietly and people would also be informed via the speaker system at the premises to leave quietly.
- Patrons were not allowed to leave the premises with drinking vessels.
- The applicant had a security team employed to ensure patrons would be properly dispersed.
- There were two security officers employed at the premises, one at the front and one at the rear of the premises. This was partly to make sure that the back area was not occupied with patrons at times when the area was not meant to be in use.
- It was the responsibility of the management to disperse people down the road.
- A series of random half-hour checks had been made regarding noise emanating from the area in which the premises was located. Any noise heard by residents was most likely coming from the Sugarbar. The residential area was also located closer to the Sugarbar and no noise could be heard from Portuguese Passion.
- The premises had a fireproof door and soundproof windows at the rear.
- The sound levels at the premises were at the correct level.
- The applicant acknowledged that if the application was granted, then it would not be possible to extend hours of licensable activity without submitting another application.
- Local residents had attended the premises when temporary events were held. The applicant would join a residents association / neighbourhood society but if the residents had any issues or wished to meet the applicant, then they would be able to do so.
- The applicant had approached two residents to discuss issues relating to the premises and had given them gifts in an attempt to engage them in friendly consultation. He had also spoken to others and would be happy to have discussions with residents as long as he was given advanced notice.
- The applicant lived in the local area and had spoken to other locals who frequented the area.
- The applicant did not live on the premises.
- The applicant would agree that the wording on proposed condition 11 be changed so that it read “no regulated entertainment shall take place in the rear garden, which is restricted to the lower ground floor”.

- It would be difficult for the applicant to address every single issue each resident had, particularly as the premises was a different type of premises to the Sugarbar and Scandals. The applicant had tried to engage residents and had sent them emails.
- The business was a family run business and its presence in the area would be a positive addition to the community as it was located between the Sugarbar and Scandals but did not operate the same way.
- The premises was not a nightclub. He had amended the initially proposed operating hours so that licensable activity would cease at 23:00.
- The applicant simply wanted to run his business and support his family. He had two children.
- The food served at the premises such as chicken and seafood would not be adequate without wine or beer to complement it.

Adjournment and Decision

At 7.47pm, the Sub-Committee withdrew from the meeting together with the legal adviser and clerk to deliberate in private. The Sub-Committee had heard and considered representations from Mr Da Silva and his representative.

Legal advice was given to the Sub-Committee on the options open to them and the need for any decision to be proportionate. The Sub-Committee decided to grant the application subject to conditions outlined on pages 61-63 of the agenda papers with changes to two conditions.

RESOLVED: To grant the application subject to conditions outlined on pages 61-63 of the agenda papers with two revised conditions.

Revised Conditions:

Condition 11: No regulated entertainment shall take place in the rear garden. Regulated entertainment shall be restricted to the rear lower ground floor.

Condition 16: There shall be no vertical consumption of alcohol to the external front tables & chairs area or in the rear garden.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the application subject to conditions for the following reasons:

The Sub-Committee decided to grant the application subject to conditions consistent with the operating schedule and those otherwise agreed with the Licensing team. Those conditions were set out on pages 61-63 of the agenda papers with the revised conditions outlined above. The Licensing Sub-Committee was satisfied that the imposition of the proposed and agreed conditions with the above amendments addressed the licensing objective engaged and that the grant of this application in these terms was appropriate and proportionate.

5 CONSIDERATION OF OBJECTION TO A TEMPORARY EVENT NOTICE

A meeting of the Licensing Sub-Committee has been convened as a result of an objection raised by the Police regarding a Temporary Event Notices (TENs). Section 105 (2)(a) (of the Licensing Act 2003 [part5]) requires a minimum of two days' notice to be given.

The Chair was of the opinion that although the meeting has not been convened with at least five clear days' notice, it should proceed as a matter of urgency to consider the objections to the TEN because of the special circumstances of the need to comply with the statutory requirements of the Licensing Act 2003.

5a TDA HOUSE, 211 CLAPHAM ROAD, LONDON SW9 0QH (STOCKWELL WARD)

The Licensing Officer informed the Sub-Committee that the Licensing team had been informed that the notice giver had not received the objection and was currently abroad. However, notification regarding the meeting had been sent to the notice giver's representative. The Licensing Officer had also enquired how the notice giver would be able to be present at the event if he was abroad.

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an objection to a temporary event notice. The Sub-Committee's attention was drawn to Chapters 7, 9 and 15 of the Statutory Guidance, and to Sections 5, 6, 8 and 14 of the Statement of Licensing Policy, as the ones particularly relevant to this application. The options available to the Sub-Committee were set out in paragraph 6.2 of the report on page 10 of the additional agenda papers.

The Licensing Officer confirmed:

- The notice had been submitted by Mr Daniel Musse, the premises licence holder.
- This was an event to authorise the sale of alcohol, regulated entertainment and late night refreshment.
- The application could be found from pages 11-19 of the agenda papers.
- The event would take place from 00:00 until 04:00 on 7 January 2018.
- The objection received from the Police could be found on page 21 of the additional agenda papers.
- Paragraph 4.2 on page 9 of the additional agenda papers should read that the "premises had given two TENS in the year 2017" (not "18").

Presentation by the objector

PC Farrelly informed the Sub-Committee that:

- They had received notice regarding the 1 January 2018 and 7 January 2018 TENS.
- The Police wished to obtain further details of the events and sent an email to the premises licence holder on 18 December 2017 asking for further information but had not received a reply.
- It was not clear how people would be kept safe during the event.
- The Police wished to speak to the premises licence holder but as he had not made an effort to respond, the Police felt they had no choice but to object to the TEN.
- The Police visited the premises in early December 2017 and were able to obtain access to the premises easily and roam freely inside. They struggled to locate the management inside the premises.
- When they found a member of premises staff, Police asked about security logs and the staff member did not appear to be aware of them.
- The Police were concerned about the running of the premises.

- The Police had received no assurances from the premises licence holder.

In response to questions from Members, PC Farrelly informed the Sub-Committee that:

- He had spoken to the notice-giver in the summer regarding another temporary event notice that had been submitted and had received assurances regarding the event.
- Sometimes when a TEN was submitted, it would be on behalf of another individual holding an event but this depended on the premises and the business it ran.
- The premises had a premises licence. The only other information received by the Police was that the event would feature refreshments, music and dance.
- There has been recent issues of disorder at the premises.
- Attached to TDA House was another premises called Lucy's First. When disruption occurred in the area, the premises staff from the two premises blamed each other's patrons for the disruption.
- Premises staff from Lucy's First had been engaging and had called Police when there had been incidents of public disorder.
- Patrons from TDA House often tried to get into Lucy's First but sometimes patrons from TDA House would be refused entry.
- When the Police last visited the area in early December 2017, they visited both TDA House and Lucy's First. An incident had occurred whereby security from Lucy's First had informed patrons from TDA House that they were not allowed entry to Lucy's First. When the Police visited TDA House, premises staff there were not aware of the incident having occurred, what a security log was or had any familiarity with a dispersal policy.
- Had the premises licence holder got in touch with Police, then the Police would have asked that the event be held during policy hours or would have sought adequate assurances.
- The email communication from the Police was to the email address submitted in the application form on behalf of the notice giver and the number used to ring premises staff was the number found in the application.

Adjournment and Decision

At 8.18pm, the Sub-Committee withdrew from the meeting together with the legal adviser and clerk to deliberate in private. The Sub-Committee had heard and considered representations from PC Farrelly.

Legal advice was given to the Sub-Committee on the options open to them and the need for any decision to be proportionate. The Sub-Committee decided to issue a counter notice.

RESOLVED: To issue a counter notice.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to issue a counter notice for the following reasons:

The Sub-Committee having considered the evidence submitted by the Police was convinced that permitting the event to take place would undermine the crime and disorder

and public nuisance strands of the licensing objective and therefore the Sub-Committee decided to issue a counter notice so that this event would not take place.

5b THE ROOFTOP, THE ARCHES, STREET RECORD, VALENTIA PLACE, LONDON SW9 8PJ (COLDHARBOUR WARD)

This objection was withdrawn.

The meeting ended at 8:24pm

CHAIR
LICENSING SUB-COMMITTEE
Tuesday 6 February 2018

Date of Despatch: Wednesday 10 January 2018

Contact for Enquiries: Nazyer Choudhury

Tel: 020 7926 0028

Fax: (020) 7926 2361

E-mail: nchoudhury@lambeth.gov.uk

Web: www.lambeth.gov.uk

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