

LICENSING SUB-COMMITTEE MINUTES

Thursday 13 January 2022 at 7.00 pm

Members Present: Councillor Fred Cowell, Councillor Martin Tiedemann, Councillor Irfan Mohammed and Councillor Timothy Windle (Substitute)

1 Election of Chair

MOVED by Councillor Irfan Mohammed, SECONDED by Councillor Tim Windle

RESOLVED: That Councillor Fred Cowell be elected Chair for the meeting.

2 Declaration of Pecuniary Interests

There were none.

3 Licensing Applications for the Grant / Review of a Premises Licence

3a EI Rancho De LALO 1 Buckner Road London SW2 5BY (Brixton Hill Ward)

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 Sections 1, 3, 4, 8 and 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 of the report on pages 10 and 11.

In response to questions from Members, Mr Ola Owojori, Licensing Officer, confirmed:

- This is an application for a premises licence, seeking authorisation for the Sale of Alcohol (consumption on and off the premises), Monday to Sunday from 10:00 to 23:00.
- The opening hours for the premises were proposed as Monday to Sunday, 08:00 to 23:30.
- Eight representations had been received against the application from local residents, based on the licensing objectives of prevention of public nuisance and protection of children from harm.

- Mr Manuel Rocha was present as the agent representing the applicant and Mr Carlos Yepes, the applicant, was also present.
- Copies of the representations were provided to the applicant and attached as Annex B.

Presentation by the Applicant,

Mr Manuel Rocha, representing the applicant, Mr Carlos Yepes, informed the Sub-Committee that:

- As a restaurant, El Rancho De LALO required the Sale of Alcohol to assist the business and the applicant employed approximately 14 staff members who depended on the business for income.
- The applicant operated a similar premises in Brixton Market, which had had no issues with upholding the licensing objectives.
- Local customers supported the business' licensing obligations, and an outstanding service was evident in positive reviews.
- The management had considered and understood the objectors' concerns and had issued a written response. The applicant was satisfied with the proposed conditions to address these concerns.

In response to questions from Members, Mr Manuel Rocha and Mr Carlos Yepes confirmed:

- Vertical drinking was not permitted on the premises.
- The new license sought to cover both delivery and takeaway for the Sale of Alcohol, as well as ordering alcohol to drink seated in the premises.
- The intention was not to promote the sale of alcohol and conditions for food requirements covered off license sales as well.
- There was an incident of noise nuisance on 6 November 2021 that had taken place during the day and the music or any complaints had also been regarding daytime music.
- The applicant agreed to amend a condition set in conjunction with the Council's noise technical requirements.
- The area was prone to antisocial behaviour, but the staff members would not serve intoxicated clients.
- As the premises was in proximity to residential homes, security training will be provided to staff, to assess the state of patrons and ensure no alcohol would leave the premises.
- The applicant agreed to an additional condition that would not permit open containers outside the restaurant, which included smokers outside during dining.
- Maximum capacity of the restaurant was approximately 50 people, so a condition was agreed to impose only 5 people outside smoking at one time.
- The applicant would agree to provide SIA accredited door staff if that should be a requirement at any time.

Presentation by Interested Parties

Resident Ms Jennifer Grigel-Rucker said that:

- There were eight bedrooms situated directly above the restaurant.
- The applicant had made an investment and residents wanted to make sure he could do business in a way that worked for everyone.
- Many local residents worked from home in the daytime and it was meant to be a peaceful environment. Yet, delivery noise from waste disposal vehicles and bottles, as well as outdoor seating, caused disruption.
- It was clarified that the back entrance to Brixton Electric was situated on Buckner Road and the venue was insulated, ensuring residents had not experienced significant noise levels during concerts. This venue had also installed security lighting at night, which had generally been seen as good.
- Residents wanted to know the applicant's plan for dealing with waste, deliveries and this disposal of bottles.
- An exhaust fan had been installed below the bedroom windows, which had caused disturbance.
- Residents wanted a direct communication with the restaurant, in case of any issues.

Resident, Mr Nick Powell, said that:

- His main concern was noise nuisance from outside seating.
- Having visited the premises recently, he noted six cars parked outside and this would be exacerbated by deliveries.
- The proposed closing hour of 23:30 was not considered a reasonable time as children slept above the restaurant and proposed 22:00 as an alternative.
- The idea that the Sale of Alcohol would cover deliveries meant increasing the congestion at an already busy venue.
- The sound system was disruptive and made use of his balcony impossible.
- Introducing the Sale of Alcohol would mean an increase in noise nuisance in a residential area for people who needed rest.

