



LICENSING SUB-COMMITTEE

Tuesday 13 August 2019 at 7.00 pm

MINUTES

PRESENT: Councillor Linda Bray, Councillor Claire Holland and Councillor Irfan Mohammed

APOLOGIES:

ALSO PRESENT:

1 **ELECTION OF CHAIR**

MOVED by Councillor Iran Mohammed SECONDED Councillor Claire Holland, and

RESOLVED: That Councillor Linda Bray chair the meeting.

The Chair explained that due to the late arrival of one Member, it had been agreed that the meeting be adjourned until 8pm, to give sufficient time to read the papers.

2 **DECLARATION OF PECUNIARY INTERESTS**

None were declared.

3 **MINUTES**

RESOLVED: That the minutes of the previous meetings held on 4 and 23 July 2019 be approved and signed by the Chair as correct records of the proceedings.

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

4a **CO-OP, 245 BRIXTON ROAD, LONDON SW9 6LJ (VASSALL WARD)**

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a variation to the current premises licence. The Sub-Committee's attention was drawn to Chapters 2, 3, 8, 9 and 10 of the Statutory Guidance, and to Chapter 5, Policies 1, 7 and 8, Appendices 1, 3, 5, 6 and

10 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 paragraphs 5.7 and 5.8 of the report on pages 15 and 16.

The Licensing Officer confirmed:

- Under the Licensing Act 2003, a variation application was submitted on 10 June 2019 in respect of Co-op, 245 Brixton Road.
- The application sought to vary the premises licence for the sale of alcohol on Monday to Sunday 06:00-23:00.
- Since the report had been published, the applicant had amended the hours for the sale of alcohol on Monday to Sunday to 07:00-23:00.
- The opening hours for the premises Monday to Sunday 06:00-23:00 remain unchanged.
- Three representations were originally received against the application from the Licensing Authority, Metropolitan Police Service and a local councillor. The representations were based on all four of the licensing objectives (Prevention of Public Nuisance, Prevention of Crime and Disorder, Public Safety and Protection of Children from Harm). Details could be found on pages 47 to 51 of the agenda papers.
- As a result of the applicant amending its hours to 07:00, the Metropolitan Police Service had subsequently withdrawn their representation.
- In attendance for the application was Mr Richard Arnot, agent for the applicant and Miss Bina Patel, for the Licensing Authority. The local councillor was unable to attend the hearing.

Presentation by the Applicant

Mr Richard Arnot, agent representing Pasquale, Local Area Manager for the Co-op, informed the Sub-Committee that:

- The Co-op was the sixth largest retailer in the UK with 78,000 people employed in over 2,000 stores and was the world's largest consumer co-operative that consisted of 8.2m members.
- The premises located at 245 Brixton Road opened in December 2016 and had 19 employees. Three staff members were personal licence holders.
- All staff received training in relation to the Licensing Act and details were supplied in the supporting documentation provided.
- New employees received a four-hour induction training and were required to sit an exam. If they failed the exam they would not be able to work. The premises also operated a 'buddy' system for new employees which enabled them to work alongside an experienced member of staff.
- A lock-down system also operated at the premises to prevent new employees selling alcohol regardless if they successfully passed their exams or their buddy was happy with them. Lock-down lasted for four weeks they were only released from this period and allowed to sell alcohol if management were content.
- Regardless of an employee's length of service, they were required to undertake two refresher training per year and complete an exam. If the premises was not happy with an employee's performance they returned to lock-down.
- The Co-op provided assistance in the community. The premises at Brixton supported to various organisations such as community hubs, the Friends of Ruskin

Park and the Oval Learning Cluster. Every year the Co-op donated 1% of the profit it received from its own products to organisations nationally and last November £19m was donated.

- At this premises, alcohol represented between 10-15% of its turnover with 85% profit mostly achieved from food produce.
- On referring Members to page 1 of the second despatch agenda papers, he made reference to paragraph 10.1 of the Secretary of State's Guidance which stated that:

“Shops... should normally be free to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open... unless there are good reasons, based on the licensing objectives, for restricting those hours”.

- Following discussions with Councillor Gadsby regarding the original application submitted in 2016, an agreement had been reached that alcohol should be sold from 9am, despite the premises wanting to sell alcohol from 06:00. Whilst Councillor Gadsby welcomed the Co-op to the community, he raised concerns regarding street drinking. Selling alcohol from 6am would exacerbate this and evidence contradicting not being produced saw the 9am time previously agreed.
- The premises now wished to sell alcohol from 7am when the premises opened as the written submissions provided clearly demonstrated that the licensing objectives had been promoted. No evidence had been provided to show that the licensing objectives would not be promoted before or after 9am.
- There was a misconception that only people that purchased alcohol during the morning were street drinkers. However, it was well known that everyday customers wished to purchase alcohol with their shopping and was unfair to require them to return at 9am.
- The premises did not anticipate that much alcohol would be sold during the early morning but would like the opportunity to be able to sell alcohol to their customers.

In response to questions from Members, the Mr Arnot and Pasquale confirmed:

- Lock-down was a process for someone who has either just started the business or failed their training. Employees were still required to undertake the licensing training but would be prevented from serving age-restricted by a till prompt to request authorisation from a trained and authorised person who could then enter their pin details for the sale to proceed.
- Employees were required to repeat the training process again as needed, and discussion took place with their buddy to ascertain their capability to sell alcohol or whether they were more suited to other activities. A decision would be made by management after four weeks to assess ability to sell alcohol.
- A massive pressure existed from other stores to allow early morning alcohol sales to prevent customers being turned away until 9am as customers would not return.
- An additional two hours would not make a difference for the premises in terms of profitability.
- Following conversations with PC Hannah Eldridge the application was modified to 7am. Her concern was the nightclub Brixton Jamm situated nearby to the premises would attract intoxicated individuals, as the venue had a late night premises licence until 5am. The decision was taken to alter the time to alleviate concerns from the police.

Presentation by Interested Parties

Ms Bina Patel, Licensing Manager, said that:

- She clarified that the premises had a licence to open from 6am and the decision made to open at 7am was a management issue.
- Although discussions had taken place with the Police who agreed to a 7am start time to sell alcohol, the hours sought were still outside of the licensing policy hours.
- The area was well known for anti-social behaviour and street drinking, although not linked to this premises as they had not been trading during those hours. However, there was a need to look at preventative measures within the area.
- A massive change now existed in Brixton with more people coming into the area and street drinking had increased as a result.
- More people tended to travel along Brixton Hill, Brixton Road and Coldharbour Lane and premises that sold alcohol during the early hours of the morning would encourage further problems.
- The licensing policy recommended a start time of 11am for premises such as the Co-op. While taken on its own merits the current hours the premises was seeking from 7am still did not satisfy the concerns that it would not lead to issues of anti-social behaviour within the area or attract street drinkers.
- She recognised the extensive measures that had been undertaken regarding staff training at the premises. However, each store manager carried out training dependent on their location.
- She had not heard anything that would alleviate her concerns why the premises wished to seek the earlier two hour extension to sell alcohol and felt that the licence should not be granted, despite agreeing with the police to sell alcohol from 7am.

In response to questions from Members, Miss Patel confirmed:

- The discussions held with the Police seemed to be solely based on Brixton Jamm and the hours they operated, and not about the area itself. Therefore, from a licensing prospective, she felt that one particular premises was not enough justification to allow another premises to open at 7am for alcohol sales.
- Huge concerns existed within the Brixton area and numerous people were attracted to Brixton due to the bars, clubs and restaurants within the area. As street drinking existed in the area, she had concerns how the premises would cope. If people became aware that the Co-op were allowed to sell alcohol at 7am this would attract street drinkers to purchase alcohol. Although she appreciated that comprehensive checks would be made by the premises to verify their age, street drinkers were normally adults that especially preferred to buy single cans.
- Complaints had been received regarding anti-social behaviour in the area. However, she could not comment on the concerns raised by Councillor Gadsby in his representation regarding the recent disturbances related to the sale of alcohol that occurred in the area.

At this point, in response to a question on dispersal, the Legal Adviser confirmed that the dispersal was a police operational matter. Therefore, any question pertaining to the operation of the dispersal zone should be directed to PC Eldridge. PC Eldridge then confirmed that:

- The most recent dispersal in the area occurred in the summer as a result of an unlicensed music event which attracted gangs but not in the area where the premises was situated.
- Her main concern was that Brixton Jamm had a licence until 5am which would enable patrons to remain and frequent in the area to purchase alcohol from the premises. However, other independent traders existed in the area for people to purchase alcohol.

In response to an additional question from Members, Miss Patel confirmed:

- If the Sub-Committee were minded to grant the licence, she suggested that the following additional condition should be added on the licence:
 1. "No single can sales should be sold between 07:00 to 09:00"
 2. Any alcohol sold should be a minimum for four packs between the hours of 07:00 to 09:00.

In response to further questions from Members, Mr Arnot and the Local Area Manager confirmed that:

- Street drinkers were not attracted to supermarkets such as the Co-op as they preferred to buy their alcohol from independent retailers. The premises did not sell alcohol to street drinkers.
- The Licensing Guidance paragraph 10.10 stated that the application be judged on its own merits. The Co-op did not intend to sell their premises and if sold it would be to another national supermarket and not an independent retailer.
- Street drinkers would not purchase alcohol from the Co-op as it was too expensive but purchased alcohol from independent stores. However, if a street drinker came into the premises they would not be served any alcohol. A street drinker could easily be identified as a result of their demeanour and how they presented themselves.
- The onus was on the objector to bring evidence before the Sub-Committee to show that the premises would be incapable of promoting the licensing objectives between 7am and 9am and no evidence has been presented. Councillor Gadsby clearly indicated in his representation that he had no issue with the premises. If the application was granted, the premises would continue to promote the licensing objectives.
- The premises sold single cans.
- If the Sub-Committee felt that the condition suggested by Miss Patel was appropriate, there was a need to consider premium products. They are popular beers with customers that were sold in bottles and also single cans. Premium products were not brought by street drinkers as they were considered too expensive.
- No definition of premium products existed but the Sub-Committee was that the premises would act responsibly when they sold premium products.

Adjournment and Decision

At 8.43 pm, 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 Arnot, the Local Area Manager and Miss Patel.

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 with additional condition as detailed below:

Additional Condition

Between the hours of 07:00 to 09:00 cans of beer, larger, cider or similar (excluding premium products), shall be sold in minimum quantities of four.

RESOLVED: To grant the application with additional conditions.

Announcement of Decision

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

4b MAMA V'S, 10 VOLTAIRE ROAD, LONDON, SW4 6DH (CLAPHAM TOWN WARD)

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a variation to the current premises licence. The Sub-Committee's attention was drawn to Chapters 2, 3, 8, 9 and 10 of the Statutory Guidance, and to Chapter 5, Principals and Policy 7 and Policy 1 Applications, Appendices 1, 2, 3, 4 and Principles and Policies 13, and Policy 7 Cumulative Impact 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 paragraphs 5.7 and 5.8 the report on pages 15 and 16.

The Licensing Officer confirmed:

- This was an application for variation of a premises licence for Mama V's, 10 Voltaire Road.
- The application had been submitted by Mr Stuart Gibson on behalf of the licensee Ms Vanessa Lancelloti.
- The variation sought to allow the premises to utilise the outside seating area of the front patio of the premises.
- The use of the outdoor area would be for the sale of alcohol for consumption off the premises Sunday-Thursday 11:00 to 20:00 and Friday-Saturday 11:00 to 22:00.
- Two representations had been received against the application from the Licensing Authority and the Metropolitan Police Licensing Unit.
- In attendance for the applicant was Mr Stuart Dixon; Miss Bina Patel and PC Hannah Eldridge.

Presentation by the Applicant

Mr Stuart Gibson, representing the applicant Ms Vanessa Lancelloti informed the Sub-Committee that:

- The current licence allowed alcohol to be sold up until 10.00 pm seven days' week and on-sales of to take place inside the premises. However, the objections received mentioned extended hours but there were no extended hours in the application.
- The application seeks to utilise the outside forecourt area outside the front of the premises to allow people to sit outside until 8.30pm Sunday to Thursday and 10pm Friday to Saturday.
- Alcohol could only be consumed with food.
- The outside area was currently being used by customers. Therefore, the Sub-Committee needed to determine whether serving alcohol outside would undermine the four licensing objectives, despite the applicant's belief that it would not.
- A request had been made to remove condition 12 from Annex 3 on the current premises licence which relates to alcohol not being consumed outside the premises at any time, should be removed.
- The premises had operated with a licence since 6 November 2018 and despite objections made by responsible authorities, the application was granted.
- Since its operation, no problems had been reported.
- No evidence had been submitted to suggest that because people sat outside most of the week, problems would arise.
- Prior to the application being granted on 6 November 2018, the premises was granted 19 Temporary Event Notices (TENs) which included use of the outside area for patrons to drink and eat for longer hours than what had been requested. No issues had been reported in relation to the TENs. This clearly showed that the type of clientele that frequented the premises would not compromise the licensing objectives.
- He appreciated that the premises was located within the cumulative impact area zone but the premises had caused no problems to undermine the licensing objectives. No noise issues would result as patrons already used the outside area.
- Residential properties existed opposite the premises and a railway line frequently ran above the premises. The trains made more noise than customers and operated for longer hours than 10pm.
- The hours sought by the premises were moderate as a bar nearby utilised their outside area until 11pm, seven days a week and people could be seen only drinking. Therefore, the impact of people using the premises was minimal and would not undermine the licensing objectives.
- Only a maximum of 20 persons sitting outside on tables would be allowed at any one time.
- The premises could only operate as per licensing conditions and if the applicant wished to handover the premises to anyone else they would be required to operate under the present licensing conditions. The conditions could only be changed if they applied for different licence with the Council.
- The premises was becoming more popular but did not attract a rowdy crowd. The outside area would be used to cater for the existing demand and allow the business to develop.
- The representation provided by the Police mentioned high crime due to high

intoxication levels of people in Clapham High Street. However, the Police confirmed that the premises did not contribute to the problems.

- He was advised that Clapham's night time economy normally commenced at approximately midnight on Friday and Saturday but the premises would be closed two hours beforehand.
- The applicant had no desire to turn the premises into an off-sale premises but only to utilise outside space.
- CCTV would cover the outside seating area at the front of the premises.
- For the reasons stated, he requested that the application be granted.

In response to questions from Members, Mr Gibson and Ms Lancellotti confirmed:

- The premises did have a licence for tables and chairs but issues existed regarding payment for this licence.
- Ms Lancellotti had applied on-line for the licence on 23 May 2019 but despite contacting the Council on three occasions for an update, she was yet to receive a response. She had recently received a fine for having tables and chairs outside the premises because the Council could find no evidence that the fee had been paid.
- Ms Lancellotti had paid the fee for two benches and five tables (one included free of charge for smoking outside the premises). Every table had two chairs and the tables could be folded at the end of the day.
- The TENs applied for was for events held in the summer and events associated with SW4. The latest event held took place on 29 June 2019 for a party.
- The premises had been operating as a café since 8 December 2014.
- The premises was very small and compact with the inside counter located very close to the outside area. If any customers became rowdy they would be advised to keep the noise and if they refused they would be asked to leave the premises. However, the premises did not attract rowdy clientele.
- It was recognised that patrons would get accustomed to the background noise from the trains but a bar nearby had outside activity any day of the week.
- Patrons preferred to attend the club located nearby due to its capacity, even if drinks were cheaper at the premises. Customers who visited the premises on the weekend would like to eat and have an alcohol beverage with their food.

Presentation by Interested Parties

Miss Bina Patel, Licensing Manager, said that:

- The 19 TENs referred to were in relation to the original application submitted in 2018 and had no bearing or relevance to this application before the Sub-Committee.
- Only three TENs had been submitted this year and the Licensing Service could not confirm whether the TENs had taken place but had no record of noise complaints.
- The application sought to use the outside area for the sale of alcohol in a cumulative impact area zone.
- The application was rejected because it was located within the cumulative impact area zone and there was a rebuttable presumption to reject unless applicant could demonstrate that it would not add to the cumulative impact.
- The application provided no information on how the impact would be managed.

She had just learned at this meeting that the alcohol outside would be ancillary and only served with food which was not provided as part of the application. However, this was not considered sufficient to satisfy why the application should be granted.

In response to questions from Members, Miss Patel confirmed:

- The current licence allowed for on-sale only, so any alcohol must be sold ancillary to any food sold within the premises. That condition did not apply to the outside area.
- The applicant was seeking off-sales of alcohol to be sold in the outside area. The application presented failed to state that the outside area would be ancillary to food. Therefore it gave the presumption that alcohol would be consumed only without food within the cumulative impact zone area. However, based on what has been heard, if the Sub-Committee were minded to grant, she would be able to provide a suitable condition.

The Chair invited the Mr Gibson to answer a further question. He confirmed that the current conditions would remain on the licence. One of the conditions stated that alcohol would only be served ancillary to food. He made reference to page 61 of the application and read out the condition which clearly stated that alcohol must be served with food. Therefore, he felt the representation made by Miss Patel about that condition was incorrect.

In response to further questions from Members, Miss Patel confirmed:

- No plans were submitted with the application. The original plans attached to the licence did not show an outside area nor did it form part of the licensing area for on-sales to take place and continue within an outside area.
- The applicant would need to apply for off-sales for it be conditioned to be ancillary to food.
- There appeared to be a misunderstanding as details pertaining to the outside area should have been supplied.

At this point, the Legal Adviser confirmed that he agreed with Miss Patel as one would expect, when reviewing the conditions, to see in the operating schedule an amended condition or details pertaining to the outside areas be expressed more clearly and no plans showing the boundary of the outside area had been supplied. Unless the conditions could be slightly reworded a reference to a plan to provide certainty about the condition which would benefit the licence and also the enforcers, should be supplied.

Miss Patel then suggested that the applicant could submit a revised plan to show the outside area. A condition could be added to read:

“The sale and supply of alcohol for consumption off the premises shall be restricted to persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and taking a substantial meal there and where the consumption of alcohol by any such person is ancillary to a meal and where the supply of alcohol by way of that service only.”

Mr Gibson confirmed that the premises would be happy to submit a plan within a matter of days showing the outside area that the premises was responsible for.

Finally, Miss Patel clarified the following:

- The use of the outside area must be under a tables and chair licence. That licence would indicate the exact layout of the area and the number of tables and chairs permitted under that licence.
- The licence would then be enforceable at any time and the outside area would not be able to be used by the licence holders unless there is an appropriate licence in place.
- The plans could then be substituted if required. Checks could also be made with the Highways team to ascertain the size of the premises if the applicant was minded to submit a minor variation application that showed a plan of the outside area and to have a relevant licence in place to avoid any breaches.

In response to a question from PC Hannah Eldridge regarding the terminal hour for the premises, Mr Gibson clarified that the terminal hour on the licence should be 22:30 Tuesday to Sunday and not 22:00 and was a misprint. The extra half an hour had been provided to allow patrons to leave the premises but this was never exercised which was confirmed by Miss Lancellotti.

PC Hannah Eldridge, Lambeth Police Licensing, said that:

- The premises was situated within the cumulative impact zone.
- The area was well known to the Police as a result of issues that occurred during the day and night time.
- The Police service tended to concentrate more on the night time economy as more anti-social behaviour usually occurred at that time.
- It was recognised that the premises was not associated with any of the issues that occurred in the area as the venue appeared to be well managed. However, unless the premises could justify rebuttable presumption that there would be no negative impact on any of the licensing objectives, the Police would continue to make representations against it.
- No evidence by the premises had been submitted to suggest that a negative impact would not occur on Clapham High Street which had a very busy day and night time economy.
- It had only just been brought to her attention that alcohol would be ancillary to food. If the Sub-Committee were minded to grant the application she welcomed a well written condition for that. She also requested that a condition to only allow a maximum of 20 patrons outside the premises at any time should be made to control the amount of patrons outside the area.
- Due to the high intoxication levels and crime associated with Clapham High Street, the Police would prefer that the application was not granted to avoid any further problems in the area.

In response to questions from Members, PC Eldridge confirmed that any impact whatsoever within the cumulative zone was not considered acceptable regardless the size of the premises, to deter further anti-social behaviour issues.

In response to a question from Members, Mr Gibson confirmed that he would be happy accept a condition for allowing no more than 20 persons outside, if the Sub-Committee

were minded to grant the application. He reminded the Sub-Committee that when the application was granted 9 months ago, Members raised no concerns regarding any impact that would be caused.

Members reminded Mr Gibson that each application was considered on its own merits and dealt with differently.

Adjournment and Decision

At 9.46pm, 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 Gibson, Ms Lancellotti, Miss Patel and PC Eldridge.

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 with additional conditions.

RESOLVED: To grant the application with additional conditions.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the application with additional conditions. The Sub-Committee had considered all the options available to them and ultimately felt that the licensee met the concerns which had been raised. The Chair confirmed that written notification of the decision would be sent in due course.

4c PLANE TREE HOSPITALITY LIMITED, 441 COLDHARBOUR LANE, SW9 8LN (COLDHARBOUR WARD)

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a variation to the current premises licence. The Sub-Committee's attention was drawn to Chapters 2, 3, 8, 9 and 10 of the Statutory Guidance, and to Chapter 5, Principals and Policies 7, Appendices 1, 2, 3, 5, 6 and 7 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 paragraphs 5.7 and 5.8 the report on pages 15 and 16.

The Licensing Officer confirmed:

- This was an application for variation of the premises licence for Plane Tree Hospitality Ltd. (trading as Mikos), 411 Coldharbour Lane.
- The application sought to extend the hours for late night refreshment.
- Originally the application was for Friday and Saturday 23:00 to 04:00; Sunday to Wednesday 23:00 to 01:00 and Thursday 23:00 to 02:00.
- Following mediation the applicant had offered to reduce the terminal hour to 01:00 Monday to Thursday; 02:00 Friday and Saturday and 00:00 on Sunday.
- One representation had been received against the application from the Licensing

Authority based on all four licensing objectives (public nuisance; prevention of crime and disorder; public safety and protection of children from harm).

- In attendance were Miss Bina Patel from Licensing and Mr Hugo Ushida, applicant.

Presentation by the Applicant

Mr Hugo Ushida, Founder and Director, informed the Sub-Committee that:

- The premises was a Greek restaurant that predominately sold food with alcohol contributing to 5% of the sales.
- The premises licence allowed sales to take place until 11.30pm to ensure that the four licensing objectives were met.
- A second site in located in Brixton Town Centre had recently opened.
- The demand for Greek kebabs from customers were predominately received mostly at night. Therefore an application had been submitted to cater for that demand.
- He liaised with Ms Riley from the Licensing team that provided assistance with his application. He had also asked on numerous occasions for recommendations from Miss Patel for inclusion in the licence to meet the four licensing objectives. Therefore, he would be willing to discuss with the Licensing team on extra precautions the premises could take. For example, whether the premises needed to hire security guards similar to KFC and McDonalds situated nearby.
- He understood the concerns raised by the Council but the premises did everything to accord with the licence.

In response to questions from Members, Mr Ushida confirmed:

- At present customers were able to sit down to eat their meal. It was his understanding that the licence had A5 use (take-away food) and A3 use (sale of food or drink for consumption on/off the premises) but this was dependant on the recommendations from licensing.
- Customers preferred to visit the restaurant to purchase their food but the premises also undertook deliveries.
- Staff currently picked up litter during the morning outside the premises but arrangements could be made for staff to clear any rubbish before the premises closed.

At this point, the Legal Adviser referred the Sub-Committee to condition 23, page 111 of the agenda papers which stated that the premises should undertake routine litter picks throughout the day.

In response to further questions from Members, Mr Ushida confirmed:

- Polite signage requesting customers to respect the neighbours when they dispersed from the premises, would be displayed outside the premises.
- Any customers that appeared to be disorderly would be refused drinks and asked to leave the premises. Any issues would also be reported by staff to the Police. If security were engaged at the premises they would be expected to control any anti-social behaviour.
- The premises had established a good relationship with neighbours at the first site and no issues of anti-social behaviour were reported. He recognised that anti-

social behaviour could occur at this site but the premises aimed to be responsible restaurant.

- He hoped that a take-away service at the premises from 00:00 would operate, depending on the recommendations.
- One disabled toilet was available at the premises but all toilets would be closed-off to prevent anti-social issues, similar to KFC in Brixton. However, customers would be allowed to use the toilets.

Presentation by Interested Parties

Miss Bina Patel, Licensing Manager, said that:

- The hours applied for by the applicant was greater than the terminal hour recommended in the Licensing Policy of 01:00 Friday to Saturday and 00:00 Sunday to Thursday.
- Whilst she appreciated that mediation had taken place with licensing, another licensed premises that provided late night refreshment already existed in the area.
- She was concerned that the toilets would be closed as a result of anti-social behaviour at the premises.
- Nothing had been provided in the application to justify why the additional hours were required.
- As the licence for this premises had only been granted on 23 May 2019, the applicant had not had enough time to ensure the promotion of the licensing objectives.
- Sufficient measures had not been put in place by the application, especially if the premises were seeking assistance from licensing. The applicant should be able to submit the application on its own merits.
- She recommended that the application be refused.

In response to questions from Members, Miss Patel confirmed:

- There was no evidence showing that the premises had not complied with their licence. Nevertheless, she had concerns whether the applicant complied with the conditions on the licence, especially as the Legal Adviser had to clarify the condition regarding litter picking on the licence.
- If the Sub-Committee were minded to grant the application, provided that the Policy hours were applied, a condition be added to state that “the premises should operate as a take-away establishment between the hours of 00:00 and 01:00 Friday to Saturday and the premises should be closed for dining”, or something similar.
- Although she was uncertain regarding the layout of the premises, she suggested that barriers could be provided to prevent the seating area being used.
- The premises needed to consider access to the public facilities for patrons. However, the premises need to take into account that late night refreshment establishments could lead to anti-social behaviour issues and prevent crime and disorder.

In response to questions from Members, Mr Ushida confirmed:

- He was aware that litter pick-up was required to be undertaken at the premises.
- All staff were trained and cleaned both inside and outside the premises to adhere to the licensing objectives.
- He referred to page 111 of the papers as being the condition stated for litter picking. However, it was clarified by Members that the relevant condition was outlined on page 101.
- He was aware of all conditions on the licence and adhered to all of them.
- He clarified that the toilets were closed to deter anti-social behaviour and did not state that anti-social issues occurred at the premises.
- An email had been sent to Mrs Riley regarding security and requesting recommendations from Miss Patel (page 117 of the agenda papers) but no response to his request had been received. Hiring extra security at the premises was one of the measures suggested. Therefore, he would be happy to provide additional security if required for the safety of the public and staff.

In response to the point raised above regarding security, Miss Patel confirmed that no details had been provided to ascertain the number of security guards required and their hours of work. She raised concern regarding cost implications for the premises and the need to uphold that condition on a permanent basis by affording security to be at the premises. Those matters had not been provided by the applicant which she would have expected to see in the operating schedule as opposed to seeking advice from the Council. The information would have demonstrated that the applicant had knowledge of the area before submitting the application to vary their licence. These issues would be a matter for the applicant to address for any future applications.

Adjournment and Decision

At 10.55 pm, 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 Ushida and Miss Patel.

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 for the following reasons:

- The Sub-Committee was not satisfied that the applicant had read and was fully knowledgeable about Lambeth's Licensing Policy and had given sufficient consideration to the four licensing objectives.
- The Sub-Committee felt that the applicant had not demonstrated that he knew what conditions had been included in the application in order to uphold the four licensing objectives.
- The Sub-Committee felt that if the applicant were minded to apply for a further application, it would be advisable if the applicant discussed the application with the Licensing Authority at a much earlier stage so the applicant can include appropriate conditions on the licence.

RESOLVED: To refuse the application.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to refuse the application and provided reasons for the decision as outlined above. The Chair confirmed that written notification and full written reasons for the decision would be sent in due course.

The meeting ended at 11.10 pm

CHAIR
LICENSING SUB-COMMITTEE
Thursday 5 September 2019

Date of Despatch: 4 September 2019
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REASONS AND DECISION-MIKO'S

1. This was an application by Plane Tree Hospitality Ltd. (trading as Miko's) to vary the premises licence held in respect of premises at 441 Coldharbour Lane, London, SW9 ("the Premises"). The licence authorises the supply of alcohol from 11:-00 hours to 23:30 hours seven days per week and late night refreshment from 23:00 hours to midnight seven days per week. As originally sought the variation was to vary the terminal hour for the provision of late night refreshment to 01:00 hours Sunday to Wednesday, 02:00 hours on Thursday, and 04:00 hours on Friday and Saturday.
2. Bina Patel, Licensing Manager, objected to the variation, following which the applicant amended the application to extend the terminal hour to 01:00 hours Monday to Thursday and 02:00 hours on Friday and Saturday, and to midnight on Sunday.
3. The LSC heard from Hugo Ushida, the Director of the applicant company. He explained that the purpose of the variation was mainly to provide a late takeaway service rather than sit-down dining. He explained that he had originally sought similar hours to the nearby KFC but had been told by the Licensing Officer that the policy was different now, hence the reduced hours. In terms of dispersal he had signs up asking people to leave quietly and respect their neighbours. Any issues with dispersal would be reported to police or could be dealt with by SIA staff. During the course of the hearing Mr. Ushida confirmed several times that he was willing to take on board any suggestions that the LSC had and would comply with any conditions imposed.
4. Ms. Patel's objection was based on the facts that: the hours sought, even after amendment, were outside of the preferred policy hours; having had the licence only since 23rd May 2019 there was no real track record upon which the business could rely; there were no further conditions offered up by the applicant; it appeared to her that he had not read the statutory guidance or the licensing policy before making the application. In addition, some of his responses during the hearing gave her cause to wonder if he was complying with his conditions. She did accept, however, that there was no evidence of that and that no inspections had been carried out.
5. Whilst the LSC had no doubt as to Mr. Ushida's good intentions and accepted that there was no evidence that he was not complying with the existing licence conditions, his manner and his responses to questions did not give the LSC confidence that he really understood the area in which he was operating and, in particular, to the extended hours sought in an area with a busy night-time economy; nor did he appear to have considered fully or at all the problems that arise in such an area, such as dispersal, heavily intoxicated patrons, and the like.
6. It was also a matter of concern that Mr. Ushida came before the LSC and had not considered either the licensing policy or the statutory guidance. Paragraphs 5.2 to 5.10 of the policy explain the steps expected of applicants to demonstrate how they will ensure that the licensing objectives are promoted. If an applicant does not demonstrate that then they will obviously find it more difficult to demonstrate to the LSC that the variation sought will not adversely impact on the licensing objectives. Whilst the LSC believed that Mr. Ushida was likely to comply with any additional conditions imposed, we did not think it was for us to decide what conditions and measures might be appropriate; the expectation is that an applicant will come before us having already turned his or her mind to what additional measures might be required, especially when the hours sought would be considerably outside of the policy.

7. The other matter of concern for the LSC was that the Premises had only been operating for a very short period of time. Indeed, the application was made on 2nd June 2019, less than two weeks after the licence was granted. A longer track record of operating without problems is something that can go some way to demonstrating that an applicant can operate in a way that promotes the licensing objectives. The Premises has been operating for less than three months and, as yet, has not been subject to any inspection by any responsible authority. In the circumstances, and taking account of the other matters of concern, the LSC was not satisfied that there would be no impact on the licensing objectives. Furthermore, it was not satisfied that any impact could and would be mitigated given the applicant's failure to consider the policy and guidance. The LSC was therefore satisfied that it was appropriate and proportionate to reject the application.