LICENSING SUB-COMMITTEE

Tuesday 25 September 2018 at 7.00 pm

MINUTES

PRESENT: Councillor Fred Cowell, Councillor Jane Edbrooke and Councillor Philip Normal

APOLOGIES:

ALSO PRESENT:

1 ELECTION OF CHAIR

MOVED by Councillor Jane Edbrooke, SECONDED by Councillor Phillip Normal

RESOLVED:

That Councillor Fred Cowell be elected as Chair of the meeting.

2 DECLARATION OF PECUNIARY INTERESTS

None were declared.

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

3a DUMPLIN FACTORY, UNIT 1, 6-12 TULSE HILL, LONDON, SW2 2BD (TULSE HILL)

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a new premises licence. The Sub-Committee’s attention was drawn to chapters 2, 3, 8, 9 and 10 of the Statutory Guidance and Sections 4, 5, 6, 8 and 16 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 10-11 of the agenda papers.

The Licensing Officer confirmed that:

- This was an application for a new premises licence to permit late-night refreshment on Thursday to Saturday from 2300 -0500 hours.
• Representations had been received from 23 residents and the Licensing team.
• Ten residents that had objected to the application were in attendance at the meeting.
• The application could be found on pages 13-23 of the agenda papers.
• The layout of the premises could be found on page 31 of the agenda papers.
• The representations could be found from pages 37-65 of the agenda papers. Redacted copies of representations provided to the applicant could be found on Annex C of the agenda papers.
• The applicant had written to the objectors but they had maintained their objections.
• The applicant had agreed to conditions proposed by the Police. These could be found at Annex D of the agenda papers.
• The applicant had not agreed to reduce or change the hours proposed.

Presentation by the applicant

The applicant, Mr Damian Cardoso Freitas, informed the Sub-Committee that:

• At age 23, this was his first business venture.
• He wanted to create a healthy option for local residents and the general public.
• His target audience were public servants.
• He had been a bus driver for two and half years and found that there was a struggle with rota patterns for bus drivers. This resulted in a lack of healthy food options for the bus drivers. The only food options for them tended to be kebabs and fast food.
• He had read through the objections and had set provisions to prevent issues from occurring at the premises.
• Objectors had raised concerns about parking and parking directly outside premises would not be tolerated. Parking was available across the road and around the corner.
• In relation to the noise issues raised, he had just opened this past Saturday and found that most of the patrons were ordering takeaway, rather than eating on the premises.
• He took pride in the premises and did not want any littering around the area and would pick up litter himself if he observed it.
• Pest control measures will be taken and stock for the premises would be delivered from 10:00 to 11:00.
• A phone number would be made available for residents who observed any issues with the premises.

In response to questions from members, Mr Cardoso Freitas informed the Sub-Committee that:

• The premises would sell dumplings, bagels, smoothies and milkshakes. There
would also be coffee and tea in the near future.

- The food and drink would be kept at edible temperature levels or heated in a microwave.
- He would set up a CCTV system and maintain a logbook.
- He would keep open and organised communications with the Police.
- He had sent a letter to residents apologising for the lack of consultation.
- He had engaged with residents incorrectly and should have contacted them at the initial stages of his application. He had sent a letter to the residents that had objected to try and address their concerns.
- He understood that in planning terms, the premises was entitled to operate within the A1 use class and as such, he was allowed to maintain food at a certain temperature or re-heat food under that class.

At this point in proceedings, the Legal officer advised that planning issues were not relevant to the Licensing Sub-Committee. The questions that were asked by the Sub-Committee were simply to understand the applicant’s intentions in relation to the use of the premises.

In response to questions from members, Mr Cardoso Freitas informed the Sub-Committee that:

- Only staff were allowed in the kitchen area.
- A toilet was allocated to staff members near the kitchen area.
- Food was stored on the shop floor not in the kitchen.
- The premises had a counter cooler, so no food was displayed in the kitchen.
- The food was prepared and sourced from a company (or from his own home) but in the future the food may be sourced from a resident that lived very close to the premises.
- He was aware that one of the conditions restricted the hours of delivery to the premises and if the licence was granted then he would be bound by this condition.
- He was aware that if the premises was running low on food stock at anytime, he would not be able to allow for deliveries to be made at the premises outside of the agreed hours for delivery.
- He had requested a terminal hour of 05:00 as bus drivers had unusual working patterns. Bus drivers worked extensively from Thursday to Saturday and had four days off every three weeks. Drivers often would have to work longer than their official shifts as they would have to drive the bus back to the station and this would take more time. The terminal hour of 05:00 would give drivers more time to buy food.
- He had worked at Stockwell bus garage and the premises was a ten minute drive away from there. The premises would seek its patrons from the Stockwell Bus garage (which had 500 bus drivers) and the Brixton Police Station.
- CCTV would be fully in operation and activities would be logged and recorded.
- He had lived in Brixton and Tulse Hill for 18 years and understood the community and was good at communicating with them.
- If an incident was to occur outside the premises or near the premises then he would attempt to intervene and resolve the issue. However, if it was something that he considered to be out of his control he would contact the Police.

**Presentation from interested parties:**

Mr Ola Owojori, Licensing Manager, informed the Sub-Committee that:

- The hours sought by the applicant were beyond the policy hours.
- No alcohol was being served but the implication of having the premises located in a residential area and nearby other licensed premises could create several issues.
- Patrons leaving the other licensed premises in the area could simply enter at the premises potentially creating nuisance.
- Patrons, whilst waiting to be served and generally inhabiting the area, could cause noise and loud levels of conversation.
- If the business was successful, then this would attract greater levels of patrons leading to greater levels of nuisance.
- Although the applicant had agreed to conditions proposed by the Licensing team, the terminal hour of 05:00 was not suitable for the area.
- The conditions proposed by the Licensing team would be able to mitigate some concerns but could not guarantee that residents would not be disturbed.

In response to questions from members, Mr Owojori informed the Sub-Committee that:

- The policy would allow for licensing activity until 01:00 but he would prefer a terminal hour of 23:00. In this scenario, the applicant would not need a premises licence and residents would not be disturbed.

The Sub-Committee was then addressed by residents. Mr Michael Rybacki informed the Sub-Committee that:

- He hoped that the business would be successful whilst operating normal working hours. Objectors were simply objecting to the extended opening times.
- If the Sub-Committee allowed this application to be granted as sought then they would be in contradiction of the planning regulations set for the premises.
At this point in the proceedings, the Legal Officer advised that the Sub-Committee was guided by the Licensing Act 2003 and that it would be outside of the remit of the Sub-Committee to consider the application of planning law when determining an applications for a premises licence. If the application was successful, then any contravention in planning regulations would be a matter of planning law and for the planning department to enforce.

Mr Rybacki further informed the Sub-Committee that:

- It was unclear how the applicant would be able to intervene in any incidents that took place at the premises if he was busy serving food.
- He was not convinced that the CCTV recorded the visual profile of everybody entering the premises.
- Patrons entering or returning with larger groups of people could feel threatening.
- The application was not suitable to the area.

Mr Theo Devaney informed the Sub-Committee that:

- He supported the previous representation.
- When the entrance way would be blocked by a vehicle, it would be difficult to track down the individual whose vehicle it was in order to ask them to move it.
- The applicant needed to employ an individual to simply manage the behaviour of the patrons.
- He ran a coaching practice from his apartment and his clients were usually people who worked between Monday to Friday. Therefore he would start early on Saturdays and Sundays and if he was unable to sleep due to the noise in the area he may not be able to sleep until 05:00.
- His bedroom window directly overlooked the driveway near the premises.

Mr Mark Mitchison informed the Sub-Committee that:

- He agreed with the previous speakers.
- The issues in the area would become unavoidable due to noise, litter and traffic in the driveway and no precautionary measures could be taken to rectify the situation.
- The majority of the patrons attending the premises late at night consuming alcohol would be less considerate to residents in the area.
- On 15 September 2018, the premises was open past 23:00 with cars blocking the driveway. This could be a sign of things to come if the licence was granted.
Ms Laura Moorcraft informed the Sub-Committee that:

- She respected and admired the applicant's ambition to start a business but the premises should operate hours that were regularly operated by cafes.
- She lived directly above the entrance to the premises and the resulting loitering and antisocial behaviour would have a significant detrimental effect on the area.
- Two years ago, similar issues occurred with another premises which was open beyond 23:00.
- The loitering of people was a concern particularly for female individuals coming home.
- Noise and intoxicated individuals were hard to control.
- The fact that the premises had already held an event where large volume of cars had blocked gates in the area before the licence had even been granted was a cause for concern.

In response to questions from members, Ms Moorcroft, Mr Mitchison, Mr Rybacki, Mr Devaney informed the Sub-Committee that:

- Even the terminal hour of 23:00 was very late for a café. It was possible that if the café only proposed to open until 23:00, then residents would object to this anyway.
- There was a large group of people who were gathered at the event held at the premises on 15 September 2018. In future, there could be a large group of people attending the premises who could become aggressive.
- On Thursdays, Fridays and Saturdays, another premises nearby, the Hootenanny, would operate late into the night and it was attended by many people. Therefore, a new licensed premises would simply cause more people to enter into the area creating further nuisance.

At this point in the proceedings, the Legal officer clarified that according to the council's statement of licensing policy the terminal hour for a premises of the kind applied for by the applicant was 23:00 Monday to Sunday and not as otherwise indicated by Mr Owojori. Furthermore, had the applicant sought hours that were inside these policy hours, then the premises would not by law require a licence.

The applicant was recalled to address matters arising. In response to questions from members, Mr Cardoso Freitas informed the Sub-Committee that:

- The event held on 15 September 2018 was food testing for friends and family members and not for the general public. The premises closed at 23:00 when the event was over.
- The premises was officially opened yesterday.
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 all those who spoke. 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 refuse the application.

RESOLVED: To refuse the application.

Announcement of Decision

The Sub-Committee considered the evidence and the submissions made by all parties and determined to refuse the application. The Sub-Committee stated that this was an application for late night refreshment on Thursdays, Fridays and Saturdays. The premises would be able to operate until 23:00 without a premises licence. The Sub-Committee, having considered the evidence decided to refuse the application. The application was against policy hours, it was located in a residential area, above residential properties and not located in major town centre. It was reasonable that these should premises have a terminal hour of 23:00 Monday to Sunday. If the Sub-Committee was to depart from the policy then it was the responsibility of the applicant to put in place measures in his operating schedule to address concerns regarding public nuisance that might accrue in this residential area particularly given the close proximity of the premises to other licensed premises. The Sub-Committee had to be mindful of the location and the risk of public nuisance partly due to the applicant’s business model as patrons would be arriving in cars from Stockwell bus garage. The Sub-Committee felt the decision to refuse the application in these circumstances was appropriate and proportionate to the application.

3b    STARFOOD RESTAURANT & BAR, 5 BRIXTON STATION ROAD, LONDON, SW9 8PA (COLDHARBOUR)

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a new a premises licence. The Sub-Committee’s attention was drawn to chapters 2, 3, 8, 9 and 10 of the Statutory Guidance and Sections 4, 5, 6, 8 and 16 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 77 of the agenda papers.

The Licensing Officer confirmed:

- This was an application for a new premises licence.
- The application was originally for a terminal hour of 01:00. However, the suggestion of the terminal hour for licensable activity of 00:30 (with half an hour wind up time until 01:00) was proposed by the Licensing team and accepted by the applicant. This could be seen on page 112 of the agenda papers. It was on the basis of this agreement that the Licensing team withdrew their objection.
In response to questions members, the Licensing Officer confirmed:

- The hours sought for the supply of alcohol on and off the premises from Monday to Thursday was 11:00 to 00:00.
- The terminal hour for the supply of alcohol would be 00:30 on Friday and Saturday and 23:00 on Sunday.

At this point in proceedings, the applicant, Ms Esther Bosede Longe, and her representative, Mr Bobby Holder, informed the Sub-Committee that when the application was submitted, the Licensing officer had called the applicant to explain the process and the reason she had agreed to the terminal hour of 00:30 was due to the advice given by the Licensing Officer. The applicant had been informed that she would have difficulty obtaining a licence for a terminal hour of 01:00 and the applicant did not wish to open a premises that would cause issues in the area. There were other premises in the area that were open until 01:00.

Mr Holder informed the Sub-Committee that following further discussion with the applicant, the applicant now felt that the Sub-Committee should determine the application as originally sought with the terminal hour on Friday and Saturday of 01:00. The terminal hour of 01:00 was within the Council’s Licensing policy. Considering that much of the requirements and conditions asked of the applicant had been satisfied, Mr Holder suggested that it was reasonable for the Sub-Committee to consider the application as originally submitted.

The Legal officer informed the meeting that the agenda papers did not include the original representation made by the Licensing team as this had been withdrawn following what was understood to be an agreement to amend the hours. If there was no such agreement Licensing had indicated that their representation stood and should be before the sub-committee. It was the choice of the applicant if they wished for the application to be heard on the basis that the terminal hour for licensable activity on Friday and Saturday was 00:30 or as sought.

The Chair stated that the Sub-Committee would make that decision that if the application was to be heard at this meeting, it would be on the presumption that the terminal hour on Friday and Saturday night for licensable activity would be 00:30. The applicant could always apply for a variation licence at a later date.

The applicant and her representative stated that they were happy for the application to proceed on the basis of the revised application that had been made (that the terminal hour on Friday and Saturday night for licensable activity would be 00:30).

**Presentation by the applicant**

The applicant, Ms Esther Bosede Longe, and her representative, Mr Bobby Holder, informed the Sub-Committee that:
- The premises was not located in residential area.
- The premises was not on an Open Plan premises or a large premises.
- No playing of live or recorded music had been applied for as the premises would only play background music.
- In August 2018, the premises held a temporary event until 02:00 with no complaints or issues occurring. There were no representations made from members of the public against the temporary event.
- The queries raised by Councillor Nye had been addressed. Although the applicant had spoken to Councillor Anyanwu, he did not wish to withdraw his representation.
- The Licensing team were satisfied with the measures taken by applicant.

In response to questions from Members, Ms Bosede Longe and Mr Holder informed the Sub-Committee that:

- The applicant had been primarily involved with food for five years and had worked on celebrity sets.
- The premises seated 24 people and would be one of the only African restaurants in Brixton.
- The food served would include different types of African food. The premises would also serve cocktails.
- In relation to condition 6 on page 119 of the agenda papers, the applicant did not currently have the appropriate licence to seat people at tables and chairs outside the premises. The applicant had been sent the documents by the Licensing team so that she could apply for one.
- The premises had put up notices informing patrons to have respect for residents living in the area.

**Adjournment and Decision**

At 8.21pm, 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 all those who spoke. 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 as sought.

RESOLVED: To grant the application as sought.
Announcement of Decision

The Sub-Committee considered the evidence and the submissions made by all parties and determined to grant the application as sought (with the amendments and conditions set out and already agreed on page 119 to 120 of the agenda papers). The Sub-Committee reiterated that the terminal hour terminal hour for licensable activity on Thursday, Friday and Saturday would be 00:30 as had been agreed with the Licensing team. The Sub-Committee also reiterated that a separate licence would be required for placing chairs and tables outside the premises and a variation application would need to be submitted by the applicant if they wished to vary the hours granted by this Sub-Committee.

3c WINTERVILLE 2018, CLAPHAM COMMEM EVENT SITE, LONG ROAD, LONDON, SW4 0RJ (CLAPHAM TOWN)

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a time limited premises licence. The Sub-Committee’s attention was drawn to chapters 2, 3, 8, 9, 10 and 15 of the Statutory Guidance and Sections 4, 5, 6, 8 and 16 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 125 of the agenda papers.

The Licensing Officer confirmed:

- The application could be found on pages 128-146 of the agenda papers.
- Supporting information could be found from page 157 of the agenda papers.
- The applicant’s proposed conditions could be found on pages 443-446 of the agenda papers.

Mr Simon Taylor, the Legal adviser to the applicant, and Mr Dan Craig, the Event Manager, informed the Sub-Committee that they would like to change the opening hours as seen on page 146 of the agenda papers so that the opening times (between Monday-Friday) would be changed from 11:00 to 10:00 so that the film site could be opened to allow for ticket purchases, ticket collection, bag checks and time for administrative processes. The hours requested on the application had been made in error. In addition, the applicant had already proposed the reduction of the terminal hour for licensable activity as outlined on page 127 of the agenda papers.

The Sub-Committee adjourned at 8:44pm for a short recess and reconvened at 8:45pm.

The Chair stated that the Sub-Committee felt that it was appropriate to consider the application as it was understood by the information on the agenda papers, this being the same information upon which the public was consulted. The Sub-Committee noted that the event would take up a large footprint in a large area across several working days. The applicant could proceed with the hearing and later apply for a variation to the licence (if the application was granted) or withdraw the application.

Mr Taylor and Mr Craig decided to proceed with the application as set out in the papers.
Presentation by the applicant

Mr Simon Taylor, the Legal adviser to the applicant, and Mr Dan Craig, the Event Manager, informed the Sub-Committee that:

- The event was a family focused event.
- This was the second year in which the event it was being held and the event was successful in 2017.
- During the debrief in March 2018, the event was described as successful. The Licensing Officer may have been in attendance at the event.
- A list of improvements had been incorporated into the plan. The area would have an improved site layout, a reduction of footprint, better ground protection, arrangements for dealing with water discharge and high quality noise management.
- Noise monitoring positions would be made permanent. There would not be anybody going out measuring noise with a hand held noise meter.
- The applicant had a high quality security provider.
- Recorded levels of crime during the 2017 event were low. In 2017, over 38 days in which the event was held, the Police were called on three occasions. One was for a burglary and the other two were for minor altercations (where no arrests were made). In that period, the event had 180,000 visits from members of the public.
- No responsible authorities had submitted a representation against the application.
- The application contained an Event Management Plan which had to be approved by the Safety Advisory Group (SAG) (as per page 443 in the agenda papers - conditions 1 and 2).
- Condition 8 regarding antisocial behaviour contained a proposal as to how the event would deal with antisocial behaviour and how security would be sent to areas, including areas away from where the event was located so that any issues would be dealt with.
- Condition 10 addressed the alcohol management plan, condition 25 addressed noise management and lighting was addressed in condition 31.
- The Challenge 25 policy was present in condition 36.
- Any concerns that had been raised had been dealt with by the conditions proposed.
- A SAG meeting had been held on 6 March 2018 and one was scheduled for November 2018. This would be the final planning meeting and would include a table top display.
- There had been consultation with the community and about good management of the event. There were elements of control to which the applicant would pay particular attention. The first was that the applicant was to meet the requirements of the premises licence; the second was maintaining a strong planning process which had broader implications on the licensing objectives. It should be noted that the land owners could make whatever provisions they
thought were required.

- The applicant hoped that the conditions, the reduction of the terminal hour and the applicant's commitment to the licensing objectives would address any concerns raised.

In response to questions from Members, Mr Taylor and Mr Craig informed the Sub-Committee that:

- A low number of residents had complained during last year’s event. A total of five complaints had been received; two had been received by the event itself and three have been received by the Council. This was low for a 38 day event.

- There would be key management controls on the site including the installation of permanent noise monitoring locations during the operational period prior to the start of the event. This would give the applicant a better understanding of any noise impact.

- The constant feed of information would allow the applicant to monitor the data and share the information with interested parties so that they could review it.

- There would also be better information sharing, particularly the sharing of data which may be considered sensitive.

- The sound system, the venues and the measures taken by the applicant would be similar to last year and the operation would be a safe and secure event.