At this point in proceedings, the Chair went over the additional four conditions the applicant had agreed to for consideration of the Sub-Committee.

These were in relation to:

- The limitation to food would apply to takeaways, whether delivery or collection, so it would not be possible to buy alcohol that was not ancillary to a meal.
- The sound limiter would be monitored by council noise officers and set to deal with the building.
- Patrons would not be permitted to leave the premises with open containers.
- No more than five people could be standing outside smoking at any one time.

At this point in proceedings, the Legal Advisor, Selina Wiafe clarified that to operate outside, they would need to apply for a chairs and tables license and that the applicant would have to

apply for outside seating through the Business and Planning Act 2020.

In response to questions from Members, Mr Manuel Rocha and Mr Carlos Yepes confirmed:

- When disposing of bottles, the applicant followed guidelines from Lambeth Council's Health and Safety team, never exceeding 19:00 to 20:00.
- It was confirmed there would be a designated parking area that could be agreed for delivery vehicles, away from the premises along Acre Lane.
- In terms of opening windows to manage the noise levels, air circulation was necessary, however it was agreed that a restriction could be imposed after certain hours, which was agreed as 21:00.
- The exhaust system had been tested and would be maintained by a professional contractor every six months and the applicant had installed an extractor fan with a silencer to mitigate the noise levels.
- The applicant agreed to provide a contact number to residents, to resolve any disputes.
- Condition 26 stated that bottle disposal could not take place between 23:00 and 09:00, but residents requested that be amended to 21:00 to 09:00
- Deliveries to the restaurant would be limited as read on Condition 29.

At this point in proceedings, Mr Nick Powell stated that limiting takeaway hours could address concerns of the residents and the applicant agreed this as a 20:00 maximum.

Mr Manuel Rocha informed the Sub-Committee that reducing the hours of delivery would reduce the competitive nature of the restaurant in comparison to others in the area as during the week, the business was quieter.

Adjournment and Decision

At 20:13, 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 Mr Nick Powell and Ms Jennifer Grigel-Rucker.

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 license subject to the following imposed conditions:

1. The sound limiter was to be set by the Lambeth Council noise team.
2. No sale of alcohol in open containers.
3. No more than five smokers outside at any one time.
4. All external windows external to the premises to be closed by 21:00.
5. Bottle collection for disposal from the restaurant between 9:00 to 21:00.
6. A phone number to be clearly displayed by the license holder for resident complaints concerning the license.
7. The off-license facility terminal hour on the licence to be 20:00.
8. The on license of the license terminal hour to be 23:00.

Standard wording for the imposed conditions would be sent by the Licensing Authority in due

course.

The Sub-Committee considered that reducing the terminal hour of the off license and on license function meant that the licensable activities applied for would take place in a venue which would be noise limited along with the conditions as agreed.

RESOLVED: To grant the license with the imposed conditions as outlined above.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the license subject to the agreed conditions between the Licensing Authority and the applicant, and the additional conditions as outlined above. The Sub-Committee had considered all the options available to them and ultimately felt that the conditions met the concerns which had been raised. The Chair confirmed that written notification of the decision would be sent in due course.

3b Sainsbury's 18-22 Greyhound Lane London SW16 5SD (Streatham South Ward)

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 to Sections 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 of the report on page 52.

In response to questions from Members, the Licensing Officer confirmed:

- This is an application for a Premises Licence to allow for the sale of alcohol on Monday to Sunday from 08:00 to 23:00.
- The applicant was seeking authorisation for the sale of alcohol for consumption off the premises, during the following times: Monday - Sunday 08:00 - 23:00.
- The opening hours for the premises are proposed as Monday to Sunday from 00:00 to 23:59.
- There was a representation received against the application from one local resident and it is based on the licensing objective of prevention of public nuisance.

Presentation by the Applicant

Solicitor to the applicant, Mr Robert Botkai and Licensing Manager, Joanne Surguy, informed the Sub-Committee that:

- The applicant had offered additional conditions in agreement with the Licensing Authority, which included the reduction of hours sought for the sale of alcohol.
- The applicant was not applying for a 24 hour license and could be more appropriately called a '7/11'.
- This particular corner on Greyhound Lane was in need of redevelopment and applying for the sale of alcohol on Monday to Sunday from 08:00 to 23:00 was shorter than other premises typical of the area.
- The applicant and their representative had communicated with the Licensing Authority and had agreed with the imposed conditions, as specified on page 69 of the agenda pack. The first nine conditions had been put forward with the application and conditions

10 to 13 had been agreed with the Licensing Authority.

- There were approximately 20 to 25 people employed at the store, who would provide training.

In response to questions from Members, the applicant confirmed:

- In order to mitigate the issue of street drinking, the staff training provided was high profile and equipped staff with the skills to prevent this activity from happening.
- There was an intensive 'Think 25' programme, which had been written by a Police Officer from Richmond who was knowledgeable in this area.
- Staff could not start working on the floor until the Think 25 training was complete and this was refreshed every six months.
- The internal system meant that the management team could ensure this was adhered to and most retailers followed a similar process.
- Staff were observed when working on the till and Think 25 workshops were held around the country, where colleagues would sit and discuss how to update the process and an external company come in to assess whether staff are compliant in the Think 25 process.
- Conditions 10 to 13 were specific to this Sainsbury's store and if this meant specific products would be prohibited from sale at this store.

Presentation by Interested Parties

Mr Sam Wilson, representing local residents, said that:

- He had been a resident in the area for eight years and represented residents as one of Lambeth's neighbourhood champions and was a member of a Residents Association.
- Along with neighbours in the area, Mr Wilson supported the planning application for Streatham Green and did not want to impede the Sainsbury's development, whilst concerns remained around the sale of alcohol from an early time.
- There were issues with street drinking in the area, and it was a concern that selling alcohol at lower cost may make the related behaviours worse.
- There had been an account of construction workers boarding trains in the morning with open bottles and Mr Wilson enforced that local shops should not enable this.
- The corner on which the premises existed was a hotspot for littering bottles and congregating groups on side streets and back alleys.
- He appreciated the proposal of CCTV measures, while security measures were confined to the premises boundaries.
- It was positive that individual cans were not sold at a certain size, but asked the license include a limit to the sale of individual bottles of beer or cider, often found littering the area. If this was not a possible concession, there could be a reconsideration of licensing hours.

In response to questions from the Interested Party, Mr Botkai confirmed:

- The lower cost for alcohol specified by Mr Wilson, relative to the area, was not necessarily the case as the pricing was set to national standard.

- In response to Antisocial Behaviour, there had been no representation by the Police on crime and disorder.
- In relation to the sale of individual bottles of cider and beer, it was the premium range of alcohol that tended to be sold individually and this was not related to the type of nuisance Mr Wilson was concerned about.
- Continued communications with Mr Wilson would be useful as he had a good local knowledge.
- It would be unusual to open parts of the store at different times for the sale of alcohol.

Adjournment and Decision

At 20:53, 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 local resident, Mr Sam Wilson. 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 license with the proposed conditions as agreed by the applicant. The Sub-Committee believed that these addressed issues raised, met the requirements of the Licensing Objectives and were not satisfied that any conditions could be made to further those objectives without being disproportionate.

RESOLVED: To grant the license as applied for with the conditions offered by the applicant.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the license and provided reasons for the decision as outlined above. The Sub-Committee had considered all the options available to them and ultimately felt that the conditions met the concerns which had been raised. The Chair confirmed that written notification of the decision would be sent in due course.

3c The Cambria, 40 Kemerton Road London SE5 9AR (Herne Hill Ward)

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application to vary the premises licence. The Sub-Committee's attention was drawn to chapters 2, 3, 8, 9, 10 and 16 of the Statutory Guidance, and to Sections 1, 3, 4, 8 and 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 of the report on page 75.

In response to questions from Members, Mr Ola Owojori the Licensing Officer confirmed:

- This was an application to vary the existing licence.
- The applicant was seeking authorisation to alter the layout of the premises.
- The applicant was seeking to extend the opening hours to 08:00, Monday to Sunday.
- The applicant was seeking the hours permitted for the sale of late night refreshment.
- The applicant was seeking to remove condition 4, attached in Annex 2 attached to the licence and amend conditions 1 and 2 in Annex 3, in relation to the noise limiter and

closing windows during any function.

- There were 32 representations received against the application from residents, based on the licensing objective of the prevention of public nuisance and two previous representations had been withdrawn.
- The opening hours for licensable activity in the existing licensing were 10:00 to 00:30, Monday to Saturday and 12:00 to 00:30 on Sunday.
- The application had been advertised at the premises, displayed notice in the Newspaper as well as on the Licensing Authority's website.

Presentation by the Applicant

Solicitor to the applicant, Ms Karen Cochrane, informed the Sub-Committee that:

- The applicant was not applying to change licensable hours, but opening hours to an earlier hour of 08:00 for non-licensable activities.
- It was apparent there has been misinformation of a 03:00 license and many objectors quoted this hour.
- The applicant did not wish to remove the condition about installing a sound limiter but to reword to fit the purpose as the function room was a secondary dining room.
- The Deregulation Act stated that music had to be discontinued by 23:00, but the operator was not planning loud music on the premises.

At this point in proceedings, Legal Advisor, Ms Selina Wiafe clarified that the Deregulation Act meant that live or recorded music were only permitted between 08:00 and 23:00, which meant the noise limiter would only apply after 23:00.

Mr Mark Draper, the operator, Ms Karen Cochrane and Mr Colin Coogan confirmed that:

- Incidents occurred under the prior owner and the applicant took control of the pub in 2018 and had removed the previous operator in 2019 who was unprofessional.
- Operators understood the sensitivities of the neighbourhood, and this meant only background music was to be played and no foreground, or live music and could manage the concerns of residents through direct communication.
- Previous complaints related to Punch Partnerships PCL and the new operator; Heineken UK was professional.
- Mr Draper was leaseholder to the site and had owned, operated and refurbished premises across London and in sensitive areas and highlighted positive relationships with neighbours and providing an asset to the local community.
- A condition existed on the license limiting the use of the outside the area and customers were cleared from the area before the 23:00 closing time.
- Limiting noise by closing windows did not apply to quiet dinners but agreed the windows would be closed if it were a loud function. It was also noted that ventilation was important at that time.

At this point in proceedings, the Chair clarified that The Deregulation Act related to performance of live music and an ancillary condition would be considered in relation to general noise coming from the premises.

Sub-Committee Members expressed concern about replacing a condition with 'common sense', as this would open it up to interpretation and a condition would be considered in order to address the issue of noise more generally.

Presentation by Interested Parties

Ms Alice Blacker, representing the local residents said that:

- There was local support for the new venture, which was coupled with concern as there had been ten years of bad dealings with the Cambria Pub.
- It was hoped that by agreeing necessary parameters, they could start on the best footing possible, without vague language on conditions.
- This was a quiet residential area with few businesses. A sound limiter was standard to other premises' license application, and should apply not just to a function room, but the entire pub.
- In relation to closing windows, it was not just music that carries, but people talking as they leave the premises which had a big impact.
- World Health Organisation (WHO) guidelines offered a 23:00 closing, but that did not seem appropriate for children sleeping nearby due to disruptive noise generated and 22:00 close time, as used by the Trinity Arms, seemed more reasonable.
- Concern was raised about the need for measures to limit people and smokers from congregating outside.

Mr Andy Long, a local resident, said that:

- He was a resident living in proximity to the pub and had had conversations with five different landlords over the years.
- The corporate distinction was not helpful.
- Mr Long attended the hearing on the 22 June 2010 and the conditions agreed encompassed the installation of a noise limiter and that the windows would be closed. To allow the closed windows, an air conditioner was to be installed and these conditions were never met.
- The disruptive noise coming from the pub was from people, not necessarily music.

Mr Mark Panton, a local resident, said:

- He agreed with the point raised by Ms Alice Blacker, that the outside area should be closed before 23:00.
- Patrons would be attracted after drinking in Ruskin Park.
- It was important to have conditions written down to agree on, not based on 'common sense'.
- A standard noise limiter should be installed to monitor background music.
- People tend to stand outside for a while after close and there was a need for a dispersal policy.

In response to questions from Objectors and Members, the applicant confirmed:

- In terms of management of the site, the new operation was at a high level and 55% of sales would be made with food, which meant a new profile of customer who would be often from immediate area.

- Staff would ensure people would be dispersed when leaving the premises and reminded this was a residential area.
- The General Manager would live on the premises.

The applicant agreed that windows could be closed by 21:00 to manage the issues related to general noise and a limit of 22:00 be imposed on the outside area.

Adjournment and Decision

At 22:30, 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 local residents. 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 variation application subject to the two modified conditions that were agreed to by the applicant below:

- The operation of the garden cease at 22:00
- Windows were to be closed at 21:00.

The Sub-Committee welcomed that the applicant agreed to the conditions in view of concerns of the residents.

The Sub-Committee acknowledged the applicant was a distinct break from the issues of the past, but the problem with the past was a potential confusion with the rules and felt that the small provisions were in line with the local area and promoted the Licensing Objectives.

RESOLVED: To grant the variation application subject to the conditions as outlined above.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the variation to the license and provided reasons for the decision as outlined above. The Sub-Committee had considered all the options available to them and ultimately felt that the conditions met the concerns which had been raised. The Chair confirmed that written notification of the decision would be sent in due course.

The meeting ended at 22:39

CHAIR
LICENSING SUB-COMMITTEE
Monday 4 February 2022

Date of Despatch: Friday 24 January 2022

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