

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 25 June 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 Barrie Hargrove
Councillor Adele Morris

OFFICER SUPPORT: Debra Allday, legal officer
Andrew Heron, licensing officer
Gavin Blackburn, planning enforcement officer
David Franklin, licensing responsible authority officer
Paul Newman, environmental protection officer
Jenifer Phillips, legal officer (observing)
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: PEACHY GOAT, 16 HALF MOON LANE, LONDON SE24 9HU

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

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

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

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

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

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

The 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 local residents who were not in attendance.

All parties were given up to five minutes for summing up.

The meeting adjourned at 12.07pm for the sub-committee to consider its decision.

The meeting reconvened at 1.26pm and the chair advised all parties of the decision.

RESOLVED:

That the application made by Oliver Sechi to vary a premises licence to be granted under s.34 of the Licensing Act 2003 in respect of the premises known as Peachy Goat, 16 Half Moon Lane, London SE24 9H be granted.

Hours

Opening hours

Monday to Saturday 10:00 until 00:00

Sunday 10:00 until 23:30

Regulated Entertainment by recorded music

Monday to Sunday 10:00 until 23:00

Alcohol

Monday to Saturday 10:00 until 23:30

Sunday 10:00 until 23:00

Conditions

1. That the outside area to be cleared of patrons by 22:30 hours.
2. That there shall be no more than 35 patrons in the outside area at any one time.
3. That regulated entertainment by way of recorded music to cease in the outside area at 22:00 hours.
4. 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. The CCTV System must be capable of capturing a clear facial image of every person who enters the premises and public areas within the premises. All CCTV footage shall be kept for a period of 31 days and shall on request be made immediately available to officers of the police and the council.
5. That a member of staff who is trained in the use of the CCTV shall be on duty at all times the premises is open. They must be able to view and download images to a removable device on request of police or council officers.
6. That a telephone number shall be displayed on the premises for the benefit of residents.

The applicant also gave an undertaking not to use single use plastics, where possible.

Reasons

The licensing sub-committee heard from the applicant who gave a background to the premises. The premises had only opened on 2 February 2020 and in the short time before lockdown, had received 5 star reviews. The premises promoted veganism and ecoism with a New York restaurant/bar atmosphere. The purpose of the variation application was to extend the opening hours to include later trading. The current licence did not enable the applicant to compete with other the other licensed premises in the area with later licences. The premises would be quiet from 21:00 hours, so the applicant wanted to attract a younger clientele and those who might want a drink on their way home.

The officer from planning advised the licensing sub-committee that the proposed hours in the variation application were not consistent with the hours granted under planning permission 19AP2649, which permitted a change of use to class A3 café and which had a condition limiting operating hours from 07:00 to 23:00 hours each day. The officer maintained his objection to the application stating that it would be questionable that the proposed hours until 01:30am would be classed as class A3 café/restaurant and regardless, would be harmful to the amenity of nearby residents.

The licensing sub-committee then heard from the environmental protection officer who objected to the application on the grounds of prevention of public nuisance. They advised that there were residential properties above the premises and neighbouring properties close by. The environmental protection officer advised that the proposed variation to the premises licence would have a detrimental effect to the nearby residents as a result of late

night noise. The officer also referred to the restriction of hours imposed by the planning permission (being 07:00 to 23:00 hours)

The Metropolitan Police Service representative advised that they maintained their objection under the prevention of crime and disorder licensing objective. Under the Southwark statement of licensing policy 2019-2021, the premises are situated in the Herne Hill district town centre area. Under the policy the recommended terminal hours recommended for restaurants are 00.00 hours Sunday to Thursday and 01.00 hours Friday to Saturday. The policy gives bars a recommended terminal hour of 23.00 hours Sunday to Thursday and 00.00 hours Friday to Saturday. They advised that the applicant's suggestion of other premises having a later terminal hour was misguided. These other premises with later terminal hours than those recommended in Southwark's statement of licensing policy were granted prior to the implementation of the recommended terminal hours as detailed in the current policy.

