

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 7 May 2020 at 10.00 am at Online/Virtual: please contact andrew.weir@southwark.gov.uk for a link to the meeting and the instructions for joining the online meeting

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Margy Newens
Councillor Ian Wingfield

OFFICER SUPPORT: Debra Allday, legal officer
Gary Ward, legal officer
Ray Moore, trading standards officer
Jayne Tear, licensing responsible authority officer
P.C. Graham White, Metropolitan Police Service
Andrew Weir, constitutional officer

1. APOLOGIES

This was a virtual licensing sub-committee meeting. The chair explained to the participants and observers how the virtual meeting would run. Everyone then introduced themselves.

There were no apologies for absence.

2. CONFIRMATION OF VOTING MEMBERS

The voting members were confirmed verbally, one at a time.

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

There were none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: 65 SOUTHWARK PARK ROAD, LONDON SE16 3TY

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

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

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

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

The Metropolitan Police Service representative addressed the sub-committee. Members had questions for the police representative.

All parties were given five minutes for summing up.

The meeting adjourned at 11.02am for the sub-committee to consider its decision.

The meeting reconvened at 11.27am and the chair advised all parties of the decision.

RESOLVED:

That the application made by Arumugam Ramasamy to vary a premises licence to be granted under s.34 of the Licensing Act 2003 in respect of the premises known as Rose Food and Wine 65 Southwark Park Road, London SE16 3TY be refused.

Reasons

This was an application to vary a premises licence in respect of the premises known as Rose Food and Wine, 65 Southwark Park Road, London SE16 3TY to extend the hours permitted for the off sale of alcohol until 23:45 daily, to allow the sale of alcohol from 08:00 on Sunday and to allow the sale of beers with an alcohol by volume (ABV) of up to 9% at the premises.

The licensing sub-committee heard from the applicant who advised that although the area was quiet, towards closing, there was often a flurry of customers, who wished to buy alcohol. An extension of hours would allow the applicant to utilise that additional time for cleaning the premises. The applicant also stated that they had also been steadily losing customers to competitors due to the restrictions on beer sales as set out in their licence. It was the applicant's intention to sell strong beers to meet their customers' requirements. They stated that they got many customers on a daily basis asking for these beers. The applicant was unable to give examples of the super strength beers customers sought.

The licensing sub-committee then heard from the officer for trading standards who objected to the application on the basis of the prevention of crime and disorder licensing objective. As a result of issues with the previous licence holder, Condition 340 ("That no beers/ciders in single cans, bottles or multipacks with an ABV of above 6.5% will be displayed/sold or offered for sale from the premises, unless prior written permission has been obtained from a Metropolitan Police Licensing Officer from Southwark. Such permission must be kept at the premises and made available immediately on request to the relevant authorities") had been added to the licence. They stated that it was clear that

the applicant had not understood the meaning of this condition

The licensing sub-committee then heard from licensing as a responsible authority who objected to the application based on the prevention of crime and disorder, prevention of public nuisance and the protection of children from harm licensing objectives. They stated that the premises is situated within a residential area. They also informed the sub-committee that the hours applied for were in excess of the guidance hours in the Southwark statement of licensing policy for this type of premises. The closing times recommended in this council's statement of licensing policy for this type of premises located in residential areas are 23:00 daily. The only aspect of the application that wasn't opposed to was where the opening hours were specified, which would reduce the premises from a 24 hour convenience shop by eight hours.

The licensing sub-committee finally heard from the Metropolitan Police Service who objected to the application based on the prevention of crime and disorder licensing objective. They advised that the premises are situated in a residential area as designated by the Southwark statement of licensing policy and premises hours were already in line with the policy. Any extension to would take the hours beyond those recommended in the policy.

The application also sought to change the condition restricting the sale of beers and ciders from 6.5% to 9%, despite condition 340 already being on the licence. The officer also advised the sub-committee that a night time economy visit on 4 March 2020 found the premises to be in breach of five conditions and that a Notice of Offences was issued. The breaches related to Challenge 25 and CCTV conditions.

The licensing sub-committee were extremely concerned that despite being found in breach of the licence on 4 March 2020, the applicant continued with this variation application under the belief there would be no repercussions. The breaches are in themselves sufficient to refuse this application.

That said, through discussion, it became clear that the applicant didn't need to remove condition 340. With the police agreement, this condition could be updated to include those super strength beers, ciders and lagers that were requested by the applicant's customers.

Concerning the extension of hours, the sub-committee found no exceptional reasons to divert from the closing hours as set out in Southwark's statement of licensing policy. Furthermore, the applicant's primary reason for the extension was to carry out cleaning prior to the premises closure. The sub-committee takes the view that the cleaning could be factored in with a later closing time without an extension to the off-sales of alcohol.

