

LICENSING SUB-COMMITTEE MINUTES

Monday 12 July 2021 at 2.00 pm
Microsoft Teams

Present: Councillor Fred Cowell, Councillor Emma Nye and Councillor Becca Thackray

Apologies:

1 Election of Chair

MOVED by Councillor Becca Thackray, SECONDED by Councillor Fred Cowell

RESOLVED: That Councillor Emma Nye be elected Chair for the meeting.

2 Declaration of Pecuniary Interests

None were declared.

3 Minutes

RESOLVED: That the minutes of the previous meeting held on 27 May 2021 and 17 June 2021 would be approved and signed by the Chair as a correct record of proceedings.

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

4a 14 Market Row, London, SW9 8LD, (Coldharbour)

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 (policies 1, 3, 4 and 8) of the Statement of Licensing Policy, as the ones particularly relevant to this application. The options available to the Sub-Committee were set

out in paragraph 6 of the report on page 30 of the agenda papers.

The Licensing Officer confirmed:

- This was an application for a new premises licence.
- The premises had applied for the sale of alcohol for consumption both on and off the premises between 10:00-23:00 Monday to Sunday.
- Opening times for the premises would be Sunday to Wednesday 10:00 to 23:00 and 10:00 - 23:30 Thursday to Saturday.
- Representations had been received from the licensing authority and one local councillor.

Presentation by the applicant

Mr Rob Jephcote, representing the applicant, informed the Sub-Committee that:

- The premises would act as small experimental sister unit to the main restaurant and cocktail bar located at Unit 12, First Floor, Market Row for which a separate application had been submitted.
- The premises would be operate like a boutique wine bar and a shop.
- The premises would offer award winning luxury bottle cocktails and have a counter unit with poser tables providing staff the opportunity to educate customers on how the business created unique award winning cocktails.
- Patrons could also try samples of cocktails before purchase.
- The premises would offer alcoholic and non-alcoholic cocktails within the premises and would allow patrons to sit and sip cocktails on one of the tables. There would be no vertical drinking.
- All bottles sold would be gift wrapped in sustainably sourced wrapping paper.
- During the summer months, patrons would be offered traditional frozen Mexican cocktails and passers-by will be given samples in paper cups to consume while they shopped.
- The aim of the business was to operate like a luxury wine bar or wine shop.
- The business had a signature cocktail that had been awarded the UK Cocktail of the Year 2020.
- The business was also home to the seventh best cocktail in the world and this would be a great addition to the market.
- The premises would bring people together in a positive way.

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

- Providing samples for patrons whilst they shopped was something that the applicant would consider retracting.
- The applicant would accept a condition whereby any off-sales of alcohol would be sold in a sealed bottle container, rather than a paper cup.
- Any kind of music played would be very light background music. There would be no live music or entertainment at the premises
- The premises was small and could only seat six people due to its size.
- The adjoining restaurant to the premises could offer snacks to go with the alcohol samples. It was expected that patrons would buy samples of the alcohol before buying a gift box.

Adjournment and Decision

At 4:06pm, 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 grant the application with conditions.

RESOLVED: To grant the application with conditions.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the application with conditions.

The Sub-Committee noted that there would be an additional line added to proposed Conditions 23; that no person shall be allowed to leave the premises with an empty or open container of beverage. Any off sales of alcohol should be sold in a sealed bottle.

4b Friends of Mine, Ground Floor, 382 Coldharbour Lane, London, SW9 8LF (Coldharbour)

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a variation of a 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, 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 71 of the agenda papers.

The Licensing Officer confirmed:

- This was an application to vary a premises licence so that the premises could operate as a restaurant.
- The application sought to alter the layout of the premises including the addition of the use of the outside area and the rear garden.
- The applicant sought the permission of the sale of alcohol for consumption off the premises by removing condition 12.
- The applicant sought to revise condition 20 so that after an employee left the business, his or her employment documents would be retained at the business' head

office.

- The applicant sought to revise condition 23 regarding the capacity of the premises.
- The applicant sought to revise condition 24 regarding patrons smoking outside the premises.
- The applicant sought late night refreshment until 00:00 Monday-Thursday and until 02:00 Friday and Saturday.
- The applicant sought to extend the sale of alcohol for consumption on and off the premises until 00:00 Monday-Thursday and until 02:00 Friday and Saturday.
- The applicant sought to amend opening hours so the premises would be open Sunday-Thursday 06:00- 00:00 and Friday and Saturday 06:00-02:30.
- Representations had been received from the Licensing Authority, one resident and two businesses.

Presentation by the applicant

Mr Gazmir Metushi and his representative Mr Bobby Holder informed the Sub-Committee that:

- The applicant's business had struggled through the coronavirus crisis.
- The use of the garden area had saved the viability of the business.
- In the past few months, there had not been a single patron sitting inside.
- The only parts of the premises in use were the garden and front tables.
- The premises would add value to the area if the licence was granted.
- The applicant had considered the application carefully and submitted conditions to ensure that the least amount of disturbance could be caused to neighbours.
- The applicant was also aware of the busy area of Coldharbour and had submitted an appropriate application.
- The conditions offered by the applicant were in line with government regulations.
- The applicant was a successful businessman and the conditions offered by the applicant followed government regulations.
- At present, the applicant was operating on new government guidelines and had submitted a planning application.
- The applicant had franchises in Brixton, Herne Hill and other areas of London.
- Premises staff were well trained and since the applicant had taken over, the area had improved and was cleaner.
- The applicant cared about the residents and his business. He tried his best to keep the premises as safe and clean as possible.

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

- The picture of the outside area as shown on page 115 of the agenda papers would

be how the premises would remain. The only difference was that alcohol would be served in that area.

- A request to sit at a table of four would mean that a party of four patrons would be separated. Two tables would not be put together.
- There was available seating for 32 people at the back and this was inclusive of social distancing rules.
- Benches could be found on the front of the area.

At this point in the proceedings, the Licensing Officer stated that the use of the outside area at the front was subject to a tables and chairs licence which was not part of the Licensing Act.

In response to further questions from Members, Mr Metushi and Mr Holder informed the Sub-Committee that:

- The applicant intended to be able to serve patrons seated at the front of the premises until 23:00.
- The applicant had not applied for any music based licence and the amount of noise generated at the premises had been measured by the applicant and noise levels at the premises would not be a concern.
- Noise measurements had been taken to ensure that no noise disturbance would be caused to residents. The premises would occupy a smoking policy and no drinks were to be taken out to the front of the premises.
- Bottles of wine would be sold as part of the off-licence. The premises would also sell other products such as cheeses, meats and olives. The wine would be sold with food only, except in cases of sales of alcohol for consumption off the premises.
- Whenever the premises was open past 00:00, the business would employ SIA staff. At times when the business was not busy, the premises would close early. Some days would be busier than other days and there would be no further entry of patrons to the premises after 23:00 between Monday to Thursday.
- The applicant would agree to a condition whereby no entry to additional patrons would be allowed after 00:30 on Friday and Saturday.
- The wine that would be sold as part of the off-licence would be sold with closed vessels.
- The applicant had made an effort to consult neighbouring residents and had a good relationship with residents in general. If residents were concerned with the business in any way or had issues regarding noise, then the applicant would be happy to assist residents in helping alleviate concerns.
- The applicant had not yet engaged with the Sleepless In Brixton campaign, but did attend various licensing-based meetings including Pubwatch, which would be restarting after 19 July 2021.
- In relation to the revision of condition 23, the legal number for the maximum amount of persons at the premises was 62.
- No smokers would be allowed in the back area of the premises after 23:00. All

smokers would be limited to smoking in front of the building and no alcohol was to be served in the outside area after 23:00.

- The amount of smokers that would be allowed in the outside space would be limited.

At this point in the proceedings, the Licensing Officer stated that the smoking area appeared to be covered with patched roofing, if this smoking area was enclosed by more than 50%, then the law would prohibit smoking in that area. The area was enclosed on two sides making it difficult to see how smoking could be allowed in such an area.

In response to further questions from Members, Mr Metushi and Mr Holder informed the Sub-Committee that:

- There would be no smoking in the outside space in the back area after 23:00.
- The applicant would follow legal regulations relating to smoking.
- The condition on page 125 of the agenda papers concerning the installation of a comprehensive CCTV system had already been installed.
- The addition of the extra hour would allow the business to be more competitive with Brixton Village and Pop Brixton and other premises that had access to open space. This is why the applicant was happy to have a condition whereby there was no entry to additional patrons after 23:00 on Monday to Thursday as people would already be seated at tables. On Friday and Saturday, patrons often came out a little later.
- The hours applied for on Friday and Saturday was essential to the business plan and there were other premises had the option to stay open until very late.
- The late hours would be used whenever it suited the business model. The applicant did not feel that the premises would be busy on Monday nights for example.
- The applicant was happy to not allow any new patrons into the premises after 23:00 between Monday to Thursday and after 01:00 on Friday and Saturday.
- The premises was generally known for being a café, but being open for late hours allowed the perception of the premises to change more to being an eatery.
- In one month, the premises was likely to stay open until 02:00 between 5 to 6 times.
- It often took about two weeks to ensure that the premises staff were fully trained and the applicant would be present at the premises to guide them to ensure that no rules were broken.
- That would be four to five staff members at the premises and an SIA staff member would be placed at the front of the premises whenever the premises was open after midnight on Friday and Saturday evenings.
- The applicant was happy to agree to a condition whereby SIA staff could be present after 23:30.

Presentation by interested parties

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

- She was concerned with the applicant's representation.
- The premises had only obtained a licence since January 2020 and had to cease trading shortly after government regulations had been put in place due to the coronavirus crisis.
- She could not see how the applicant would be able to uphold the licensing objectives.
- The applicant was looking to increase the operating hours of the premises.
- The conditions proposed on pages 155 to 156 of the agenda papers were different to the conditions that would normally be proposed for a restaurant. For example, it was not clear why the premises would need SIA staff, condition 7 for crowd management was more often a condition that would be placed at a bar or club, condition 12 concerning the use of a clicker device was also more appropriate for a bar or club, condition 17 regarding patrons being served from the hatch did not make sense as the applicant was seeking to operate the premises until 02:00 in any case.
- There were concerns regarding the plans that had been proposed on page 146 within the papers as this appeared to demonstrate a significant reduction in the size of the premises. The bar appeared to have increased by more than 50% of its original size and the internal capacity of the premises appeared to be able to accommodate fewer people, whilst the licensed area had been extended to include the rear of the premises.
- It's not clear how the premises would be able to accommodate approximately 60 people safely.
- There was a condition that the garden area would not be used after 23:00. However, it was not possible to gain access to the toilets without bypassing the garden area.
- The proposed smoking area did not appear to meet government legislation.
- The outside area which displayed two tables and four chairs was part of the public highway and would therefore need a tables and chairs licence.
- A condition could be imposed to say that the use of any tables and chairs at the front of the premises would be subject to an appropriate licence to ensure that there was a suitable amount of patrons sat at the front of the premises. The front of the premises was located in a busy highway and the terminal hour for it to use should be between 21:30 – 22:00.
- The Licensing team had not received a noise monitoring report from the applicant and there was concern regarding the extension of licensing activity to include both outside areas of the premises.
- There was concern regarding the hours that the applicant had applied for and the amount of patrons that could actually fit into the premises.
- The fire risk assessment would have been based upon the skeleton structure of the building and would need to be reassessed by the appropriate authority.
- It was not clear how the premises would be able to accommodate more than 30 individuals in the outside area located at the back of the premises.

Mr Alan Mato, resident, informed the Sub-Committee that:

- He was representing himself and Mr Glen Edwards, a resident of 15 years who lived next door to the premises.
- The premises had initially operated as a cafe but was now seeking to operate a more substantive licence.
- As a resident, Mr Edwards had faced some issues with other licensed premises in the area.
- The Brixton Society had noted the saturation zone in Clapham High Street and would feel that the needs of the residents were not being heard in Coldharbour.
- The applicant had not held an open dialogue with residents and many of the plans that had been introduced would affect residents living directly above the premises.
- There was concern regarding fire safety. The sheet of plastic and thatching in the smoking area was a fire risk to Mr Edwards' property.
- There was a major concern regarding soundproofing. It was possible to hear the commotion emanating from the premises. The premises had accommodated up to 30 people and for an individual who used his home as an office, there was constant background noise and during the summer months, it was important to be able to keep the window open.
- The smell of food would travel into people's homes.
- Deliveries would arrive early into the premises and this would wake Mr Edwards and other neighbours.
- All individuals deserved their right to private amenity. The high capacity allowance and drinking in the outside areas of the premises would take away the right to privacy in a very busy area.
- The premises was no longer operating as a restaurant as the outside space was very large. The outside area of the premises had become like an outside pub for young people.
- Loitering had increased in the outside space and other issues would be created such as public urination and waste.
- There would be a greater potential for crime.
- There should be security in place with a definitive plan to prevent issues such as loitering.
- An acoustic report regarding the premises should be submitted.
- The terminal hour for licensable activity should not be later than 21:00. The area was also a residential area.
- It was important that the residents' needs were considered. Mr Edwards was considering moving away from the area if the application was granted.
- Mr Edwards was a nice person and was open to dialogue, but he felt that the licence premises in the area was too much for him to bear.
- There were serious concerns regarding the use of the rear garden for purposes it would be used for.

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

- Residents had not been made aware of the application and the required blue notice had been removed from the area.
- A witness had seen the notice removed by a member of staff working at the premises.

The applicant was required to address matters arising. In response to questions from Members, Mr Metushi and Mr Holder informed the Sub-Committee that:

- The required notice for the application had been put up for 28 days.
- The notice had been put up at the nearest spot where residents could see it and had been laminated. An advert had also been released in the local newspaper and residents were aware of the application.
- Those living above the premises had been consulted and a strong attempt had been made to have a dialogue with the residents.
- Notices had not been removed by premises staff. In general, premises staff did not do this and the applicant was happy to communicate with all the residents including Mr Edwards, who was a difficult person to contact at times.

At this point in the proceedings, the Licensing Officer stated that he had explained to the applicant that he had been made aware by the applicant that the required notice had been taken down and so he explained to the applicant that in the event that the required notice was taken down, it would have to be replaced. The Licensing Officer had also checked on 28 May 2021, two days before the end of the 28 day period and the notice was still up where it had been originally placed.

In response to further questions from Members, Mr Metushi and Mr Holder informed the Sub-Committee that:

- Residents generally had no complaints regarding the application.
- Due to the current laws, it was possible to sell alcohol in the garden space.
- The applicant personally spoke to residents every day and informed them that they could contact him if at any point they were unhappy about anything.
- The premises could be described as an eatery and a dining restaurant.
- Generally, office workers visited the premises in the morning and during lunch and in the evening it was families and young people who would visit.
- The applicant wanted to appeal to all demographics and had policies in place in case there were issues that needed to be dealt with. SIA security was in place to ensure that patrons would be safe.
- The premises was likely to attract people in their thirties. There would be no parties

or music. The premises would be focused on good food, good wine and a delivery service.

- The applicant would not be able to reduce the terminal hour for of the use of the garden to 20:30, but could reduce the terminal hour to 22:00. However, this would be difficult for the business.
- The application was careful to take into consideration issues surrounding the coronavirus crisis, smoking and any potential disturbance.
- The premises would focus on the quality of food and the quality of service. Other licensed premises in the area had considerably larger capacities and could hold anything between 300 to 500 people.
- The premises could hold 60 people at maximum capacity and it was unlikely to reach this amount on any given day.

Adjournment and Decision

At 3:41pm, 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 grant the application with conditions and amendments.

RESOLVED: To grant the application with conditions and amendments.

Announcement of Decision

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

The Sub-Committee had considered the evidence and decided that the premises would operate until 00:00 Monday to Thursday and until 01:00 on Friday and Saturday. No additional patrons would be allowed into the premises after 23:30 on Friday or Saturday. SIA security would be present after 23:00 Monday to Thursday and after 00:00 on Friday and Saturday (if the premises stayed open). Alcohol would not be served later than 21:00 in the garden area. If the applicant was able to demonstrate that they could meet the licensing objectives with the licence that had been granted, then the applicant could apply for a variation application. Full written reasons would follow in due course.

5 Consideration of Objections to Temporary Event Notices

5a Arch 25, Handel Business Centre, 73 Bondway, SW8 1SQ (Oval)

This item was withdrawn from the agenda.

The meeting ended at 4:01pm.

Date of Despatch: Wednesday 28 July 2021

Contact for Enquiries: Nazyer Choudhury

Tel: 020 7926 0028

E-mail: nchoudhury@lambeth.gov.uk

Web: www.lambeth.gov.uk