

LICENSING SUB-COMMITTEE MINUTES

**Tuesday 2 March 2021 at 7.00 pm
Microsoft Teams**

Present: Councillor Rezina Chowdhury, Councillor Joshua Lindsey and Councillor Timothy Windle

Apologies:

1 ELECTION OF CHAIR

Councillor Timothy Windle replaced Councillor Jennie Mosely on the Licensing Sub-Committee.

MOVED by Councillor Rezina Chowdhury, SECONDED by Councillor Timothy Windle

RESOLVED: That Councillor Joshua Lindsey be elected as Chair for the meeting.

2 DECLARATION OF PECUNIARY INTERESTS

None were declared.

3 MINUTES

RESOLVED: That the minutes of the previous meetings held on 12 and 21 January 2021 be approved and signed by the Chair as a correct record of the proceedings.

4 LICENSING APPLICATIONS FOR THE GRANT OF A PREMISES LICENCE

4a PASTA EVANGELISTS, ARCHES 288 - 290 MILKWOOD ROAD, LONDON SE24 0EZ (HERNE HILL WARD)

This application was withdrawn from the agenda.

4b OVER UNDER COFFEE, 25 THE PAVEMENT, LONDON SW4 0JA (CLAPHAM TOWN 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 and 10 of the Statutory Guidance, and to Chapter 5, Policy 1, Policy 7, Policy 8, Appendices 1-3, Appendices 5-6 and Appendix 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 5.10 to 5.11 of the report on page 22 of the agenda papers.

The Licensing Officer confirmed:

- This was an application for a new premises licence for Over and Under Coffee, 25 The Pavement.
- The application was seeking permission for late night refreshment (indoors and outdoors) Friday and Saturday from 23:00-00:00.
- The application also sought the sale by retail of alcohol (on and off the premises) Monday to Thursday 09:00 to 23:00, Friday and Saturday 09:00 to 00:00 and Sunday 10:00 to 23:00.
- The premises proposed to open to the public Sunday to Thursday 06:30 to 23:30 and Friday and Saturday 06:30 to 00:30.
- Representations had been received from the Police, Public Protection, one local councillor and five local residents. The representations were based on the licensing objectives of prevention of public nuisance, prevention of crime and disorder and public safety. Copies of the representations could be found from pages 99 to 140 of the agenda.
- The applicant, Mr Edward Barry (being represented by Mr James Rankin), Mr Keith Badrick, Public Protection, PC Constable, Metropolitan Police were in attendance.
- Local residents, Steve Taylor, William Hill and Sarah Burke, who wished to call a witness, were in attendance.
- Details of the application, the applicant's proposed conditions and plans could be found from pages 61 to 91 of the agenda.
- Additional information submitted had been circulated to all parties and could be found from pages 1 to 31 of the supplementary agenda.

A map and photographs of the premises were circulated to members.

Presentation by the Applicant

Mr James Rankin, informed the Sub-Committee that:

- Most of the issues raised had been agreed, especially with the Licensing team.
- The applicant, started his business two years ago and now managed five coffee outlets in London.
- Two of the licensed premises located in the Royal Borough of Kensington and Chelsea (Earl's Court and Ladroke Grove) were licensed to sell alcohol and late night refreshment similar to that proposed for this premises.
- The other premises with similar hours were managed without any incident and no

complaints from residents had been received.

- Alcohol sales from those premises amounted to 25% with the remaining 75% consisted of food, coffee and soft drink sales.
- It was expected that this premises would operate in line with the other premises.
- A very successful meeting with the Licensing Manager was held on 17 December 2020 and the applications and conditions were discussed. Although the hours sought had been reduced as outlined above, the police insisted that the premises should close at 22:00.
- All conditions proposed by the Licensing Authority (except for condition 9 (proposed by the applicant) had been agreed.
- Whilst it was accepted that condition 9 was volunteered by the applicant, the business operation was small. Therefore, it was felt that a personal licence holder on duty at the premises was not required.
- Most of the proposed conditions submitted by the police had been agreed to, with the exception of conditions 29-32.
- It was felt that as no objection had been raised to have a personal licence holder on the premises from both the Licensing Authority and the Police, conditions 9 and 28 should be removed.
- The premises previously used to be an off licence. Condition 29 would mean that customers would be prohibited from taking cups of coffee away from the premises.
- The Licensing Authority's condition 14 was better worded than PC Constable's condition 32, which was preferred by the applicant. Also, the police conditions 30 and 31 were also rejected by the applicant.
- PC Constable felt that a "restaurant condition" that allowed customers to be served alcohol with a tabled meal with a terminal hour to 22:00 should be imposed. The proposal suggested by PC Constable was rejected as considerable concessions regarding the terminal hour had already been made. Furthermore, some clients preferred to purchase wine to take home instead of dining at the premises.
- The crime analysis for Clapham submitted by PC Constable happened in 2019. The majority of those incidents occurred at 01:00 when the premises would be closed.
- Successful promotion days at other premises that advertised their openings were held without any issues during pre-Covid. It involved providing free coffee and brownies from 07:00 to 10:00.
- The promotion event at Clapham was scheduled to take place from Monday 18 January to Saturday 23 January 2021. However, on Thursday 21 January 2021, a large crowd gathered outside the premises. Although management effectively dispersed the crowd, police arrived at the premises after the promotion had already been terminated.
- The premises was located on the edge of the Council's Cumulative Impact Zone. Some Councils such as Westminster had relaxed their cumulative impact policy as a result of Covid. He felt that this should be considered by Lambeth to ensure that the licensed sector recovered after Covid.
- He made reference to licensed premises nearby known as The Diary/Counter Culture that recently went into receivership but had a similar licence with longer hours.
- The applicant wished to replace the former licence of the Diary/Counter Culture with a licence with fewer hours.

In response to questions from Members, the applicant confirmed:

- The responsibilities of a potential licence holder were to uphold the four licensing objectives.
- He clearly understood the seriousness of why the Cumulative Impact Zone (CIZ) had

been implemented by the Council. However, the business was a small operation that wished to serve alcohol to increase profits.

- The premises operated predominately as a coffee shop and not a nightclub.
- He had worked incredibly hard to open the premises despite being in a pandemic.
- He would like customers to be allowed the opportunity to purchase alcohol on their way home if they wished.
- A full take-away meal service was offered at the premises.

Presentation by Interested Parties

In response to a question from Members, the Licensing Officer confirmed that the representation made by the Licensing Authority had been withdrawn.

Mr Keith Badrick, Public Protection Officer, informed the Sub-Committee that:

- Three noise complaints relating to the premises had been received on 3, 13 and 25 February 2021. The complaints made were based on loud music emanating from the premises, noisy patrons and crowds congregating outside the premises. Investigations pertaining to those complaints were currently ongoing.
- He queried why a coffee shop playing background music, wished to have an acoustic expert survey the premises and to arrange for a noise limiter to be installed at the premises.
- He still had concerns regarding ongoing noise nuisance issues that were currently being caused.
- The premises appeared to offer a brunch menu that would be served until 23:00. Also, a number of cocktails were listed on the menu, which could be expanded. Furthermore, daily or weekly promotion specials could be offered by the applicant, which needed to be taken into consideration by the Sub-Committee.
- A number of new applications for a premises licence had been submitted within the CIZ. Therefore, it was not acceptable by the applicant, to suggest that the premises should be replaced by The Dairy/Counter Culture licence that had recently gone into receivership.
- Although the premises was located on the outskirts of the CIZ, a number of residential properties existed nearby.
- The promotion event was managed differently at Clapham compared to events held at the applicant's other premises. Therefore, he queried how future promotion events would be managed by the applicant to prevent issues being repeated.
- It was expected that restrictions on licensed premises would be lifted in May/June. Having another licensed establishment within an already saturated area in the CIZ would have a detrimental effect on residents.

PC Mike Constable, Police Licensing and Night Time Economy Team, informed the Sub-Committee that:

- The Clapham crime statistics from 2019-20 demonstrated that a vast number of criminal activities occurred in the area, despite those violent offences happening during the early hours.
- The premises was situated within the CIZ and currently a total of 45 licensed premises existed in the area.
- Clapham's night time economy suffered from high levels of intoxication levels, virtual drinking and congregation issues.
- He regularly witnessed violent disorder that occurred in Clapham.

- He fully appreciated that businesses had been financially affected as a result of the pandemic. However, another licensed premises within the CIZ serving alcohol until midnight would pose additional strain resources on the Police and Ambulance Services.
- Although a slight decrease in crime had occurred as a result of the pandemic, this was expected to increase when the government restrictions had been lifted.

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

- He felt that a meeting with the applicant was not essential, as he wanted a terminal hour of 22:00 for the premises and the proposed police conditions agreed.
- On being asked to refer to page 143 of the agenda papers, he confirmed that police conditions 29-32 had not been agreed by the applicant.

Steve Taylor, resident, informed the Sub-Committee that:

- He had resided in Clapham for 20 years and was also representing another resident.
- Over the years, neighbours had moved away from the area due to noise disturbance and anti-social behaviour issues.
- He was regularly woken-up during the early hours as a result of anti-social behaviour that occurred in the area.
- No additional licensed establishments should be allowed within the CIZ, as approval would lead to further antisocial behaviour within the area.
- Building works had occurred without no consideration being made for residents.
- The promotion event held resulted in the police being called to the premises on two separate occasions.
- If the application was granted, this would go against the CIZ.
- The granting of the application could also lead to other coffee shops in the area applying for an alcohol licence.

William Hill, resident, informed the Sub-Committee that:

- He wished the applicant every success with his business venture.
- The applicant knew that the premises was situated with a CIZ and he disagreed that the premises was bordered on the edge of the CIZ as implied by the applicant.
- He disagreed that the premises used to be an off-licence.
- The premises would become busy and operate as a cocktail bar.
- During the summer outside seating at business establishments occurred, which impacted on the CIZ.
- He had witnessed people urinating outside the local church.
- Granting of the application would lead to further crime and anti-social behaviour issues and should be rejected.

Sarah Burke, resident informed the Sub-Committee that:

- She objected to the application being granted as a result of anti-social behaviour issues in the area.
- Off-sale alcohol from the premises should not be allowed.
- During the summer people can regularly be seen drinking and urinating in the Common.
- She resided above the premises and felt that the applicant had failed to ensure the premises was sufficiently managed.

Lara, a witness on behalf of Ms Burke, informed the Sub-Committee that:

- She had resided in the area for a while and was concerned about people congregating

outside the premises which would be intimidating for single females that travelled by the premises.

In response to questions from Members, Steve Taylor, William Hill and Sarah Burke, informed the Sub-Committee that:

- They felt that any conditions imposed would not satisfy residents' concerns and the licence should not be granted.
- Although the customers were not allowed inside the premises, loud music could be heard emanating from the premises.
- The premises was an old building and with customers inside, noise issues would be exacerbated.
- The café was popular and Sarah Burke had provided suggestions on how the premises could be managed. Although some issues had been complied with, other issues had not been addressed.
- As a result of intoxicated individuals, females might feel intimidated to walk past the premises late at night.

Councillor Linda Bray, ward councillor for Clapham Town, informed the Sub-Committee that:

- The Pavement on the weekend was very busy but, despite this, the applicant proceeded with a promotional event at the premises, which attracted a large crowd of people. This resulted in no social distancing measures being adopted and led to a fellow councillor making complaint to the police.
- She believed that the premises would not operate as a coffee shop but, rather be used as a cocktail bar without any food being served, as the 'restaurant condition' suggested by the police had not been agreed to by the applicant.
- Although alcohol sales would only consist of 25% of the business turnover, the takings would be high, as the premises would remain open all day.

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

- An acoustic expert had been commissioned to install a noise limiter at the premises to prevent nuisance and to visit Ms Burke at her premises on 26 February 2021. However, Ms Burke advised that she was unavailable.
- The applicant would be happy to have a sound limiter installed as suggested by the acoustic expert.
- The applicant only allowed one customer at a time inside the premises and other customers must wait outside the premises to claim their coffee but this would change from 17 May 2021.
- Other businesses within the area also had customers waiting outside.
- Although the police had been called on 21 January 2021, they were satisfied that the Covid protocols were being complied with.
- The applicant had complied with Ms Burke's suggestion by having planters installed on either side of Ms Burke's doorway to discourage people from loitering outside. Also a bollard had been erected outside her doorway.
- The applicant had apologised for the promotion event held at the premises.
- The applicant had liaised with Ms Burke to address issues.
- The applicant would be willing to have an equaliser installed to reduce the bass noise levels at the premises.
- The applicant would ensure all alcohol sold for consumption off the premises would be sealed before customers left the premises.

- The applicant offered a different food menu to customers during the evening.
- Vertical drinking by customers at the premises would not be allowed.
- Additional staff would be available to prevent people loitering outside and to ensure they left the premises with their drinks.
- The applicant engaged with the Business Improvement Districts (BIDs) and worked with local businesses to make improvements within the area.

In response to an issue raised by Mr Rankin, Ms Burke confirmed as a result of work commitments, she was unable to attend the meeting on 26 February 2021 with the noise consultant. However, she was awaiting the outcome of the decision by the Sub-Committee before another meeting was arranged.

Adjournment and Decision

At 8.18 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 Rankin, Mr Barry, Mr Badrick, PC Constable, Mr Steve Taylor, Mr William Hill and Ms Sarah Burke.

Legal advice was given to the Sub-Committee on the options open to them and the need for any decision to be proportionate. The Sub-Committee decided to refuse the application.

RESOLVED: To refuse the application.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to refuse the application. The Chair confirmed that written notification of the decision would be sent in due course.

The meeting ended at 8.45 pm

CHAIR
LICENSING SUB-COMMITTEE
Thursday 18 March 2021

Date of Despatch: Tuesday 9 March 2021
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