- The noise complaints procedure involved a pro forma allowing the applicant to identify what the issue was and from where it may be originating. Through the use of a duty event manager, efforts would be made to identify any issues with noise. Further investigation would be conducted on any matters arising including talking directly to the individual who had raised the complaint.

- The event staff would have good working relations with the Council and would share any areas of mitigation that they thought was appropriate.

- The applicant did not wish to disturb residents.

- Consideration to the controlled impact zone, which was close to the area, had been given by the applicant before the event was held in 2017. Last year’s event did not appear to have any negative impact on the controlled impact zone. No concerns were raised from the Licensing team, Trading Standards, Police or any other statutory authority. The controlled impact zone had been properly considered.

- The noise management and the delivery of the plan would be at the same high standard it was last year.

- The applicant wanted to have a good relationship with neighbours to the area.

- There was an ongoing discussion with the Council for a Waste Management Plan and the applicant took their responsibilities seriously with regard to responding to any antisocial behaviour.

- The pro forma could be found on page 260 and details of noise issues could be found on page 255 of the agenda papers.
Presentation from interested parties

Ms Anna Jefferson Smith, resident, informed the Sub-Committee that:

- Clapham Common was not technically located in the Clapham Town ward.
- Clapham Common was owned by London borough of Lambeth.
- A detailed response had been made to Marcus Weedon who had said that the 2017 event had been well received by the local community but the current planning application had received 200 objections. The details of these comments had been omitted from some of the planning papers.
- More detail should have been included about the Street Feast. The food and beverages on offer at the event appeared to be from the Street Feast range.
- If the event occupied maximum capacity of five thousand people, then they could take over a substantial part of Clapham Common.
- In the past there had been one occasion when Nando's wanted to hold a party on Clapham Common and members of the public did not get free access as sometimes these events would only be held for an exclusive group of people.
- There had been a Street Feast event held in Haringey amongst others boroughs.
- Street Feast was transforming the capital's landscape by taking derelict places and turning them into vibrant street food areas.
- The event in its entirety was likely to be devoted to food.

In response to questions from Members, Ms Jefferson Smith informed the Sub-Committee that:

- When she had attended the event last year, she went in the late afternoon and nobody was there. It was drab, cold and very unattractive and the man at the door apologised about looking in her handbag. She was the only person in the queue.
- The issues relating to food and drink could lead to more rowdy behaviour particularly given the capacity of the event.

The applicant was recalled to address matters arising. In response to questions from Members, Mr Taylor and Mr Craig informed the Sub-Committee that:

- The activities proposed by the applicant were similar to the activities that took place last year.
The premises would operate like any other licensed premises (such as a pub that could make an upstairs room available for a private party).

The event would consist of a wide range of different activities. For example, a certain tent would be heavily used over the weekend for musical performances, but on a Tuesday night the applicant would be able to accommodate the tent for a private reception before Christmas.

The event in general had been held last year and without any issues and any possible issues would be mitigated by the Events Management Plan.

Security and other resources would be adequate for the event being held this year and had been increased where appropriate.

There was no intention to hire the site to use it for private hire.

The website would sell tickets for up to five thousand people. If a firm of lawyers wished to attend a session of the ice skating event, this would not affect the public in general.

Adjournment and Decision
At 9.23pm, 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 all those who spoke. 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 as sought.

RESOLVED: To grant the application as sought.

Announcement of Decision
The Sub-Committee considered the evidence and the submissions made by all parties and determined to grant the application as sought. The Sub-Committee considered all arguments and had read the representations made regarding the application. The Sub-Committee decided it was appropriate and proportionate to grant the application (subject to all the conditions and amendments that had already been agreed). The Sub-Committee hoped the event showed similar levels of responsibility as it had done previously but wanted to stress that major concern that had been raised regarding antisocial behaviour. The Sub-Committee wanted to remind the applicant about these concerns which had been expressed and the need to address them.

The meeting ended at 9:32pm
The action column is for officers' use only and does not form a part of the formal record.