

LICENSING SUB-COMMITTEE MINUTES

**Tuesday 17 November 2020 at 7.00 pm
Microsoft Teams**

Present: Councillor Martin Tiedemann, Councillor Emma Nye and Councillor Irfan Mohammed

Apologies:

1 ELECTION OF CHAIR

MOVED by Councillor Martin Tiedemann, SECONDED by Councillor Irfan Mohammed
RESOLVED: That Councillor Emma Nye be elected as Chair for the meeting.

2 DECLARATION OF PECUNIARY INTERESTS

None were declared.

3 MINUTES

RESOLVED: That the minutes of the previous meeting held on 12 October 2020 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 FU MANCHU, ARCH 635, 15-16 LENDAL TERRACE, LONDON, SW4 7UX (LARKAHALL)

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, 10 and 16 of the Statutory Guidance, and to Chapter 5 (policies 1, 3, 4 and 8) 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 26 of the agenda papers.

The Licensing Officer confirmed:

- This was an application for a premises licence under section 17 of the Licensing Act 2003.
- The application was submitted on 17 September 2020 on behalf of the applicant, Mr Ashley Letchford.
- The application was for the licensable activities of films, live music, recorded music, late night refreshment and the sale of alcohol. These activities were proposed to be provided at various times which can be seen within the report at pages 23 and 24 of the agenda papers.
- The premises had previously held a licence. However, this licence lapsed on 5 August 2020 due to the business going into liquidation.
- The premises was located within the cumulative impact zone as identified within the Council's Statement of Licensing Policy.
- The application received four representations, three of which were against the application from the Police, the Licensing Authority and a member of the public and one was in support of the application.
- The Licensing Authority proposed conditions on the licence on 6 November 2020.
- The applicant responded on 11 November 2020 with a revised version of the proposed conditions, a dispersal policy and a statement from the applicant, which proposed an amendment to the terminal hour on Monday, Tuesday and Wednesday to 23:00 (instead of 00:00 as applied for). This could be found in the additional agenda papers.
- The applicant had also provided a supporting letter from UK Hospitality dated 16 November 2020.
- All of the additional documentation has been circulated to the Sub-Committee and interested parties.

Presentation by the applicant

The applicant, Mr Ashley Letchford and his representative Mr Michael Bromley-Martin informed the Sub-Committee that:

- This was not a new licence application in the strict meaning of the expression.
- The premises had operated since 2015 without complaint.
- The premises licence had lapsed due to the insolvency of the company caused by the coronavirus crises.
- The premises licence could have been transferred within 28 days of the date of the lapse without any need for a new application. However, the administrators had failed to flag up the need for a transfer of the premises licence and the lapse had taken effect, which was why the application was submitted.
- The applicant had submitted an application which was identical to the previous licence held by the applicant.
- The conditions would be the same as the lapsed licence with some minor modifications.
- The application had conditions which had been agreed with the Licensing Authority found on page 10 of the additional agenda papers.
- There would be no increased cumulative impact in the area as a result of the

application being granted.

- The terminal hour for licensable activity on Mondays - Wednesdays had been reduced to 23:00. The terminal hour for licensable activity for Sunday had been reduced to 00:00.
- The updated conditions had been agreed between the Licensing Manager and one of the applicant's representatives.
- Three representations had been made against the application. This included the Police, the Licensing Authority and Ms Waveney Larrier, a resident. The first two representations dealt with policy issues and made references to two different complaints. This included a complaint made about noise resulting from music in February 2019. This issue was fully resolved and this had been included in the representations. The other complaint related to noise made by patrons and had been made regarding events held during the Christmas and New Year period. This matter had been apparently resolved.
- The premises had held several temporary events since and had not had any complaints.
- The premises generally operated without any difficulty whatsoever.
- With regard to the representation made by Ms Waveney Larrier, premises staff simply did not recognise the issues which had been raised in her representation. The only complaints that had been made about the premises in its five to six years of operation were the ones he had referred to above.
- The representation made by Ms Waveney Larrier had not been recognised or supported by other residents living in the area.
- A fourth representation had been made by Clapham BID could be found on page 51 of the additional papers. Paragraph six of the submission stated that "in the last 6 years of running the Clapham BID and managing a warden service I do not recall a single incident on a Friday and Saturday night that required wardens to assist the venue, nor have the Clapham BID wardens reported any concerns to me about any aspect of the venue and how it is managed" .
- On page 16 of the additional agenda papers, a letter from UK Hospitality had been submitted in support of the application. UK Hospitality was a national industry body.
- In relation to policy 7 of the Statement of Licensing Policy, paragraph 13.4 created a rebuttal presumption that applications for new premises licences should be refused unless the applicant demonstrated that the granting of the licence would not impact the licensing objectives. The applicant felt that the licence would enhance the licensing objectives in comparison to the previous premises licence and would not impact the licensing objectives adversely.
- The license that had been applied for by the applicant sought licensable activities at reduced hours in comparison to the previous licence. The policy had stated that the guideline of presumption against grant was not to be taken as an absolute matter of course as there would always be exceptional circumstances whereby the policy guidelines could not be followed exactly.
- Other licensing authorities, such as the City of Westminster, held the view that one such exceptional circumstance would be if a licence was to lapse as a result of insolvency caused by administrative errors or issues with the administrative processes for licence holders.
- The application was not a breach of the cumulative impact zone and was an obvious