The police further added that in the original premises licence application, the premises was described as a restaurant style premises. The applicant was requesting alcohol sales of craft beers and speciality wines to compliment the vegan food offered. However, no control measures have been offered by the applicant to restrict the use of the premises to a restaurant where the sale of alcohol would be ancillary to the consumption of a meal. The applicant also failed to apply for late night refreshment after 23:00 hours, which indicated a change to the operation of the premises to that of a bar. This would completely change the operation of the business/premises and additional conditions would be required.

The licensing sub-committee then heard from licensing as a responsible authority who opposed the variation application under the prevention of crime and disorder and prevention of public nuisance licensing objectives. The licensing officer referred to the recommended terminal hours for a district town centre (such as Herne Hill) as detailed in the Southwark statement of licensing policy. The officer also referred to the operating hours referred to in the planning conditions. Again, it was the officer's view that the nature of the premises was changing from a restaurant to that of a bar/nightclub as the applicant has not asked for late night refreshment within this application. The officer also referred to the rear garden area of these premises, which backs on to Stradella Road and has lots of residential properties. They informed the sub-committee that the applicant had not offered any control measures within the operating schedule to promote the prevention of public nuisance and the prevention of crime and disorder should the premises be open at the later hours applied for.

The licensing sub-committee then heard from six other persons, namely persons F, I, L, Q, W and Y all of whom resided in the vicinity of the Peachy Goat premises. The residents' advised the sub-committee that the extended hours applied for were not appropriate for this location. They referred to the premises being in the Herne Hill district town centre area and advised that the hours recommended for this area in the Southwark statement of licensing policy were sufficient for the operation of the premises.

They referred to the fact that the policy recommended the following terminal hours for the Herne Hill district town centre area: cafés and restaurants: 00:00 hours on Sunday to Thursday and 01:00 hours on Friday and Saturday. The residents informed the sub-committee that these policy hours reflect the fact that Herne Hill is a small district town centre with a strong residential character.

The local residents further added that the applicant also had not proposed any conditions

to mitigate the premises' impact on the licensing objectives, such as proper controls to prevent noise egress. They advised that no activity should be permitted in the rear outside area due to the proximity of residential dwellings. The local residents were of the view that as a café/restaurant, a condition should be added that alcohol be served ancillary to a sit down, table meal to ensure that the premises did not become a late night bar. In addition, they noted that the applicant was obliged to operate the premises in accordance with the planning permission, which allowed operating hours up until 23:00 hours daily.

The licensing sub-committee also noted the representations from the 20 other local residents who were not in attendance.

The licensing sub-committee noted that under the Southwark statement of licensing policy, the premises are identified as being within the Herne Hill district town centre. The sub-committee also noted the relevant closing times for this area.

The licensing sub-committee was not convinced with the applicant's contention that their current licence didn't enable them to compete fairly with other businesses in the area (who have later licences) in relation to alcohol sales. None of the licensed premises in the vicinity (and detailed in the agenda papers) are in excess of the hours as recommended in the policy.

The licensing sub-committee were troubled by the applicant's failure to apply for late night refreshment, which the applicant accepted was a genuine oversight. They advised that this would be rectified by the applicant making a variation application. The sub-committee dismissed the suggestion that the premises was morphing into a nightclub.

The premises advocated ethical veganism which is a protected characteristic under the Equality Act 2010 (Mr J Casamitjana Costa v The League Against Cruel Sports, (Norwich Employment Tribunal (3331129/2018) 20 January 2020)) and the eating and drinking catered for by these premises was a justification of the extension of licensed hours.

The sub-committee's primary concern was the applicant's proposal in respect of the rear outside area. Herne Hill is a small district centre with a strong residential character. The sub-committee were of the view that residents would be adversely affected by noise from the premises later in the evening. For this reason, the sub-committee saw no justification for recorded music being played beyond 22:00 hours (recommended in paragraph 243 of the Southwark statement of licensing policy), as sought by the applicant.

The sub-committee noted that licensing and planning are separate regimes, as detailed in paragraph 107 of the Southwark statement of licensing policy 2019-2021. Where a terminal hour has been set as a condition of planning permission, which differs to permitted licensing hours, the applicant must observe the earlier closing time. The applicant is reminded that operating in breach of their planning permission puts them at risk of prosecution under planning law.

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 desire 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 1.30pm.

CHAIR:

DATED: