

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Wednesday 28 June 2017 at 10.00 am at Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

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<b>PRESENT:</b>	Councillor Renata Hamvas (Chair) Councillor Lorraine Lauder MBE Councillor Sandra Rhule
<b>OTHERS PRESENT:</b>	C. Lockett, licensing consultant for Shell Crystal Palace Leo Charalambides, legal representative for Shell Crystal Palace
<b>OFFICER SUPPORT:</b>	Debra Allday, legal officer Joanne Shilton, legal officer Helena Crossley, legal officer (observing) David Franklin, licensing team leader Andrew Heron, licensing officer Mark Orton, licensing officer Paul Newman, 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.

### 4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

The chair advised that all members of the licensing committee had received an email from a ward councillor stating that the consultation regarding item 6 of the agenda had not been carried out properly as ward councillors had not been consulted as per the council's policy. The ward councillor sought an adjournment to allow the consultation to take place.

**5. LICENSING ACT 2003: UNIT 8, 133 COPELAND ROAD, LONDON SE15 3SN**

This item had been withdrawn by the applicant prior to the meeting.

**6. LICENSING ACT 2003: SHELL UK OIL PRODUCTS LIMITED T/A SHELL CRYSTAL PALACE, 4 CRYSTAL PALACE PARADE, LONDON SE19 1UN**

There was a legal discussion between the legal representative for the applicant and the council's legal officer regarding the request from a ward councillor for an adjournment to allow the ward councillors to be consulted, as they had not been consulted due to an administrative error. The applicant's legal advisor was shown a copy of the email from the ward councillor.

The licensing team leader proposed that there should be an adjournment to allow the proper consultation to take place. However, the legal representative for the applicant advised that the licensing team leader did not have the authority to request this as he had not made any representations regarding the application and was not part of the hearing.

The meeting adjourned at 11.20am for the council's legal officer to take legal advice. The meeting reconvened at 11.48am.

There was a further discussion between the applicant's legal representative and the council's legal officer regarding the proposed adjournment to allow further consultation to take place.

The meeting adjourned at 11.57am at the request of the legal representative for the applicant as they wished to take instructions from the applicant. The meeting reconvened at 12.34pm.

The licensing officer advised that the police had now conciliated with the applicant and there was now one outstanding written representation from public health.

There were further discussions between the legal representative for the applicant and the council's legal officer regarding the proposed adjournment to allow further consultation to take place.

The meeting adjourned at 12.44pm to allow the sub-committee to take further legal advice.

The meeting reconvened at 1.26pm and the chair advised that the sub-committee would hear the item.

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

The applicant and the legal representative for the applicant addressed the sub-committee. Members had questions for the applicant and their legal representative.

The Metropolitan Police Service representative confirmed that they had now conciliated with the applicant. Members had questions for the police.

The licensing officer read out the written statement from the public health officer. Both parties were given five minutes for summing up.

The meeting went into closed session at 1.54pm.

The meeting resumed at 2.19 pm. The chair did not read out the decision as the parties were not present.

### **Preliminary issue**

The sub-committee considered a preliminary issue regarding the contents of an email which had, in advance of the meeting of the sub-committee, been circulated by a local ward councillor to all sub-committee members expressing representations of the ward councillor in respect of the application.

The licensing officer had also received a copy of the email from the ward councillor. The licensing officer addressed the sub-committee advising that whilst the statutory consultation requirements had been complied with, due to an administrative error there had been a failure to carry out notification as required under Southwark's statement of licensing policy, namely to notify local ward councillors in respect of the application. The result had been that the ward councillor concerned had not been notified of the application, as per the policy, and had not made a representation within the permitted period.

The licensing officer suggested that the application could be adjourned to allow for the notification requirements under the licensing policy to be carried out.

The applicant's legal advisor opposed the prospect of an adjournment in strenuous terms, requesting that the hearing proceed. The applicant and its legal team had seen the email circulated by the ward councillor and were fully aware of the contents in advance of the hearing (and that each sub-committee member had read it) but nonetheless resisted any attempt to adjourn in order to consider it. No application for any committee member to recuse his/herself was made at that stage.

The sub-committee decided to hear the application upon the evidence before it and in the clear understanding that the contents of the ward councillor's email were to be put out of their minds and that no regard would be given to it during their decision making. No application for any sub-committee member to consider recusal was made following the announcement that the hearing would proceed that day and no objection to the suggested way forward advanced by any party.

### **RESOLVED:**

That the application made by Shell UK Oil Products Limited (t/a Shell Crystal Palace) for a premises licence, granted under the Licensing Act 2003 in respect of the premises known as Shell Crystal Palace, 4 Crystal Palace Parade, London SE19 1UN is granted as follows:

<b>Licensable activity</b>	<b>Hours</b>
The supply of alcohol (for consumption off premises)	Monday to Sunday from 07:00 to 23:00
Opening Hours	Monday to Sunday: There are no restrictions
Late night refreshment	Monday to Sunday from 23:00 to 05:00

### **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 conditions agreed with the Metropolitan Police Service and the licensing responsible authority during the conciliation process and the following additional conditions agreed by the sub-committee:

1. That the site will have in place a digital CCTV camera surveillance system. The system will only store relevant images so that images can be quickly viewed as images are captured from the cameras as soon as movement is detected. The system will record on motion activation only. Images will be retained for a period of no less than 31 days.
2. That access to the equipment and recordings will be provided to the police or other relevant officers of a responsible authority within 24 hours of the request being made.
3. That contact details of the retailer will be kept on site and made available to the police or other relevant officers of a responsible authority for the purpose of obtaining access to the equipment and recordings.
4. That spirits (with the exception of spirit mixers and pre-mixed spirit drinks) will be located behind the counter.
5. That staff will be trained with regard to their responsibilities in the retail sale of alcohol and regular refresher training will also be undertaken. Training records shall be made available for inspection upon reasonable request by the police or other relevant officers of a responsible authority.
6. That an incident log will be operated and maintained and will be produced to a relevant officer of the police or other relevant officers of a responsible authority upon request.
7. That a refusals log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon request.
8. That a Challenge 25 policy will be operated at the premise, acceptable forms of identification are a passport, photocard driving licence and PASS accredited identification card.
9. That spirits (with the exception of spirit mixers and pre mixed spirit drinks) will be

located behind the counter.

10. That the provision of late night refreshment to be limited to hot beverages only.
11. That no beers, lagers or ciders in single cans, bottles or multi-packs with an ABV of more than 6.5% will be displayed, sold or offered for sale from the premises expect with the written permission from the police, trading standards or the licensing authority. A copy of that permission must be retained with the licence and be available for inspection by the police of council officers.

## **Reasons**

The reasons for the decision are as follows:

The licensing sub-committee heard evidence from the applicant's legal advisor who advised that the premises would have one member of staff in operation with a closed door policy from 23:00 to 05:00 with the access restricted to the use of a hatch.

The applicant's legal advisor advised the sub committee that whilst this application relates to a new premises, the applicant being Shell UK Oil Products limited has traded in age restricted goods for a long time.

The applicant's legal advisor informed the sub committee that the premises would have the use of CCTV and that the sales would be in respect of premium priced beers, wines and spirits which would occupy a limited space within the premises.

The applicant's legal advisor referred to other licensed premises which are operated by the applicant and informed the sub committee that these other premises had not been subject to summary review or reviews by the licensing sub-committee.

The applicant's legal advisor informed the sub-committee that they had agreed conditions with the Metropolitan Police Service which had resulted in the withdrawal of the police representation.

The applicant's legal advisor asked the sub committee to relax their framework and consider the premises to fit into the category of sui generis.

The licensing sub-committee heard from the Metropolitan Police who stated that their representation had been conciliated following the applicant's agreement to include further conditions.

The licensing sub-committee considered the representation of the public health authority who submitted concerns under the licensing objectives for the prevention of crime and disorder, the prevention of public nuisance and public safety in relation to the availability of alcohol sales off the premises 24 hours daily. Concerns were expressed regarding research which suggests that increased hours of alcohol sales are associated with increased alcohol consumption, increased alcohol related injuries, and increased alcohol related harm.

The representation also highlighted that Southwark statement of licensing policy recommends a terminal hour of 23:00 and further stated that this location was considered a 'hot spot' for alcohol related crime.

The sub-committee noted that whilst a representative from the public health authority did not attend the hearing, the sub committee took into account the written representation and the written statement submitted, which was read to the sub committee. It noted that more weight could have been attached had a representative attended the sub-committee but nonetheless the representation carried weight

The licensing sub-committee noted that the premises are situated in close proximity to a public park, on a busy thoroughfare and in very close proximity to a large number of residential dwellings.

The sub-committee considered all of the oral and written representations before it and considered Southwark's statement of licensing policy 2016 which sets out recommended hours of operation and requires the sub committee to give consideration to the premises' location and its likelihood to impact on the licensing objectives. The recommended hours of operation detailed in the Southwark's statement of licensing policy had been adopted following revised section 182 guidance.