Whilst this application is rejected in its entirety, it is very strongly recommended that applicant implements further training for all of its staff to ensure that there is no further breaches of the licence.

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 to modify the conditions of the licence; and

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

- a) That the 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.

At this point the meeting adjourned at 11.30am to 11.50am for the members briefing in relation to items 6 and 7 on the agenda.

6. LICENSING ACT 2003: UNIT 5, 12 - 16 BLENHEIM GROVE, LONDON SE15 4QL

The licensing officer presented their report and advised that the responsible authorities had conciliated with the applicant. Members had questions for the licensing officer.

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

Two other persons, local residents objecting to the application addressed the sub-committee. Members had questions for the local residents.

The licensing sub-committee noted the written representations from the three other local residents, who were not in attendance.

All parties were given five minutes for summing up.

At this point the chair advised that the sub-committee would hear item 7 before adjourning to consider the decisions in relation to items 6 and 7 (please see the minutes for item 7 for details of that decision).

The meeting adjourned at 12.36pm for the sub-committee to consider its decision.

The meeting reconvened at 1.35pm and the chair advised all parties of the decision.

RESOLVED:

That the application made by Larry's Restaurant Limited ("the applicant") to vary a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Unit 5, 12 - 16 Blenheim Grove, London SE15 4QL be granted as follows:

- (i) To allow for the sale of alcohol to be consumed off the premises (off sales).

(ii) To amend the floor plan in respect of the premises.

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 conditions agreed with the Metropolitan Police Service and the licensing responsible authority, during the conciliation process.

Reasons

An application was made by Larry's Restaurant Limited to vary the premises licence in respect of Unit 5, 12 - 16 Blenheim Grove, London SE15 4QL. The application sought to amend the licensing hours, the opening hours and the floor plan, and to allow for off sales of alcohol at the premises.

The Metropolitan Police Service initially objected to the extension of operating hours applied for, and inclusion of an external area in respect of the amended floor plan. In subsequent correspondence with the applicant the Metropolitan Police Service proposed that the application be modified to include measures, relating to off sales of alcohol being sold in sealed containers and also the licensee procuring permission from the council for the use of any external area prior to using the external area, which would become conditions of any licence issued regarding the application. The applicant agreed to the conditions proposed by the Metropolitan Police Service. The Metropolitan Police Service withdrew their representation.

The licensing responsible authority proposed that the application be modified to include measures, relating to the sale of alcohol to be consumed off the premises, which would become conditions of any licence issued regarding the application. The applicant amended the application and agreed to the conditions sought by the licensing responsible authority.

Five other persons (local residents) submitted representations objecting to the application for the following reasons:

- The local area is already saturated with premises licensed to sell alcohol.
- The number of premises licensed to sell alcohol in the local area contribute significantly to crime and disorder, nuisance and anti social behaviour in the locale.
- Any extension of the premises' operating hours will further add to aforementioned problems in the area.
- Off sales of alcohol at the premises should not be permitted.

The application, as amended, is to amend the floor plan in respect of the premises and to allow for off sales of alcohol at the premises. The application to amend the licensing and opening hours was withdrawn by the applicant.

The licensing sub-committee was pleased to note that the applicant had addressed the concerns of the police and council and had agreed appropriate conditions if the licence variation is granted.

The licensing sub-committee considered whether any restrictions on alcohol pricing should be added to the licence. The licensing sub-committee determined that this was not necessary as mandatory conditions on alcohol pricing would be appropriate. The applicant confirmed that there would be no discounted prices for off-sales.

When questioned, the applicant confirmed that the core business of the premises is for food.

One resident, attending the hearing, confirmed that there was concern with the number of premises licensed to sell alcohol in the area and the way in which premises in Blenheim Grove are developing.

Another resident confirmed her agreement to the application as presented and expressed satisfaction with what they had heard.

The licensing sub-committee noted that the premises are located in the Peckham cumulative impact policy area. However, it was noted that that the cumulative impact policy did not apply to restaurants. The licensing sub-committee was satisfied that the applicant had demonstrated, both at the hearing and through the conciliation process that the application will not, if granted, negatively impact on any of the licensing objectives. .

The applicant had already confirmed to the licensing responsible authority, in an email dated 23 April 2020, to amend the application to include the following conditions:

- That the written dispersal policy shall be kept at the premises with the licence and made available for inspection by authorised council officers or the police. All relevant staff shall be trained in the implementation of the dispersal policy.
- That any 'off sales' of alcohol shall be provided in sealed containers and taken away from the premises except for the outside area as defined on the premises plan.
- That clear legible signage shall be prominently displayed where it can be easily seen and read, requesting that alcohol sold as 'off sales' should not be opened and consumed in the vicinity of the premises.

The licensing sub-committee considered this application very carefully and decided to grant the application to vary a premises licence subject to the conditions agreed.

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 to modify the conditions of the licence; and

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

- a) That the 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.

7. LICENSING ACT 2003: UNITS 3 & 4, 12 - 16 BLENHEIM GROVE, LONDON SE15 4QL

The licensing officer presented their report and advised that the responsible authorities had conciliated with the applicant.

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

The sub-committee noted the written representation for the other persons, a local resident objecting to the application.

The applicant had nothing to add in summing up.

The meeting adjourned at 12.36pm for the sub-committee to consider its decision.

The meeting reconvened at 1.35pm and the chair advised all parties of the decision.

RESOLVED:

That the application made by Elder Restaurants Limited, to vary a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Units 3 & 4, 12 - 16 Blenheim Grove, London SE15 4QL be granted as follows:

- (iii) To allow for the sale of alcohol to be consumed off the premises (off sales).
- (iv) To amend the floor plan in respect of the premises.

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 conditions agreed with the applicant, the Metropolitan Police Service, Southwark Council environmental protection team and the licensing responsible authority, during the conciliation process.

Reasons

This was an application to vary the premises licence in respect of Units 3 & 4, 12 – 16 Blenheim Grove, London SE15 4QL. The application sought to amend the licensing hours, the opening hours and the floor plan, allow for the provision of late night refreshment and to allow for off sales of alcohol at the premises.

The council's environmental protection team submitted a representation and proposed that

the application be modified to include measures, relating to the prevention of public nuisance, which would become conditions of any licence issued regarding the application.

The applicant and the environmental protection team reached an agreement as to suitable licence conditions to help prevent public nuisance and the environmental protection team withdrew their representation. No objection in this representation was raised concerning the amendment to the layout of the premises.

The Metropolitan Police Service initially objected to the extension of operating hours applied for, and the inclusion of an external area in respect of the amended floor plan.

The applicant amended the application so that an extension of hours and provision of late night refreshment was no longer being sought. The applicant confirmed to the Metropolitan Police Service that the applicant holds a 'tables and chairs' licence issued by this council regarding the use of the external area and, consequently, the Metropolitan Police Service withdrew their representation.

The licensing responsible authority's representation notes that the premises are located in the Peckham cumulative impact policy area.

The licensing responsible authority requested that the applicant provide a written dispersal policy.

The licensing responsible authority also proposed that the application be modified to include measures, relating to the sale of alcohol to be consumed off the premises, which would become conditions of any licence issued regarding the application. No objection in this representation was raised concerning the amendment to the layout of the premises.

One other person (a local resident) submitted a representation objecting to the application for the following reasons:

- That the local area is already saturated with premises licensed to sell alcohol.
- That the number of premises licensed to sell alcohol in the local area contribute significantly to crime & disorder, nuisance and anti social behaviour in the locale.
- That any extension of the premises' operating hours will further add to aforementioned problems in the area.
- That off sales of alcohol at the premises should not be permitted.

No objections were raised by the resident concerning the amendment to the layout of the premises.

The applicant now only seeks to amend the floor plan in respect of the premises and to allow for off sales of alcohol at the premises.

The licensing sub-committee noted that the premises are located in the Peckham cumulative impact policy area. The licensing sub-committee was satisfied that the applicant had demonstrated, both at the hearing and through the conciliation process that the application will not, if granted, negatively impact on any of the licensing objectives.

The applicant has complied with the request of the licensing responsible authority to provide a written dispersal policy. The applicant confirmed there is no increase to the accommodation limit which shall remain as already on the licence.

The applicant also confirmed to the licensing responsible authority, in an email dated 23 April 2020, to amend the application to include the following conditions:

- That the written dispersal policy shall be kept at the premises with the licence and made available for inspection by authorised council officers or the police. All relevant staff shall be trained in the implementation of the dispersal policy.
- That any 'off sales' of alcohol shall be provided in sealed containers and taken away from the premises except for the outside area as defined on the premises plan.
- That clear legible signage shall be prominently displayed where it can be easily seen and read, requesting that alcohol sold as 'off sales' should not be opened and consumed in the vicinity of the premises.

The applicant did not make any further representations in support of the application at the hearing.

The licensing sub-committee considered this application very carefully and decided to grant the application, as amended, to vary a premises licence premises subject to the conditions agreed.

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 to modify the conditions of the licence; and

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

- a) That the 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 1.40 pm

CHAIR:

DATED: