

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 30 March 2017 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

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**PRESENT:** Councillor Renata Hamvas (Chair)  
Councillor Sunny Lambe  
Councillor Sandra Rhule

**OTHERS  
PRESENT:** Ricardo Medina, applicant, Bola 8 Ltd  
Steve Burnett, legal advisor for Bola 8 Ltd  
Roland Smith, applicant, Theatre Delicatessen  
Peter Wiedmann, applicant, Theatre Delicatessen  
P.C. Ian Clements, Metropolitan Police Service  
Mary Rodriguez, applicant, Distriandina  
Cesar Quintero, applicant, Distriandina  
Valentina Quintero, interpreter for the applicants, Distriandina

**OFFICER  
SUPPORT:** Debra Allday, legal officer  
Yagazie Nwaigwe, legal officer  
Dorcas Mills, licensing officer  
Jayne Tear, licensing officer representing the council as a responsible authority  
Andrew Heron, licensing officer  
Gavin Blackburn, licensing enforcement officer  
Ken Andrews, environmental protection officer  
Andrew Weir, constitutional officer

### 1. APOLOGIES

There were none.

### 2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

### 3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none. The chair advised that the order of business would be varied to hear item 7 before item 6.

### 4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

### 5. LICENSING ACT 2003: LICENSING ACT 2003: BOLA 8 LTD T/A FAKTORY, GROUND AND FIRST FLOOR, 113C ELEPHANT ROAD, LONDON SE17 1LB

The licensing officer presented their report. Members had questions for the licensing officer.

The applicant addressed the sub-committee. Members had questions for the applicant.

The planning enforcement officer addressed the sub-committee. Members had questions for the planning enforcement officer.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had questions for the licensing officer.

All parties were given five minutes for summing up.

The meeting went into closed session at 11.58am.

The meeting resumed at 12.03pm. The chair did not read out the decision of the sub-committee as none of the parties were present.

#### RESOLVED:

That the application made by Bola 8 Ltd T/A Faktory for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Ground and First Floors, 113C Elephant Road, London SE17 1LB is granted as follows:

Licensable activity	Hours (revised)
Live music (indoors)	Sunday to Thursday from 11:00 to 00:00 Friday and Saturday from 11:00 to 00:00
Recorded music (indoors)	Sunday to Thursday from 11:00 to 02:30 Friday and Saturday from 11:00 to 05:00
Anything of similar description to the above	Sunday to Thursday from 11:00 to 02:30 Friday and Saturday from 11:00 to 05:00
Late night refreshment (indoors)	Sunday to Thursday from 11:00 02:30 Friday and Saturday from 11:00 to 05:00
The supply of alcohol (for consumption on premises)	Sunday to Thursday from 11:00 to 02:00 Friday and Saturday from 11:00 to 04:30

Operating hours	Sunday to Thursday from 11:00 to 03:00 Friday and Saturday from 11:00 to 05:30
To preserve the existing permitted hours for all licensable activities and opening hours on the morning that British summertime commences.	

### Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in Section M of the application form, the conciliated conditions agreed with the responsible authorities in the amended operating schedule dated 30 March 2017.

### Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the applicant who informed the sub-committee that a licence had already been granted in respect of the premises Unit 122 Elephant Road, SE17 1LB which allowed the premises to be open until 06:00 hours. This application encompassed Unit 122 and expanding the licensable area by adding Unit 113C which in the ground floor, there would also be an interconnecting door between the two levels. Seven representations from responsible authorities had been submitted, objecting to the grant of the licence. The issues had largely been resolved and conciliated, with both the operating hours and licensable activities being significantly reduced.

The only outstanding representations were from licensing (as a responsible authority) and planning. It was accepted that this licensing application had been adjourned from 20 December 2016, to allow the applicant to obtain planning permission. Unfortunately, the planning consultant employed by the applicant had been less than efficient, and the application was no further forward than it was in December 2016. This however, should not prohibit licence being granted.

The licensing sub-committee heard from the planning enforcement officer on the grounds of nuisance and that it is likely to result in criminal activity. The premises exit onto a narrow road where a large mixed use development has recently been completed. The immediate area is not well suited to quiet dispersal of patrons at 05:00 because of the side street nature of the road. The ground floor of the proposed premises is subject to a planning enforcement notice. The first requirement of the notice is to cease use of the property as a mixed use incorporating, a cafe snack bar, restaurant, bar and nightclub and any use including a bar or nightclub element. Whilst the officer felt that there was scope for the planning permission to be regularised, until this was done, the licence should be refused, otherwise, it could be seen that the committee were permitting the premises to operate without the requisite planning permission.

The licensing sub-committee heard from licensing as a responsible authority who advised that the premises are situated in the Elephant and Castle major town centre area and under the Southwark statement of licensing policy 2016-2020 the appropriate closing times for restaurants and cafes is 00:00 on Sunday to Thursday and 01:00 on Friday and Saturday; public houses, wine bars or other drinking establishments is 23:00 on Sunday to Thursday and 00:00 on Friday and Saturday; the opening hours should be brought in line

with the Southwark statement of licensing policy to promote the licensing objectives. The officer also submitted if the premises had a later operation, there would be people leaving the premises later at night which would have a negative impact upon local residents with regards to crime and disorder and public nuisance. The officer also recommended an accommodation limit together with a written dispersal policy.

The licensing sub-committee noted the written representation from the metropolitan police service, environmental protection team, trading standards, health and safety and public health had conciliated.

The licensing sub-committee noted that the premises already had a generous licence at Unit 122 and since the licence had been granted, there had never been any complaints or issues of concern to responsible authorities. A new licence may see a greater foot fall in the area, but the premises is not located in cumulative impact policy zone and the applicant had reduced the operating and licenceable activity hours significantly. The new licence would also see the premises being subject to numerous stringent conditions. Whilst there is no planning permission in place, the applicant is already engaged with the planning department to resolve the position. Should the applicant operate under the new licence without planning permission, it is a matter for the planning department to take the necessary enforcement action. It is therefore in the applicant's best interest to regularise the premises planning status as soon as possible. Licensing and planning are two separate regimes. In these circumstances, there is no reason why this licence should not be granted.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

### **Appeal rights**

The applicant may appeal against any decision:

- a) To impose conditions on the licence
- b) To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a) The licence ought not to be been granted; or
- b) That on granting the licence, the licensing authority ought to have imposed different or additional conditions to the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

**6. LICENSING ACT 2003: THEATRE DELICATESSEN, THE OLD LIBRARY, 39 WELLS WAY, LONDON SE5 0PX**

The licensing officer addressed the sub-committee. Members had no questions for the licensing officer.

The applicant addressed the sub-committee. Members had questions for the applicant.

The environmental protection officer addressed the sub-committee. Members had no questions for the environmental protection officer.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had no questions for the licensing officer.

All parties were given five minutes for summing up.

The meeting went into closed session at 1.43pm.

The meeting resumed at 1.45pm. The chair did not read out the decision of the sub-committee as none of the parties were present.

**RESOLVED:**

That the application made by Curvingroad Limited, for a premises licence, granted under the Licensing Act 2003 in respect of the premises known as Theatre Delicatessen – The Old Library, 39 Wells Way, London, SE5 0PX, is granted as follows:

<b>Licensable activity</b>	<b>Hours</b>
The supply by retail of alcohol (on sales only)	Monday to Thursday from 12:00 to 22:30  Friday and Saturday from 12:00 to 23:30  Sunday from 12:00 to 22:00  Sundays immediately prior to Bank Holidays shall replicate the hours of a regular Friday – from 12:00 to 23:30.
The provision of regulated entertainment in the form of plays (indoors and outdoors):	Monday to Thursday from 09:30 to 23:00  Friday and Saturday from 09:30 to 00:00 (midnight)  Sunday from 09:30 to 22:30  Sundays immediately prior to Bank Holidays shall replicate the hours of a regular Friday – from 09:30 to 00:00 (midnight).
The provision of regulated entertainment in the form of films (indoors)	Monday to Thursday from 09:30 to 23:00  Friday and Saturday from 09:30 to 00:00

	<p>(midnight)</p> <p>Sunday from 09:30 to 22:30</p> <p>On Halloween (31 October) late night/midnight showings of films until 02:00 (the following day) shall be permitted</p> <p>Sundays immediately prior to Bank Holidays shall replicate the hours of a regular Friday – from 09:30 to 00:00 (midnight).</p>
The provision of regulated entertainment in the form of live music (indoors and outdoors – for the period limited from May to September only)	<p>Monday to Thursday from 09:30 to 23:00</p> <p>Friday and Saturday from 09:30 to 00:00 (midnight)</p> <p>Sunday from 09:30 to 22:30</p> <p>Sundays immediately prior to Bank Holidays shall replicate the hours of a regular Friday – from 09:30 to 00:00 (midnight).</p> <p>During the summer, it is permitted to stage live music in the 'patio' space immediately in front of the Old Library building in conjunction with wider Burgess Park activities (E.g. the Camberwell Fair) limited to May to September from 12:00 to 20:00.</p>
The provision of regulated entertainment in the form of recorded music (indoors) and anything of a similar description (indoors) (described by the applicant as spoken word / poetry / live art / cabaret / comedy):	<p>Monday to Thursday from 09:30 to 23:00</p> <p>Friday and Saturday from 09:30 to 00:00 (midnight)</p> <p>Sunday from 09:30 to 22:30</p> <p>On Sundays immediately prior to Bank Holidays, the applicant would like to requires timings to replicate that of a regular Friday – from 09:30 to 00:00 (midnight)</p>
The provision of regulated entertainment in the form of performances of dance (indoors):	<p>Monday to Thursday from 09:30 to 23:00</p> <p>Friday and Saturday from 09:30 to 00:00 (midnight)</p> <p>Sunday from 09:30 to 22:30</p> <p>Sundays immediately prior to Bank Holidays shall replicate the hours of a regular Friday – from 09:30 to 00:00 (midnight).</p>

Opening hours :	<p>Monday to Thursday from 09:30 to 23:00</p> <p>Friday and Saturday from 09:30 to 00:00 (midnight)</p> <p>Sunday from 09:30 to 22:30</p> <p>Sundays immediately prior to Bank Holidays shall replicate the hours of a regular Friday – from 09:30 to 00:00 (midnight).</p>
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### Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in Section M of the application form and the following additional conditions agreed by the sub-committee:

1. That a CCTV system be installed at the premises and be maintained in good working order and be continually recording at all times the premises are in use under the licence. The CCTV System must be capable of capturing a clear facial image of every person who enters the premises and cover the main public areas.
2. That all CCTV footage be kept for a period of 31 days and shall on request be made immediately available to officers of the police and the council. There will be at least one person on duty at all times that is familiar with the operation of the CCTV and able to download the footage upon request immediately.
3. That all staff are trained in their responsibilities under the licensing act 2003 and training records should be kept and signed, these records shall be updated every 6 months and shall, upon request, be made immediately available to Officers of the Police and the Council
4. That customers shall not use the outside area after 22:00 other than those who go to the designated smoking area to smoke and limited to no more than 10 persons. No beverages will be permitted outside of the premises.
5. That the premises shall have cigarette receptacles made available in the designated smoking area.
6. That signage on entrance/exit requesting customers to respect neighbours and leave quietly shall be prominently displayed.
7. That on any night that the venue is in operation after 23:00 the venue will employ at least one SIA registered door supervisor from 20:00 until the terminal hour or until all the patrons have left the premises. They will be briefed by the DPS or duty manager at the start of each tour of duty, their start time, details and badge numbers will be recorded in a register which will be available for inspection on request by the police or authorised officers.
8. That there shall be a maximum accommodation limit of 75 people, excluding staff, at any one time on the premises.

9. That the premises shall comply with a written dispersal policy, a copy of which shall be kept at the premises with the premises licence and will be made available to officers of the police or licensing authority immediately on request.
10. That there shall be no deliveries other than between the hours of 09:00 and 19:00.
11. That waste that has not been collected before 22:00 shall be stored in the premises until the following day.
12. That there shall be no more than 10 smokers in the designated smoking area at any one time and cigarette receptacles shall be made available.

### **Reasons**

The reasons for the decision are as follows:

The licensing sub-committee heard from the applicant who informed the sub-committee that they were a charity who had experience of delivering arts and drama for local communities.

They advised the sub-committee that they had had conciliatory discussions with the responsible authorities who had made representations. These discussions had resulted in the satisfactory resolution of the concerns raised by the responsible authorities.

The licensing sub-committee heard from the licensing officer representing the council as a responsible authority who advised that they were satisfied by the conditions and revised hours agreed with the applicant, as listed above.

The licensing sub-committee heard from the environmental protection officer who informed the sub-committee that they were satisfied by the conditions and revised hours agreed with the applicant, as listed above.

The licensing sub-committee noted the written representation from the public health officer.

The licensing sub-committee noted that the police had conciliated with the applicant prior to the hearing.

The licensing sub-committee considered all of the oral and written representations before it and were of the opinion that the conditions and revised hours agreed between the applicant and the responsible authorities satisfied the licensing objectives.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

### **Appeal rights**

The applicant may appeal against any decision:

- a) To impose conditions on the licence



- b) To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a) The licence ought not to be been granted; or
- b) That on granting the licence, the licensing authority ought to have imposed different or additional conditions to the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

## **7. LICENSING ACT 2003: DISTRIANDINA, UNIT 6 FARRELL COURT, ELEPHANT ROAD, LONDON SE17 1LB**

The licensing officer presented their report. Members had no questions for the licensing officer.

The applicant addressed the sub-committee.

The Metropolitan Police Service representative addressed the sub-committee. Members had no questions for the metropolitan Police Service representative.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had questions for the licensing officer.

All parties were given five minutes for summing up.

The meeting went into closed session at 12.32pm.

The meeting resumed at 12.33pm. The chair did not read out the decision as none of the parties were present..

### **RESOLVED:**

That the application made by Distriandina UK Ltd, for a variation of the premises licence, granted under the Licensing Act 2003 in respect of the premises known as Distriandina, Unit 6 Farrell Court, Elephant Road, London SE17 1LB, is granted as follows:

That the conditions of the licence be modified as follows:

1. Condition 791 on the current premises licence be amended to read:
  - 1.1 That on Friday, Saturday and Sunday the premises will employ two (2) SIA registered door supervisors, one of which will be female, from 21:00 hours

until the terminal hour or when the premises is closed to the public and all patrons have left. At 23:00 hours on each of these nights the premises will employ an additional two (2) SIA registered door supervisors until the premises is closed to the public and all patrons have left. They will be provided with and will use hand held metal detectors for the purposes of searching all patrons prior to entry. A mechanical counting device will be used to ensure that the capacity of the premises is known at all times and that the accommodation limit is not exceeded.

2. Condition 847 on the current premises licence be amended to read:

- 2.1 That an ID scanning system, to the reasonable satisfaction of the police, be installed and maintained at the premises. The system shall be capable of sharing information about banned customers with other venues, identify the hologram of an ID, read both passports and ID cards, able to identify fake or forged documents to a reasonable standard. The system will be in operation at all times after 22:00 on Friday, Saturday and Sunday when the premises are in operation under the premises licence and will be used to record the details of all persons entering the premises including staff, members of the public, performers and their assistants. Entry to the premises will not be permitted without the production of the relevant ID document and or the other person's details are already stored on the system and they are identified using a biometric identification system.
- 2.2 That all patrons that are inside the venue prior to 22:00 hours and wish to remain inside the premises beyond this time will have there is scanned as a condition to remain.
- 2.3 That at all times the premises is in operation under the premises licence, there will be at least one member of staff trained to a satisfactory standard able to operate the ID scan system and able to retrieve data from the system on request of the Police or other authorised officer.
- 2.4 That there shall be a maximum accommodation limit of 300 not including staff.

## Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from Metropolitan Police Service representative in addition to the representative for licensing as a responsible authority the applicant who advised that they had conciliated their representations with the application based on conditions 1 and 2 (above).

The applicant further accepted an accommodation limit of 300, not including members of staff.

In light of the conciliated conditions and the condition offered by the applicant relating to accommodation, the licensing sub-committee were satisfied that all the relevant considerations and the four licensing objectives had been considered and that it was

appropriate and proportionate to grant the application in these terms.

### **Appeal rights**

The applicant may appeal against any decision to modify the conditions of the licence; and

Any person who made relevant representations in relation to the application who desire to contend that:

- a) That variation ought not to have been made; or
- b) That, when varying the licence, the licensing authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way

may appeal against the decision

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

The meeting ended at 1.46 pm.

**CHAIR:**

**DATED:**