In view of the licensing policy the sub-committee noted that there is no presumption in favour of lengthening licensing hours and considered that the four licensing objectives were paramount in considering the appropriate hours of operations.

The sub-committee considered that this decision was appropriate and proportionate in promoting the licensing objectives.

The sub-committee noted the applicant's general description of the premises as being a 'convenience store' and in view of the licensing policy considered that the most appropriate category for the premises was 'off licence and alcohol sales in grocers and supermarkets.'

The sub-committee noted the conditions agreed by the applicant and on balance were satisfied that the conditions would assist in mitigating against crime, disorder and public safety, nuisance and the protection of children from harm during the hours recommended by the licensing policy.

In consideration of the location of the premises and the character of the local area, specifically the close proximity to the local park and residential area and the concerns raised by the public health authority with regards to the sale of alcohol off the premises 24 hours daily (in particular the research which suggests that increased hours of alcohol sales are associated with increased alcohol consumption, increased alcohol related injuries and increased alcohol related harm), on balance the sub-committee did not consider that there was sufficient information before it to justify a departure from the recommended hours as set out within the policy.

The sub-committee therefore considered that it was necessary for the promotion of the licensing objectives to grant the application in line with the hours as set out within Southwark's statement of licensing policy.

In reaching this decision the sub-committee did not have regard to the email which was circulated at the outset of the hearing. The sub committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate in promoting the licensing objectives.

## 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: ROXY BAR AND SCREEN, 128-132 BOROUGH HIGH STREET, SE1 1LB (TEMPORARY EVENT NOTICE: 859221)**

The licensing officer presented their report. They advised that the premises no longer had a premises licence.

The premises user was not present, despite advising that they would be in attendance.

The environmental protection officer addressed the sub-committee. Members had questions for the environmental protection officer.

The meeting went into closed session at 2.38pm.

The meeting resumed at 2.45pm. The chair did not read out the decision as the parties were not present.

#### **RESOLVED:**

That a counter notice be issued under Section 105 of the Licensing Act 2003 in respect of the temporary event notice (TEN) 859221 served by Ms Lauren Barrett in regards to an event to be held at Roxy Bar and Screen, 128-132 Borough High Street, London SE1 1LB on Sunday 2 July between 00:01 and 06:00.

#### **Reasons**

This was a temporary event notice (TEN) 859221 served by Ms Lauren Barrett in regards to an event to be held at Roxy Bar and Screen, 128-132 Borough High Street, London SE1 1LB on Sunday 2 July between 00:01 and 06:00.

The licensing sub-committee did not hear evidence from the premises user as they did not attend the hearing.

The licensing sub-committee heard evidence from the environmental protection officer who advised that the event proposed is described as a 'summer film festival' in the temporary event notice. However, he drew the committee's attention to a previous TEN the applicant had applied for. This event was described as a 'family screening event' with 'background music' held on 13 May 2017. The night time economy team undertook a visit and discovered that the patrons were not watching a film per se, but were dancing to music being played via a sound system, with film footage of a pop variety being playing on screen in the background. There were also helium balloons and it would seem some kind of celebration was occurring rather than an organised film screening, as described and applied for.

The committee's attention was also drawn to a noise complaint that had been received from a resident, regarding loud music at 03:40 on 23 December 2016. The environmental protection officer was of the opinion that there was a risk that this premise's was moving away from a coffee house and cinema, and towards a nightclub. It was recommended that a counter notice be served. The environmental protection team would have recommended that conditions from the existing licence be imposed, however it was discovered that there has been a lapse in the premises licence, and so no condition could be imposed if the committee were minded to allow the TEN.

The licensing sub-committee considered all of the oral and written representations before it and were of the opinion that a counter notice should be served. It noted that the premises no longer held a licence. The premises licence holder was Red Cinema Limited, who were granted a licence in September 2015 and dissolved on 30<sup>th</sup> May 2017. The 28 day time period for submitting a change of licence holder had expired, and so there was no current premises licence. The committee could not, therefore, transfer any of licence conditions to the TEN. Given the representations from the environmental protection team regarding previous complaints and the issues discovered by the night time economy team, they considered it appropriate in order to satisfy the licensing objectives that a counter notice be served.

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**

Where the relevant counter notice under Section 105(3) is given the premises user may appeal against the decision. Where counter notice is not given, the chief officer of the environmental protection team may appeal against that decision. The appeal must be made to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against. No appeal may be brought later than five working days before the day on which the event begins.



The meeting ended at 2.46 pm

**CHAIR:**

**DATED:**