

LICENSING SUB-COMMITTEE

MINUTES of the Licensing Sub-Committee held on Monday 29 October 2018 at 10.00 am at Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Charlie Smith (Chair)
Councillor Sunil Chopra
Councillor Kath Whittam

OTHER MEMBERS PRESENT: Councillor William HOUNGBO

OFFICER SUPPORT: Rodney Frederick, legal officer
Andrew Heron, licensing officer
Tim Murtagh, constitutional officer

1. ELECTION OF CHAIR

It was moved, seconded and agreed that Councillor Charlie Smith be Chair for the meeting.

2. APOLOGIES

The Chair gave his apologies for lateness due to a train cancellation.

3. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

4. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none.

5. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

6. LICENSING ACT 2003: BLACK SWAN STUDIOS, 2-3 BLACK SWAN YARD, LONDON SE1 3XW

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

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

Other persons objecting to the application addressed the sub-committee. Members had questions for the objectors.

The ward councillor addressed the sub-committee in support of the application. Members had no questions for the ward councillor.

All parties were given five minutes for summing up.

The meeting adjourned at 11.33am for the members to consider their decision.

The meeting resumed at 11.42am and the chair advised all parties of the sub-committee's decision.

RESOLVED:

That the application made by Colorset Inc Ltd for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Black Swan Studios, 2-3 Black Swan Yard, London SE1 3XW is granted as follows:

The sale by retail of alcohol (on sales only)

Monday to Friday	12:00 to 22:30
Saturday	10:00 to 22:30
Sunday	10:00 to 22:00

Conditions

The operation of the premises under the licence shall be subject to the following 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;
2. 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.

3. That all staff are trained in their responsibilities under the Licensing Act 2003 and training records to be kept and signed and updated every 6 months. The records shall, upon request, be made immediately available to officers of the Police and the Council;
4. That there shall be no more than five smokers outside at any time and this shall be monitored by staff.
5. That two SIA registered door supervisors will be engaged when the premises are in operation. They will be employed at all times until the end of business and all patrons have vacated the premises they will be engaged to monitor admission and readmissions to the premises, security, protection, screening and dealing with conflict;
6. Clearly legible signage will be prominently displayed at all exits where it can be seen and easily read, requesting that customers leave the premises in a quiet and orderly manner that is respectful to neighbours;
7. That customers may not be allowed to congregate outside the premises;
8. The entrance door will be fitted with a thick, close fitting fireproof curtain to minimise noise outbreak as patrons enter and exit the premises;
9. External areas will be closed to patrons at 22.00hrs;
10. Noise from plant, patrons and activities at the premises will be managed to ensure that public nuisance shall not be caused in the vicinity of the premises or intrude inside the nearest or most exposed noise sensitive premises;
11. External waste handling, collections and deliveries will only occur between 08:00hrs and 20:00hrs;
12. The accommodation limit for the premises shall not exceed 150 patrons;
13. The written dispersal policy shall be kept at the premises with the licence and made available for inspection be authorised officers of the council or the police and all relevant staff shall be trained in the implementation;
14. A dedicated phone number be made available to residents to report noise or nuisance during operating hours, to be monitored by management at all times.

Reasons

The reasons for this decision are as follows:

The Sub-Committee heard from the Applicant who explained that the premises had previously held a licence under the name Black Swan Yard Limited. When the company

was dissolved the licence was not transferred within the legislative timeframe and therefore lapsed.

The Sub-Committee heard that the Metropolitan Police (Licensing Division), Environmental Protection Team ('EPT'), Licensing Authority had all withdrawn their representations following additional conditions being agreed.

The Sub-Committee then heard from a representative for the licensed premises, who stated that they had previously had a licence and the reasons for it not being transferred. The application was for a new licence of previously licensed premises. They had recently been applying for Temporary Event Notices but wanted to regularise their licence. They had agreed additional conditions with the responsible authorities and reduced the times sought for on sales only and withdrawn the off sales element of their application.

The Sub-Committee heard representation from other persons. Firstly from Person B of Shiva Limited and Person A who is a resident of Swan Yard. Person B began his objections by stating that the Committee did not have the power or authority to grant a licence and if such an application was successful then it would be Ultra Vires. He referred to his detailed objections that were originally submitted to planning dated 26 July 2018 and appeared before the committee without any amendments or additions.

His concerns centred on the planning designation of the building and current use being a breach of the user clause. His objection referred to misleading application information in that application letter referred to the previous contribution to the community of the applicants, described in the application letter as "ambitious local entrepreneurs" which should not be taken at the word of the agent. The applicants took on their current lease of the premises at a rent that is appropriate for B1 space. In fact the lease only permits such use.

The application he informed the panel purports to be for "flexible use". It is meaningless and unenforceable to grant consent for B1/A1/A3 use. He informed the panel the applicants had signed their present lease when that use of the building was already underway and they had already discounted its use as B1 in favour of getting in on the A3 boom in Bermondsey Street. Because the building does not have consent for A3 use it is necessary for the events hosted at the building to take place under the authority of Temporary Events Notices.

The objection further raised the issue of pedestrian-vehicle conflict and access obstruction. Swan Yard having a narrow entrance that is not wide enough for pavements on either side of the carriageway. Significant pedestrian traffic is therefore incompatible with the access and egress of the commercial vehicles serving the premises in the yard and also the main vehicular access of tenants, visitors and residents to the Tanneries. People attending the applicant's events are often ready to challenge vehicles attempting to enter the yard itself from Bermondsey Street or enter Shiva's carpark, refusing to give way to allow vehicles to pass. This has resulted in occasionally violent confrontations requiring the police. Permeant use as an A3 premises would make these conflicts routine.

In respect of noise his objections state the noise impact of allowing conversion of B1 spaces in the yards to A3 is obvious. There are residential premises on all four sides of Black Swan yard. These are either already adversely affected by events held under

temporary event notices, or will be once occupied. Allowing Black Swan Yard to follow Bermondsey Street itself into bar and restaurant use will obviously be damaging to existing and prospective residential elements of our site and significantly compromise the development potential and thus value of 1 Black Swan Yard.

Person B's objections claimed that restaurants and hot food vendors cause oppressive smells in their immediate environments, irrespective of any ventilation systems specified. This effect is compounded in enclosed spaces he claimed.

His objections did not fall within the 4 licensing objectives and failed to provide specific details of issues in respect of the four stated licensing objectives. It failed to set out any specific noise incidents or issues with public safety. Paragraph 14.64 of the Home Office's revised guidance issued under section 182 of the Licensing Act 2003 (April 2018) provides that the planning and licensing regimes involve consideration of different (albeit related) matters. However, licensing committees are not bound by decisions made by a planning committee, and vice versa. This licensing sub-committee can not therefore take into account planning considerations.

The Second objector Person A informed the committee that he lived above the premises and was not aware of any incidents that resulted in violent confrontations requiring the police to be called. He spoke about the noise that permeated his property during some events that involved music. He made clear he and other residents could accept noise from occasional events but they were concerned at the event venue having events everyday including Sundays and the noise that could this could create.

Appeal Rights

This decision is open to appeal by either:

- a) The applicant for the review
- b) The premises licence holder
- c) Any other person who made relevant representations in relation to the application

Such appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court for the area within the period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

This decision does not have effect until either

- a) The end of the period for appealing against this decision; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

The meeting ended at 11.43am

CHAIR:

DATED: