

LICENSING SUB-COMMITTEE MINUTES

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

Present: Councillor Fred Cowell, Councillor Linda Bray and Councillor Joshua Lindsey

Apologies:

1 ELECTION OF CHAIR

MOVED by Councillor Linda Bray, SECONDED by Councillor Joshua Lindsey
RESOLVED: That Councillor Fred Cowell be elected Chair for the meeting.

2 DECLARATION OF PECUNIARY INTERESTS

None were declared.

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

3a BALHAM FARMERS MARKET, HENRY CAVENDISH PRIMARY SCHOOL, HYDETHORPE ROAD, LONDON, SW12 0JA (THORNTON)

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 Sections 5, 6 and 14 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 6.1 of the report on page 10 of the agenda papers.

The Licensing Officer confirmed:

- This was an application for a new premises licence.

- The applicant sought permission for the sale of alcohol from 09:00 to 13:00.
- A copy of the application could be found on pages 13-21 of the agenda papers.
- A copy of the site plan could be found on page 22 of the agenda papers.
- Three objections had been received in respect to the application. These were all from Responsible Authorities consisting of Licensing, Police and Public Protection. The representations were based on all four licensing objectives.
- Representations could be found on pages 23–32 of the agenda papers.
- The applicant had been provided copies of the objections and had responded to them all.
- An additional copy of the site plan had been provided and could be found in the additional agenda papers.
- The representation recorded on pages 23–25 of the agenda papers was incorrect, and a correct copy of the representation had been served to all parties.

The Chair thanked the applicant for responding and working with the Responsible Authorities as it benefited the local community. In response to questions from Members, the applicant, Ms Cheryl Cohen informed the Sub-Committee that:

- There was an average of one or two stalls selling alcohol each week. They would never be more than four in total at any point. However, different stalls operated differently. For example, some stalls operated seasonally.
- There would be approximately 25 to 30 stalls in total.
- The sale of all goods at the market fell under strict rules. All sellers needed to sell products that they themselves had made in some way. For example, one individual sold German alcohol that he brewed himself. Another seller sold apples which he had grown himself.
- Most of the sale of products would be taken away by patrons for them to consume at home. It was rare that a customer would sit and drink at the premises.
- Most of the revenue for alcohol would be drawn from the off sales of alcohol.
- There was one entry and one exit onto the premises and it could only be accessed by pedestrians from the street. Under the current circumstances, the premises had clearly delineated one side for entry and the other side the exit. There was also a steward at the gate.
- Delivery vehicles arrived at 07:00. The premises operated a noise policy and the individual who opened up the premises made sure that the area was clean before allowing any vehicles to enter the premises.
- The difference between a farmer's market and other types of markets was that the products sold at a farmer's market had to come directly from the farm.
- The agreement of proposed condition 4 from the Licensing Authority would depend on the definition of the word 'local'.
- Stalls which sold food could only sell food that they had made themselves. It was not possible for stalls to sell something that they had brought from somewhere else.

- It was rare for stalls which sold food to sell alcohol as well.
- All individuals who sold alcohol had to have licensing training. The Challenge 25 policy would be operated on the stalls. Alcohol would not be sold to children. In the event that this occurred, stall operators would be asked to leave.
- A glass of cider or wine could be poured into a receptacle. This would not be made of glass and could not be taken off the premises unless it was sealed.
- People were allowed to drink at the premises and there were benches in the area for customers to buy and drink alcohol.
- The school had stated that the site had CCTV coverage which covered the whole premises.
- She was happy to have a limit on the percentage of stalls selling alcohol, perhaps around 25%.
- It was difficult to maintain physical copies of training records. It was easier to maintain them electronically.
- In relation to proposed condition 13, further flexibility was required on the terminal hour as the premises would only be open for four hours and similar operations at other locations had never fallen at risk of complaints or public nuisance.
- There were no issues with the condition proposed regarding Challenge 25.
- The market would cease to operate at 13:00. The operation was family friendly and customers were respectful of neighbours. There would be no noise issues and in relation to proposed condition 17 from Public Protection, the premises would have a noise prevention policy in place.
- Proposed condition 18 from the Public Protection team would be met as the market manager would wear a high visibility jacket for the duration of the operation of the market. A steward would also be present at the premises.
- After the farmer's market had finished for the day, staff would ensure that the premises was left in the way that it was found, meaning that there would be no waste or litter found at the premises at the end of the day.

Presentation by interested parties

Ms Bina Patel, Licensing Manager, informed the Sub-Committee that:

- The revised plans submitted on 26 November 2020, forming part of the application, were plans that were related to the application.
- In relation to proposed condition 2, references had been made regarding the percentage of stalls that could sell alcohol. However, if the market was to grow in size, then the actual number of stalls that would be allowed some alcohol would also increase. Given that the applicant had stated that the number of stalls selling alcohol was unlikely to exceed four in total, she would recommend that the maximum number of stalls that could sell alcohol should be set to four.
- In relation to condition 4, the wording of the condition could be proposed to ensure that only locally brewed alcohol would be permitted for sale.
- In relation to condition 9, there were no concerns about the condition proposed, but

perhaps a suggestion could be made to change the condition so that the records could be kept electronically and had to be accessible to an authorised officer.

- In relation to condition 14, it was important that the premises had a reasonable amount of time for patrons to consume alcohol as the market would need to be cleared by a certain time.
- Condition 11 covered the condition for the requirement of the proposed signage.

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

- The requirement for condition 4 was clear as it would prevent the need for people to enter the premises to sell bottled beer or more commercialised alcohol.
- It was possible that the wording for condition 4 could be changed to review how alcohol could be sold at the premises.

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

- There was some duplication in the conditions in the representation made by Public Protection.
- Of the conditions proposed by Public Protection, conditions 17, 18 and 19 were of importance to the Public Protection team.
- Although the premises was not like a bar or a pub, it was still relevant to the application and the conditions were put in place to help residents feel that they could contact someone to deal with any issues that may arise.
- Simple signage could be placed up somewhere on the premises and taken down when the market finished its operations for the day.
- It was important to have a telephone number and contact details for the manager of the premises were made available to the public, as individuals may wish to speak to somebody face-to-face, but they may also feel the need to call or email someone instead as they may not wish to raise the issues face-to-face.
- He would be happy for the application with conditions 17, 18, 19 as proposed by Public Protection to be placed on the licence and in relation to conditions regarding waste disposal, he would be happy to apply the proposed condition put forward by Licensing.

PC Mike Constable informed the Sub-Committee that:

- Most of the relevant points had been made by the previous speakers.
- The Police had proposed monthly risk assessments and when regular life resumed after the coronavirus crisis, it was likely that the premises would need security in place.

- The premises was located in a school playground and there were risks associated with empty bottles or other such litter lying around on school days or when school is in progress; so the condition relating to litter picking was important.
- Licensing conditions had to be preventative in nature, as one had to consider the worst-case scenario. It was unlikely there would be significant incidents at the premises, but such a thing could happen.

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

- The risk assessments condition could be found on the Police representation and he was happy for a risk assessment to be carried out every three months.

In relation to the proposed condition 4 from Licensing, the Legal advisor to the Sub-Committee stated that the Secretary of States Guidance set out how the Sub-Committee should approach the issue of conditions, with the central considerations being the ease of enforcement and compliance. To that end, the Guidance specified that conditions needed to be appropriate for the promotion of the licensing objectives, they should be precise and should not be ambiguous. They should also be clear in what they intended to achieve. The Sub-Committee would need to be satisfied that the condition under consideration was drafted accordingly. The decision on that ultimately rested with the Sub-Committee.

The applicant was recalled to address matters arising. In response to questions from Members, the applicant Ms Cohen informed the Sub-Committee that:

- The organisation was known to have the strictest rules in the country and turned away more people than it allowed to sell goods at its events. The organisation had rules and wording and stuck to the rules in a very strict manner.
- Condition 2 could be changed to read that a total of 20% of the stalls at the premises could sell alcohol.
- She understood that the purpose of condition 9 was to allow responsible authorities to be able to access the records.
- In relation to condition 13, the business was a family run market and not a bar and those working in the area listened to those in management positions.
- She was not originally aware that the licence could not be taken with the applicant should the applicant decide to leave the area.
- The terminal hour for licensable activity being 12:30 was too early and should be moved to a later terminal hour.
- She agreed with use of the Challenge 25 signs, but dispersal notices were inappropriate for the premises. This had never previously been required and those working in the area would leave at the terminal business hour.
- In relation to condition 14 proposed by Public Protection, it was important to note that the premises was not a bar and those working at the premises always ensured

that the area was completely tidy before they left.

- In relation to the quarterly risk assessment condition proposed by the Police, the market operating at the premises was not one of the busiest. It had a low footfall count.
- The market had a policy not to publish phone numbers as managers were not comfortable having their phone numbers advertised. The use of phone numbers had been abused in the past by residents. The business never really had any problems with any customers and any issues that did arise were dealt with quickly.
- She had informed that in relation to rubbish collection, the staff working in the area would clear away the area before they left the premises.

Adjournment and Decision

At 8:16pm, 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 defer the decision of the application.

RESOLVED: To defer the decision of the application.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to defer the decision of the application.

The Sub-Committee thanked everybody for attending and stated that under the Licensing Act 2003 (Hearing) Regulations 2005, the Sub-Committee had the power to defer making a determination. Given the context of the application, the Sub-Committee decided it was appropriate to invoke this power and defer its decision on this application for a period of five working days. The Sub-Committee felt that it needed to properly reflect upon the nature of all the conditions proposed and make sure that the appropriate ones were implemented and that they were proportionate to the application.

3b TROPIX, 10 CLAPHAM HIGH STREET, LONDON, SW4 7UT (LARKHALL)

This application was withdrawn from the agenda.

The meeting ended at 8:40pm

CHAIR
LICENSING SUB-COMMITTEE
Thursday 11 February 2021

Date of Despatch: Wednesday 10 February 2021

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