exception to the Licensing Policy.

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

- When the licence was first granted in 2015, the applicant sent out two consultation letters - one in 2015 and one in 2016 - to all local residents and business giving them his contact details and asking people to contact him regarding any complaints and concerns about the operation of the premises. The applicant never received a complaint in writing from Ms Larrier until she had submitted her representation regarding the application.
- Although the applicant was familiar with Ms Larrier and had spoken to her previously, he was unable to maintain a relationship with her or understand her concerns.
- Some concerns had been raised as a result of incidents during February 2019 from Mr Mick Bond who wrote to the applicant in accordance with the invitation and the matter was recognised as a problem. Works were undertaken at some cost to the applicant and the matter was resolved as clarified in the applicant's statement. This was the way the applicant dealt with concerns regarding his business. The applicant had had not received such a correspondence from Ms Larrier.
- Ms Larrier had the applicant's number and had spoken to the applicant a couple of times. The applicant valued his premises licence and did not wish to be in a position where the security of his licence could come under difficulty. It was important for the applicant that residents in the area were kept happy and that was why he had sent out engagement letters complete with his details.
- The applicant had sent out a letter to residents informing them to attend a meeting where refreshments would be provided to them and residents could discuss any issues they had. Residents attended the meeting and any issues they had were discussed and resolved. There had not been much contact with residents since that time as the proactive measures taken by the applicant had helped resolve any potentially problematic situations.
- Many of the residents living in the area were long-term residents and the applicant had been familiar with them for a lengthy period of time. Ms Larrier was one of the residents with whom it was difficult to maintain a relationship. On one occasion, he had offered to purchase blinds for her home as she had complained about some of the lighting emanating from the premises, but she had not responded to the offer.
- The applicant had been an operator of licensed premises for 22 years and he had a good rapport with the residents in the area generally.
- The applicant was always proactive with regard to engaging with residents but this required mutual co-operation.
- It was possible that bottles were being thrown into the bins at 04:00, but the best way to deal with this would be to inform the applicant so that the situation could be resolved.
- The applicant would not simply dismiss concerns that had been put to him as he had been an operator for 22 years and had seen other premises lose their licenses. He

protected his licences as best he could and had always received positive comments from the Chair of the Clapham Society, Councillor Hasledon and from the London Borough of Hammersmith and Fulham.

- On one occasion, the applicant had received a complaint regarding noise and had attended the resident's bedroom to install soundproof windows, costing approximately £3,000. Upon having completed this task, the Public Protection Officer who had originally received the complaint had said that he was satisfied that the issue had been resolved.
- It was possible that Ms Larrier simply needed her windows to be insulated and he was happy to install insulated windows in her home on her behalf.
- In relation to a reported incident regarding 20 males brawling near the premises, the patrons attending the premises did not engage in brawling. If a patron was to attend the premises and order a drink, they would find that the prices were expensive and that the premises sold premium products. There were other licensed premises in the area that did not sell alcohol at premium rates.
- The noise issue that had been raised at the premises had been resolved. It may be possible that the resolution of the incident had not been entered into the Council's records.
- The premises did not allow people to leave with glassware. However, there were other licensed premises in the area that did allow this.
- Approximately 30 minutes before the premises was about to close, patrons would be stopped from entering the premises and those exiting the premises would be led into Bedford Road. The premises only had one exit and once patrons were away from the premises, the staff would have completed their task.
- There was a point between Lendal Terrace and Bedford Road where patrons would be led into and this would be considered the point at which premises staff had generally completed their dispersal duty.
- The premises would not disperse all patrons at exactly 03:00 and had a staggered dispersal policy. This had worked well on all of the premises that had been managed by the applicant in the past.
- Intoxicated people were not allowed into the premises. The Pubwatch meetings seemed to have ended and the applicant would be happy to assist in reinstating those meetings as he felt that they were constructive.
- In relation to dispersing patrons, there were elements of the public area that were helpful in doing this such as patrons getting a taxi in Bedford Road and the Underground's Northern Line which could be used on a 24-hour basis.
- The premises were not the cause of the drug-taking or antisocial behaviour issues that were common in the area.
- A letter had been submitted from Clapham BID as it set out the cooperation levels between licensed premises in the area, including the corporation that had been experienced with the applicant.
- The applicant would be agreeable to joining the Business Crime Reduction Partnership programme and for this to be added as a condition to the licence.
- The off sales of alcohol was not something that was common to the business and the applicant felt that it was best restricted to Deliveroo based orders.

- The business used Deliveroo in the past.
- If the terminal hour for licensable activity for Friday and Saturday nights at 03:00 was such an issue, then the licence held by the premises previously would have attracted a host of complaints including those from the Police and there would have been much discussion between the applicant and the Licensing Authority. However, there had not been any. He had never met the Licensing Manager and when the applicant had bought the business in 2015, the premises came with a licence which had extensive hours for licensable activity and low rates of rent.
- The days whereby the hours for licensable activity had been sought for 03:00 was partly due to the fact that the previous licence had held the same hours.
- The business model of the premises required a licence to operate to the hours sought by the applicant. The operation of the premises would not be viable without the hours as sought on Friday and Saturday and therefore it was important that the Sub-Committee granted those hours as sought on the application.
- In relation to the viability of the premises, it was important that the Sub-Committee did not get the impression that the premises had such a borderline viability level that the applicant may be tempted to breach conditions.
- The premises had been a successful business due to the late terminal hours of 03:00 on Friday and Saturday nights. The viability of the business would be seriously affected if it was unable to operate those hours.
- The premises had been successful (until the coronavirus crisis) and had contributed well to the night-time economy for the Clapham area.
- It was also important to note that many of the agreed conditions had originally been put forward by the Licensing Authority.
- A considerable amount of thought had been put into the proposed conditions and the applicant had a good record of running many licensed premises.
- The applicant was a hospitality expert and took the running of licensed premises very seriously. He wanted to run the premises in a legitimate manner.
- The application included the sale of alcohol from 08:00 as this had originally been part of the previous licence. However, the applicant was happy to concede to the sale of alcohol at a later time if the Sub-Committee felt it was appropriate. The premises did not usually sell alcohol at 08:00.

Presentation by interested parties

Ms Waveney Larrier, resident, informed the Sub-Committee that:

- She had been a Lambeth resident for 53 years and a resident of the area for 39 years.
- The premises had been run by several operators, but none had caused as many noise nuisance and issues since the premises was run by the applicant.
- She did not have any personal issues with the applicant.
- She found it inappropriate to have a licensed premises near a residential dwelling.
- The premises was situated on a small one-way road which hosted 11 homes.
- Granting a licence would encourage loitering, noise, antisocial behaviour and

littering.

- The music from the premises was disturbing and also the door leading to the smoking area was meant to be closed at all times, this has not been the case as noise often escaped from the premises as patrons entered and exited the smoking area.
- The area often had a lot of noise, talking, shouting and singing.
- There was never any intervention from staff, security or the premises licence holder.
- Patrons often made their way over to the side of the road to talk on their mobile phones.
- People could be seen sitting on window ledges, wheely bins would be pushed over and people could be observed urinating and vomiting on the road.
- Patrons of the premises often sat on parked cars and blocked roads when they were getting out of cabs. This would cause horns to be pressed and arguments to be had.
- The road in the area was already generally blocked as a result of the Low Traffic Neighbourhood scheme.
- The area was generally busier with constant traffic and if the premises was to re-open, then there would be quite a lot of noise from vehicles.
- Whenever specific 'urban' events were held, then noise levels would increase to higher levels.
- Premises staff would generally not take any action against loud music, loitering and generally abrasive behaviour.

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

- She had only been invited to one meeting. When the applicant had engaged with residents in a consultation, she had brought up the issues about bottles being emptied late at night creating noise. The applicant had stated that the issue would be addressed but it never was and the situation continued to persist.
- The only residents with which the applicant had engaged were those residents situated at the back of the premises, not the residents directly in front of the premises.
- The area was not suitable for a club.
- She stopped engaging with the applicant because she found him very patronising. It was part of the reason why she never accepted the offer he had made regarding changes that he could make to her home.
- Her home generally received most of the noise from the premises.
- Previous premises licence holders were very accommodating and would knock on her door and talk to her to check that she was not having any trouble with the licensable activities.
- The applicant was not usually present at the premises most of the time.
- She had not objected to previous premises licence holders as she had not seen the

applications for those licence holders.

- The area was generally not conducive to a licensed premises in general.
- A terminal hour of 03:00 was too late for a club to be open.
- She was a manager for a borough council and worked on call. She needed to be alert to be able to deal with inquiries and often was unable to get to bed until about 04:00 or 05:00.
- An acceptable terminal hour would be 00:00 as patrons would still be out until 01:00 or 02:00.
- When the premises closed, security guards would disappear within 10 minutes of the closing time, leaving her to clean vomit off of her doorstep. She had been putting up with this for years and since the premises had closed, she had found a considerable amount of peace.
- Another licensed premises, The Falcon, had on one occasion held an event which had created noise issues. She had complained about this and the issue had been dealt with. She never had any trouble with The Falcon after that incident.
- She was able to determine that the noise was emanating from the premises itself as she was able to see it out of her window. As she lived alone, it was easy for her to be able to hear any noise from nearby the outside area.

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

- He felt that the application should be treated as a new premises licence application.
- The applicant had submitted additional documents including a list of conditions, a dispersal policy and some supporting letters regarding the application. This included a letter from UK Hospitality. However, it was expected that UK Hospitality would support the application as it was likely that they were unlikely to be aware of the specifics of the application and its impact in the area regarding noise nuisance.
- The applicant had also offered to reduce the operating hours between Monday to Wednesday, but he would like it to be reduced for the entire week in line with the Licensing Policy so that there would not be a cumulative impact in the area.
- The terminal hour for licensable activity according to the policy for the premises was 01:00 on Friday and Saturday.
- In relation to residents' complaints, the applicant had stated that he had a dispersal policy but the specific strategy in place to control noise was only to display notices. It was unlikely that most patrons read the notices and simply ignored them.
- The conditions provided by the applicant would promote the licensing objectives but there were conditions on the licence regarding the noise limiter and yet there had been issues regarding noise emanating from the premises and rowdy behaviour on the pavement nearby.
- The applicant had stated that some of the complaints regarding noise nuisance did not involve the premises, but other licensed premises. However, the premises was the only licensed premises on the street it was located. If the noise nuisance was not due to the activities of the premises, then it was not clear which other licensed premises could be responsible for the noise nuisance.

- It was possible that dispersal could take up to an hour and therefore the premises would finish its activities in total by 04:00 if the licence was granted, which was significantly late for a premises located near a residential area.
- The premises was located in a cumulative impact zone and the applicants had not demonstrated as to why the premises should be considered an exception to the Licensing Policy.

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

- The Sub-Committee could put forward conditions but these would only help to mitigate some of the impact that may be caused by the operation of the premises and not necessarily make the issues in the area disappear.
- The only conditions that could generally be put forward were to ask patrons to control themselves and for premises staff to inform patrons to be quiet when leaving the premises.
- The complaint that had been received by the Council, which referred to noise nuisance, had been resolved via a Public Protection Officer who had attended the premises and ensured that the sound limiter had been working.
- The issue which had been stated on page 67 of the agenda papers had not been responded to by the applicant. He had stated that he had not been aware of the issue.
- Residents were the best source of information to provide insight as to what went on in the area in which they lived.
- The incident involving a fight with 20 male individuals was typical of the Clapham area in general, but these sorts of issues usually happened on the High Street and could involve patrons from any premises.

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

- The Sub-Committee was aware of the circumstances under which the application had arisen and should accept those reasons as to why the application should be considered an exception to the Licensing Policy.
- The premises had operated between five to six years in a cumulative impact zone and there were only two recorded complaints against the premises. One of them was on 1 February 2019, which was a complaint about noise levels resulting from music and this was resolved to everybody's satisfaction, in particular Public Protection. The other complaint was the one registered on 4 January 2020 which could not be substantiated as an incident originating from patrons of the premises. The complaint had never been referred to the applicant or the premises staff and no opportunity had been given to them to investigate it. It was also not clear if a disturbance had been caused.

- The premises had an excellent record of being run until 03:00 on Fridays and Saturdays.
- The applicant had extensive experience in managing his other premises in Hammersmith and Fulham without complaint.
- Licensing was unable to provide any reason as to why the applicant should not be re-awarded the same operating hours he had previously.
- There were Licensing Sub-Committees being held across the country discussing insolvency issues brought about by the coronavirus crisis and this was generally considered an exceptional circumstance. It was surprising to hear Licensing say that the issue was not an exception.

At this point in the proceedings, in response to a question from the Sub-Committee, Mr Owojori informed the Sub-Committee that the Licensing Policy did not outline particular circumstances of exception. It was up to the applicant to demonstrate an exception to the Licensing Policy and the Sub-Committee may feel that a closing time of 03:00 was no longer a suitable closing time for the premises due to where it was located.

In response to further questions from Members, Mr Letchford and Mr Bromley-Martin informed the Sub-Committee that:

- The smoking area was limited to 10 people and the barriers in the outside area were dismantled and placed on the right-hand side with the patrons then being ‘funnelled’ into Bedford Road.
- The applicant would be more than happy to address noise issues experienced by Ms Larrier by installing insulated windows into her home as a gesture of goodwill.
- No complaint had previously been made by Ms Larrier before the representation she had submitted as part of the application. No dates had been provided as to when she had experienced any noise nuisance issues and the Public Protection team had not made any representations against the application.
- The dispersal policy submitted by the applicant was applied to the premises and was effective.
- The applicant felt that there was always a solution to any issue and was also happy to address any issues regarding the disposal of bottles into bins.
- The applicant was willing to have a discussion to resolve any issues generally.
- The applicant was willing to accept a condition that there would be no emptying of bottle banks between 23:00–08:00.
- If the Sub-Committee were to amend the hours sought on Friday and Saturday to 01:00, the applicant would hand the premises keys back to the landlord.
- Although Time Out magazine had described the premises as ‘brawling’ as a metaphor, it had not occurred to the applicant previously that the description of the premises could be misconstrued to mean something more literal. This was therefore an inappropriate and unacceptable way to describe the premises and the applicant would have this description removed as soon as possible.
- The applicant was usually present at the premises during the weekends. He had even spoken to one of the Public Protection officers when the officer had attended

the premises to monitor it.

- Due to the ongoing coronavirus crisis, the applicant has had to become more 'hands-on' with premises that he was managing to allow the businesses to work.
- He was happy to meet with Ms Larrier on a regular basis and set up formal meetings to ensure that any issues that she had were resolved.

Adjournment and Decision

At 8:33pm, the Sub-Committee withdrew from the meeting together with the Legal Advisor 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 licence subject to conditions and amendments.

RESOLVED: To grant the licence subject to conditions and amendments.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the licence subject to conditions and amendments.

The Sub-Committee noted some of the difficult issues that had arisen at the meeting and resolved to grant the licence with the agreed conditions and additional conditions which the Sub-Committee would impose. The applicant would work with the Business Crime Reduction Plan, bottles would be emptied at reasonable hours, and SIA staff would be instructed to ensure patrons left quietly, in case patrons did not notice the signage put up at the premises. SIA staff would also stop any congregation of patrons outside the premises. Off-sales of alcohol would be removed from the premises licence. The specific wording of the conditions and full written reasons would follow in due course. The Sub-Committee would encourage Ms Larrier to work with the applicant. If she continued to experience any difficulty, then she could contact her ward councillors.

The meeting ended at 9:03pm.

CHAIR
LICENSING SUB-COMMITTEE
Friday 27 November 2020

Date of Despatch: Wednesday 25 November 2020

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