

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 11 September 2017 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Sunny Lambe
Councillor Adele Morris

OTHERS PRESENT: Reece wood, applicant, Watling Street Brewery
Celine Zeng, local resident
Kim Anderson, local resident
Damian Ferguson, local resident
Emma Reynolds, applicant, Tonkotsu
Piers Warne, legal representative, Tonkotsu
Michael Smith, local business owner
Saija Kamarainen, local business owner
Jordana Leighton, representing premises user, Kelly Stewart
Lorrie Wilson, premises user

OFFICER SUPPORT: Debra Allday, legal officer
Andrew Heron, licensing officer
David Franklin, licensing officer
Paul Newman, environmental protection officer
Rodney Frederick, legal officer (observing)
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

The chair advised that the following items would be accepted as an urgent item:
Licensing Act 2003: 133 Copeland Road, London SE15 3SN – Temporary Event Notices
860028, 860030.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

The chair advised that she had advised the applicant that they should apply for a time limited licence rather than multiple temporary event notices at the Peckham and Nunhead Community Council on 27 June 2017.

5. LICENSING ACT 2003: WATLING STREET BREWERY, 19 PAGES WALK, LONDON SE1 4SB

The licensing officer presented their report. They advised that the applicant had conciliated with the responsible authorities. Members had no questions for the licensing officer.

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

Three local residents objecting to the application addressed the sub-committee. Members had questions for the local residents.

All parties were given five minutes for summing up.

The meeting went into closed session at 11.28am.

The meeting resumed at 11.39am and the legal officer read out the decision of the sub-committee.

RESOLVED:

That the application made by Watling Street Brewery Ltd., for a time limited premises licence, granted under the Licensing Act 2003 in respect of the premises known as Watling Street Brewery, 19 Pages Walk, London, SE1 4SB be granted as follows:

Licensable activity	Hours
The supply of alcohol (both on and off sales)	Sunday to Thursday 10:00 to 21:00
	Friday to Saturday 10:00 to 22:30
Opening hours	Sunday to Thursday 09:00 to 21:30
	Friday to Saturday 09:00 to 23:00

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 a challenge 25 scheme shall be maintained at the premises requiring that staff selling alcohol request that any customer who looks under 25 years old, and who is attempting to purchase alcohol, provides valid photographic identification proving that the customer is at least 18 years old. Valid photographic identification is composed of a driving licence, passport, UK armed services ID card and any Proof of Age Standards Scheme (PASS) accredited card such as the Proof of Age London (PAL) card.
2. That all staff involved in the sale of alcohol shall be trained in the prevention of sales of alcohol to underage persons, and the Challenge 25 scheme in operation at the premises. A record of such training shall be kept / be accessible at the premises at all times and be made immediately available for inspection at the premises to council or police officers on request. The training record shall include the trainee's name (in block capitals), the trainer's name (in block capitals), the signature of the trainee, the signature of the trainer, the date(s) of training and a declaration that the training has been received.
3. That clear legible signs shall be prominently displayed where they can easily be seen and read by customers stating to the effect that a challenge 25 policy is in operation at the premises, that customers may be asked to provide proof of age and stating what the acceptable forms of proof of age are. Such signage shall be displayed at all entrances, points of sale and in all areas where alcohol is displayed for sale. The signage shall be kept free from obstructions at all times.
4. That a register of refused sales of alcohol shall be maintained in order to demonstrate effective operation of the challenge 25 policy. The register shall be clearly and legibly marked on the front cover as a register of refused sales, with the address of the premises and with the name and address of the licence holder. The register shall be kept / be accessible at the premises at all times. On a monthly basis, the Designated Premises Supervisor (DPS) shall check the register to ensure it is being properly completed. The DPS shall sign and date the register to that effect and where appropriate take corrective action in a timely manner if the register is not being completed correctly. The register shall be made immediately available for inspection at the premises to council or police officers on request.
5. That any children must be accompanied and supervised by a responsible adult. There shall be no children on the premises after 20:00.
6. That off-sales of alcohol shall be supplied in closed and sealed containers to be consumed away from the vicinity of the premises.
7. That the premises is limited to a capacity of 75 people at anyone time.
8. That waste collection shall be carried out between the hours of 09:00 and 18:00.
9. That the applicant shall make available and display a telephone number for residents use in the event of a disturbance.

Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the applicant who stated that they intended to operate a responsible premises and had been in operation, without any issues from a different premises for the past 18 months.

The applicant sought to distinguish the premises from a pub or a bar, advising the committee that the majority of the business was from brewing beer for wholesale, with the remaining business being a tap room aimed at craft beer enthusiasts.

The applicant advised that they had reduced the hours applied for and had also removed the application for regulated entertainment. They confirmed that the premises would play background music which would not be audible from outside the premises.

In addition the applicant confirmed that they had agreed the addition of several conditions with the responsible authorities in a bid to ensure that they could reduce any negative impact of the licensing objectives.

The applicant advised that he was happy to engage with the local residents to reduce the risk of potential nuisance from the premises.

The applicant also agreed to look into the requirements of the Woman's Safety Charter with the intention to become a member of the charter.

The licensing sub committee were advised that as a result of the applicant agreeing to additional conditions being included on the licence all Responsible authorities had withdrawn their application.

The licensing sub committee considered both written and oral representations from 6 other persons, all residents local to the premises.

The licensing sub committee noted that three local residents attended the hearing.

The concerns surround the proximity of the premises to residential properties and the potential for associated nuisance with a licensed premises, including noise.

The residents were informed that the applicant had reduced the original hours applied for as set out above and had withdrawn the application for regulated entertainment.

The residents stated that they still had concerns with regards to potential noise nuisance when patrons leave the premises.

In addressing the concerns of the residents the applicant confirmed that he had agreed to the addition of several conditions including the requirement for patrons to exit at the rear of the premises when leaving after 21:00.

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 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.

6. LICENSING ACT 2003: TONKOTSU, 133 RYE LANE, PECKHAM, LONDON SE15 4ST

The licensing officer presented their report. They advised that the responsible authorities had conciliated with the applicant. Members had no questions for the licensing officer.

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

Two other persons from a neighbouring licensed premises, objecting to the application, addressed the sub-committee. Members had questions for the other persons.

All parties were given five minutes for summing up.

The meeting adjourned at 1.20pm for the members to consider their decision.

The meeting resumed at 1.28pm and the legal officer read out the decision of the sub-committee.

RESOLVED:

That the application made by Tonkotsu Limited for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Tonkotsu, 133 Rye Lane, Peckham, London SE15 4ST is granted as follows:

Licensable activity	Day	Permitted Hours
Supply of alcohol	Sunday to Thursday Friday and Saturday	11:00 to 23:30 11:00 to 00:30 the following day

Late night refreshment	Sunday to Thursday Friday and Saturday	23:00 to 00:00 (midnight) 23:00 to 01:00 the following day
Opening hours	Sunday to Thursday Friday and Saturday	11:00 to 00:00 (midnight) 11:00 to 01:00 the following day

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 responsible authorities during the conciliation process.

Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the applicant who informed the sub-committee that the premises would be a Japanese ramen restaurant with an ancillary bar for the use of customers to dine only. They advised that the premises was to be part of a successful group of similar restaurants run by the applicant. The applicant advised the licensing sub-committee that contrary to the representations from the other persons, they did not believe that the operation would undermine any of the licensing objectives. Together with their landlord, they had an open dialogue with neighbouring operators and had taken all active measures to minimise the impact of the premises on the objectors.

The applicant advised that there was a legal right to enter the building 133 Rye Lane from the public highway (being Rye Lane), in addition to a legal right to pass over the land to the side and rear of the building at all times

Further, the landlord had re-designed the primary entrance to the building on Rye Lane by setting it back by 1.4 metres which would ensure the premises (and the other users of the building) did not unduly impact on the public footpath; it would also minimise the impact on the CLF's late-night operation.

The licensing sub-committee heard from two other persons from a neighbouring licensed premises who opposed the application. They specifically opposed the proposed late night opening hours on Fridays and Saturdays between 23:00 and 01:00, stating that it would be catastrophic for their businesses. Whilst they did not have an issue with the business per se, the operation of the premises, and their use of the side entrance in the alley off Rye Lane, was at saturation level on Fridays and Saturdays and the additional footfall, would put the health and safety of both their patrons and those of the applicant's at risk. It was suggested that the application should be granted but with a reduced terminal hour on Fridays and Saturdays of 23:00, which could be varied to a later time once the premises proved that their operation did not have a negative impact to the local area.

The licensing sub-committee noted the representation from a third other person (party 2) who was not in attendance at the meeting.

The licensing sub-committee noted the conciliated representations from the Metropolitan Police Service and licensing as a responsible authority.

The licensing sub-committee considered all of the oral and written representations before

it and noted that whilst the local area was within a cumulative impact zone, this did not apply to restaurants. Therefore there was no presumption to refuse the application. There was no definitive evidence that the premises would have a negative impact on the health and safety of the patrons for other licensed premises in the area, nor did health and safety as a responsible authority submit a representation to the application. In those circumstances, there was no reason to refuse the application or reduce its operation in anyway.

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.

The licensing sub-committee adjourned at 1.30pm and reconvened at 2.30pm.

7. LICENSING ACT 2003: 133 COPELAND ROAD, LONDON SE15 3SN - TEMPORARY EVENT NOTICES

The informed the meeting that the temporary event notices would be heard together, as the related to events at premises that were adjacent to each other.

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

The premises users addressed the sub-committee. Members had questions for the premises users.

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

All parties were given five minutes for summing up.

The meeting adjourned at 4.17pm for the members to consider their decision.

The meeting resumed at 4.25pm and the legal officer read out the decisions of the sub-committee.

RESOLVED

That a counter notice not be issued under Section 105 of the Licensing Act 2003 in respect of the temporary event notice (TEN 860030) given by, Lori Wilson, the premises user, in respect of an event to be held at 133 Copeland Road, London, SE15 3SN (Copeland Gallery) on 15 September 2017 from 18:00 to 02:00, 16 September 2017 from 12:00 to 02:00 and 17 September 2017 from 12:00 to 00:00.

That a counter notice not be issued under Section 105 of the Licensing Act 2003 in respect of the temporary event notice (860028) served by Kelly Stewart in relation to an event to be held at 133 Copeland Road, London, SE15 3SN (Copeland Square) on 15 September from 17:00 to 22:00 and on 16 and 17 September 2017 from 12:00 to 22:00.

Reasons

The licensing sub-committee heard evidence from the premises users who advised that the temporary event notice(s) were sought to cover the Peckham Festival which was a four day event that showcases the best Peckham has to offer from music performances to film screenings, workshops, walks and talks that would reflect the area's broad population. The event was 100% non-profit and all proceeds will be fed directly into the running of the festival. They advised that The London Borough of Southwark were a sponsor of the overall event. The premises user accepted that the event had been very carefully planned over the previous nine months and both a premises licence application and a time limited premises licence application had been submitted. Both of these had their consultation period put back, due to deficiencies in the notices displayed in/around the premises and as a result of the defects, there was now insufficient time to carry out full consultation and hold a licensing sub-committee if there were any objections. The premises users highlighted that the 2016 Peckham Festival saw 13,000 visitors and no incidents of crime and disorder being reported.

The licensing sub-committee heard evidence from the environmental protection officer who advised that an objection notice had been issued by the environmental protection team as the temporary event formed part of the Peckham Festival on the grounds of the prevention of public nuisance objective: TENs number 860028 and 860030 indicated that there would be an attendance of 996 and the Peckham Festival in 2016 saw an overall attendance of approximately 13,000. The premises users acknowledged that the most appropriate way of authorising licenceable activities would be by way of a premises licence or a time limited premises licence. In the current format, there would be more than 499 people in the audience for outdoor entertainment on Copeland Square and therefore likely that licensing offences would be committed. The TENs are requested to authorise activities in respect of one event, The Peckham Festival. The premises user's proposals were to artificially divide the area into smaller plots of 499 people each as a device to avoid the need for a premises licence, which would prevent public consultation taking place. A capacity of over 499 would increase the risk of public nuisance.

The officer from the environmental protection team referred to the House of Lords Select

Committee report on the Licensing Act 2003 on the issue of multiple TENs in which the Select Committee advised at paragraph 354 that if the multiple TENs resulted in an attendance of exceeding the 499 person limit, the police or environmental health officers should issue an objection notice and allow a licensing sub-committee to make a decision, and recommended that the Section 182 Guidance be amended.

In the licensing sub-committee's decision of 27 June 2017 relating to beer festival at these premises, the premises user was directed that any multiple TENs utilised in a similar manner should be decided by a licensing sub-committee and in future, events of this nature and number must be made by time limited premises licence application. The premises user stated that they have been planning this event over the previous nine months yet and indeed, considered applying for a premises licence following the conclusion of the 2016 event, yet they did not submit the premises licence applications until June 2017. This meant that there would always be an extremely tight timetable for consultation and any licensing sub-committee to consider the application(s). The premises user has been somewhat presumptuous in not factoring in any potential problems in their licensing applications(s) and still expect a licence to be in place. In their defence, the premises user stated that there had been close working with the regeneration team concerning the event and the licensing of it under the Licensing Act 2003.

This licensing sub-committee have had sight of email correspondence between the Head of Regeneration (South) and the licensing team which provides "Peckham Festival is arranged for 15, 16 and 17 September. The events, part funded by the council, are centred on Copeland Park and the Bussey Building. The site owners have spoken to [licensing] who advised that there would not be time to get a time limited premises licence in place. Their only alternative would be TENs which limit numbers. Given the profile for the event and the wide community support, is there a way of enabling the time limited premises licence to be in place on time?"

The regeneration team does not have any remit to advise on any licensing matters. Section 7 of the Act provides a strict scheme of delegation of the authorities licensing functions. This is reflected in section 4 of Southwark's statement of licensing policy (2016-2020). As a quasi judicial process, no function of the Licensing Act 2003 may be delegated to the contrary and a request to circumvent the strict process detailed within the Act would make that the issue of such a licence would be requesting the council to act ultra vires.

Any event the size of the Peckham Festival of 13,000 (being the figure provided by the premises user for the 2016 event) needs to produce an event management plan which must be provided to, and will be subject to scrutiny by Southwark Council's events manager or representative, and the borough's Safety Advisory Group (SAG). Notwithstanding this, Southwark's outdoor events policy (May 2013) provides that event organisers are responsible for ensuring that all required permissions and licences are acquired in "an appropriate and timely manner".

The premises user should be under no illusion that a counter notice will be considered if TENs of a similar nature come before the licensing sub-committee again, having ignored previous advice and the correct processes detailed in the Act, associated guidance and Southwark's statement of licensing policy.

In reaching this decision the licensing sub-committee considered all of the oral and written representations before having 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 4.26pm.

CHAIR:

DATED: