

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 23 July 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 Maria Linforth-Hall
Councillor Sunny Lambe

OFFICER SUPPORT: Gary ward, legal officer
Wesley McArthur, licensing officer
P.C. graham White, Metropolitan Police Service
Poonam Patel, constitutional officer (observing)
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

Councillor Lambe advised that within the previous five years, he had conducted a business needs survey on behalf of Southwark Council and had visited the premises as part of the survey. Councillor Lambe advised that this would not prejudice his decision in anyway. There were no objections for his participation from any of the parties present

5. LICENSING ACT 2003: TALKING DRUM, 610 OLD KENT ROAD, LONDON SE15 1JB

The licensing officer presented their report. They also advised that Jayne tear, the licensing responsible authority officer was unable to attend the meeting and that she had requested that the members consider her written representation in the agenda. Members had questions for the licensing officer.

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

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

The licensing sub-committee noted the written representation from the licensing responsible authority officer.

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

The meeting adjourned at 11.12am for the sub-committee to consider its decision.

The meeting reconvened at 12.03pm and the chair advised all parties of the decision.

RESOLVED:

That the application made by Talking Drum London Limited to vary a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Talking Drum, 610 Old Kent Road, London SE15 1JB be granted as follows:

1. To amend the hours permitted for the sale of alcohol to:
 - Sunday to Thursday: 12:00 to 23:30
 - Friday and Saturday: 12:00 to 00:00
2. To amend the hours permitted for the provision of late night refreshment to:
 - Friday and Saturday: 23:00 to 00:00
 - (Note: The hours permitted on the premises licence for the provision of late night refreshment on Sunday to Thursday 23:00 to 23:30 were not part of the application and are unchanged).
3. To amend the opening hours of the premises to:
 - Sunday to Thursday: 12:00 to 00:00
 - Friday & Saturday: 12:00 to 00:30
4. To allow for non standard timings regarding the sale of alcohol and the provision of

late night refreshment as follows:

- 12:00 on 31 December to 02:30 on 1 January

5. To allow for non standard timings regarding opening hours as follows:

- 12:00 on 31 December to 03:00 on 1 January

Conditions

1. To remove licence condition 845 which states 'That intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking a substantial table meal and by consumption of such persons as ancillary to their meal.'
2. The following condition shall be added to the licence: "That the provision of substantial table meals shall be made available to customers at all times during the licensing hours permitted for the sale of alcohol."

Reasons

On 20 May 2020 Talking Drum Limited applied under section 34 of the Licensing Act 2003 to this council to vary the premises licence issued in respect of the premises known as Talking Drum, 610 Old Kent Road, London SE15 1JB.

The Metropolitan Police Service and this council's licensing responsible authority submitted representations objecting to the application.

The Metropolitan Police Service objected to the removal of condition 845 as they contend that it's removal is likely to have a negative impact on the prevention of crime and disorder licensing objective.

The Metropolitan Police Service further stated that the premises licence issued in respect of the premises already allows the premises to open beyond opening hours recommended in Southwark Council's statement of licensing policy, and that there has been no evidence provided in the application as to why the premises should be allowed to operate even further outside the opening hours recommended in the council's statement of licensing policy.

The licensing responsible authority stated that the premises was described as a restaurant in the application for the premises licence granted in respect of the premises, and that the removal of condition 845 would mean that the premises can operate as a drinking establishment without the requirement to provide food. The licensing responsible authority contended that condition 845 was put on the premises licence to promote the licensing objectives and to ensure that the premises retains its nature as a restaurant and does not operate as a bar / nightclub. The licensing responsible authority recommended that the application is refused.

At the hearing the licensing officer presented the report to the sub-committee and confirmed that the premises are not situated in a saturation zone.

The applicant stated that the premises will continue to operate as a restaurant and rejected the concern that it could somehow become a nightclub. The applicant referred to

the existing conditions on the licence and felt that these will offer sufficient control and regulation to ensure the premises are run in a responsible manner. The applicant explained that due to ongoing Coronavirus restrictions the hospitality industry has been decimated and there needs to be a relaxation of the removal of condition 845 to enable customers to come in for a drink, or to have a business meeting, without having to order food. The seating plan has not changed. The premises are essentially a fine dining establishment. Alcohol prices do not support people who may want to visit a bar for drinking purposes only.

The applicant submitted that removal of condition 845 would enable customers to buy a drink even if they are unable to afford to buy food. The premises would continue to be run as safe business. Alcohol sales would still be by table service only. Condition 843 states "that there shall be waiting service at the dining tables only." Condition 860 states "that a direct telephone number for the manager at the premises shall be publicly available at all times the premises is open." If residents had any concerns they could contact the manager easily. There is also a register of refused sales as per condition 858. This would enable the premises to demonstrate that they are able to deal with intoxicated customers appropriately and refuse the sale of alcohol if appropriate.

The applicant confirmed that a food takeaway service is not being offered although customers can take any leftover food home in a 'doggy bag' if they so request.

The licensing officer confirmed that the premises do not have a licence for off-sales of alcohol.

The Metropolitan Police stressed that if the sub-committee allowed the application with the removal of the restaurant condition this would allow the premises to revert to same premises as it was being run when the licence was revoked in April 2019. Due to the seriousness of the incidents, in the last 15 months, the Metropolitan Police strongly object to the application.

The applicant responded and stated it was unfair to compare the current premises to the premises, which were then known as the Luxford Bar and which had a dancefloor.

The licensing sub-committee noted that the premises will be operated by the same owner as previously. The owner is the sole Director of Talking Drum London Limited.

The Metropolitan Police acknowledged the difficulties for businesses with the Coronavirus restrictions in place but stressed that these are temporary and the application, being a permanent change to the licence, should be considered in light of the restrictions being lifted.

The applicant stressed that the business is for a more mature crowd than previously. There will not be any live music or DJ's.

The sub-committee agreed that the concerns of the police that the premises could revert to a similar operation as the Luxford Bar was a valid one which must be addressed. It was noted that the representations made do not object to the extension of hours.

The sub-committee agreed that the applicant had demonstrated that there has been a transformation of the business model. The applicant confirmed that there was no intention to make off-sales of alcohol. The applicant also confirmed that there is no plan or intention to change the seating plan and that there is already fixed seating in place.

The sub-committee decided that the extension of hours should be granted provided that meals are made available to customers during the times allowed for the sale of alcohol. This would mean that the kitchen will stay open for customers drinking alcohol so that they can order food if they so choose.

The sub-committee decided that it would be appropriate to add a condition to this effect. In this way a condition would ensure that the business model does not change. The applicant must keep the tables in place in order to be able to serve food at all times.

The application was granted on this basis together with the additional condition that the provision of substantial table meals shall be made available to customers at all times during the licensing hours permitted for the sale of alcohol.

The sub-committee noted the financial difficulties faced by the applicant in the context of the ongoing Coronavirus restrictions and the 'lockdown'. The sub-committee had regard to the Southwark statement of licensing policy which recognises the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business encouraging innovation and supporting responsible premises.

The applicant had demonstrated that premises would act responsibly in ensuring that these premises do not become a bar or nightclub. The licensing sub-committee noted that if the premises are not conducted in a responsible manner that the premises licence could be further reviewed.

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

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 12.08pm.

CHAIR:

DATED: