

LICENSING SUB-COMMITTEE MINUTES

Friday 20 May 2022 at 2.00 pm

Members Present: Councillor Fred Cowell, Councillor Linda Bray and Councillor Liz Atkins (Substitute)

1 Election of Chair

MOVED by Councillor Linda Bray, SECONDED by Councillor Liz Atkins

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

2 Declaration of Pecuniary Interests

There were none.

3 Minutes

RESOLVED: That the minutes of the previous meeting held on 22 April 2022 be approved and signed by the Chair as a correct record of the proceedings.

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

4a 348 Kennington Lane London SE11 5HY (Prince's Ward)

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a new premises licence. The Sub-Committee's attention was drawn to chapters 2, 3, 8, 9, 10 and 16 of the Statutory Guidance, and to Sections 1, 3, 4, 8, 15 and 17 of the Statement of Licensing Policy, as the sections particularly relevant to this application. The options available to the Sub-Committee were set out in paragraph 6 of the report on page 13.

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

- This is an application for a new premises, submitted by Upmarket Catering Limited
- The applicant was seeking authorisation for Late Night Refreshment for Indoors and Outdoors, on Monday to Wednesday from 23:00 to 02:00, Thursday to Saturday from 23:00 to 03:00 and Sunday from 23:00 to 01:00.
- The opening hours for the premises were proposed as Monday to Wednesday from

11:00 to 02:00, Thursday to Saturday from 11:00 to 03:00 and Sunday from 11:00 to 01:00.

- In attendance for the applicant was Sarah Le Fevre, Thomas O'Maoileoin and the applicant Khawar Hussain.
- One representation had been received against the application from the Licensing Authority.
- Ms Bina Patel was in attendance representing the Licensing Authority.
- A copy of the application can be found from pages 15 to 15 of the main reports pack and the representation at pages 27 and 28.
- Subsequent to the publication of the report, an additional submission by the applicant was forwarded to the members and relevant parties.

Presentation by the Applicant

Ms Sarah Le Fevre, representative to the applicant, informed the Sub-Committee that:

- It was noted that Khawar Hussain was also in attendance and could answer any additional questions with regards to further operational detail.
- This was a responsible applicant, who was aware of the licensing and wider societal obligations, which had reflected commercial realities and its ability to operate a business in residential areas without increasing the risk of public nuisance within the application.
- The applicant had considered the aspirations expressed in the Licensing Policy and paid staff the living wage, as well as premiums above the living wage for work after midnight hour.
- There had been no representation received against the application from residents, Metropolitan Police, or any other responsible authority other than the Licensing Authority.
- The applicant was seeking hours beyond those preferred hour sets out in the policy, and it was up to the discretion of the Sub-Committee to decide whether to reduce or extend the hours.
- All conditions proposed to address public nuisance had been agreed by the applicant, except for the reduction of hours. This included the litter picking and it was believed that the business could have a positive impact on public nuisance, with reference to its participation in the annual Great British Spring Clean project.
- To address odorous concerns, Ms Le Fevre explained that this was a proposed KFC premises and benefited from the expertise and a standard of equipment to address this.
- There was a potential impact of customers attending in person and delivery drivers at the premises, which would be addressed through measures of control, where delivery drivers would receive written instruction and supervised, along with CCTV.
- This was an experienced operator, and these controls would uphold the licensing objectives.

In response to questions from Members, the applicant, Khawar Hussain confirmed:

- As detailed in paragraph 4c of the applicant's submission, the applicant forecast that between 85 per cent to 90 per cent of business after 23:00 would be delivery sales and this was learning taken from the London Borough of Southwark, Elephant and Castle venue.
- It was necessary for the business to operate during midnight hours because of the recovery from the pandemic.

- There were no complaints of public disorder due to the volume of delivery orders.
- The applicant preferred a full licence and sought to operate a business to improve the area. If the late-night licence created problems for residents, local authority or councillors, the next best option was that the applicant only operated by delivery after a certain hour as in person sales fell from 23:00.
- There were between five and eight delivery drivers on the premises at any one time, however delivery orders were usually larger, and drivers may wait longer than others.
- The applicant had one unit in Southwark and around eight venues around London, mostly KFC, but also a gelato business in Camden that did not require a hot food licence.
- The premises was in construction and residents had not been consulted on the late-night licence, yet experience was taken from businesses operated around London.
- Patrons placed orders electronically and this was sent to the till where the delivery company automatically assigned the delivery to a driver, who would only be waiting for approximately 10 to 20 minutes.
- There was a parking bay opposite the venue for delivery drivers, which was approximately five or six meters long, and two parking bay that's permit parking after 18:00.
- It would be difficult to enforce a condition requiring delivery staff to wait inside as they were employed by third-party delivery companies, however, Condition 7 could require the licence holder to advise that delivery drivers wait within the premises.

Presentation by Interested Parties

Ms Bina Patel, representing the Licensing Authority said that:

- The representation was made due to the application in excess of policy hours.
- It was not clear that this premises would operate as a KFC prior to the additional submission provided by the applicant.
- It may be possible to amend the conditions to restrict business to delivery after a certain hour, such as 02:00, to restrict the congregation of patrons at the premises.
- If the licence holder advises drivers to wait inside the venue, that may create problems for patrons and delivery drivers interfering with each other.
- If the time indication was based on other premises who deliver after 23:00, perhaps delivery hours could be restricted to 00:00 as acceptable, if the Sub-Committee should decide to accept the excess of policy hours.

In response to questions from Members, Ms Bina Patel confirmed:

- The proposal to amend the condition restricting sales to delivery was based on the information provided, such as a surge in delivery sales as a percentage after 23:00.
- The concern around the excess of policy hours was because the venue was in proximity to residential areas, despite there being no representations made by residents.
- There was a need for a balance to operate a business, but to also mitigate any issues of noise nuisance.
- In vicinity to the premises was an off-licence, a betting shop and late-night venues being the Royal Oak, the Vauxhall Tavern and the Eagle Pub.
- The Council does receive complaints of antisocial behaviour in relation to late night refreshment, while the KFC in Brixton responded positively to these complaints.
- These complaints may be in relation to delivery drivers congregating or parking outside

of these venues and was not always related to the patrons.

- Suitable conditions were needed to prevent any rise in public nuisance or antisocial behaviour, related to these types of premises.

Ms Sarah Le Fevre and the applicant, Mr Khawar Hussain confirmed:

- The applicant would prefer to trade under the licence until 03:00, while the issues raised about the profile of the area had been understood.
- The next best option would be to restrict later trading hours to delivery.
- At the Southwark premises, the signal drop of in-person sales appeared to be at 01:00.
- The premises would have CCTV in operation, as well as staff in later hours to act as a deterrent to antisocial behaviour.
- The Police had raised no concerns relating to crime and disorder or antisocial behaviour in respect to this application.
- The area had been considered and analysis of the Vauxhall Tavern found most events ended before 00:00 and a small percentage finished at 04:00, later than the terminal hour being applied for in this application.
- The Vauxhall Tavern was believed to be a responsible operator and there were no express concerns in how this would impact this operation.
- Most drivers arrive on bicycles and e-bikes, reducing the potential for noise nuisance.

Adjournment and Decision

At 14:48, 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 the Licensing Authority.

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 subject to all existing conditions and hours applied for by the applicant, subject to two additional conditions being:

1. To recommend that drivers wait inside the premises while waiting to collect orders.
2. Where the premises is operating under Late Night Refreshment provisions of the licence, the orders received after 02:00 shall be by delivery only.

The Sub-Committee believed that the steps taken served to reduce the potential for public nuisance while delivery drivers wait for collection on request of the applicant, as deliveries would be conducted by third parties the applicant was limited in their level of control.

The second amendment only affected Thursday, Friday and Saturday nights and was deemed proportionate as most business after 23:00 was by delivery and this would have minimal impact on the commercial viability of the business. The condition considered location and proximity to late night venues that raised the potential for intoxicated patrons after 02:00.

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

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the application and provided reasons for the decision as outlined above. The Sub-Committee

had considered all the options available to them and ultimately felt that the conditions met the concerns which had been raised. The Chair confirmed that written notification of the decision would be sent in due course.

The meeting ended at 15:05

CHAIR
LICENSING SUB-COMMITTEE
13 June 2022

Date of Despatch: Monday 30 May 2022

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