



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 16 September 2013 at 10.00 am at Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas
Councillor Lewis Robinson
Councillor Althea Smith

OTHERS PRESENT: PC Graham White, Metropolitan Police Service
Paul McGann, applicant
Carolina Arrego, representative from Distriandina
Jose Lozano, representative from Distriandina
James Rankin, representative from Distriandina

OFFICER SUPPORT: Debra Allday, legal officer
Cynthia Barrientos, legal officer
Dorcas Mills, licensing officer
Kristie Ashenden, licensing officer
Sarah Newman, environmental protection officer
David Swaby, licensing officer representing the council as a responsible authority
Andrew Weir, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The three members present were confirmed as the voting members.

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 - MOBILE GARDENERS PARK (LAND BETWEEN WANSEY STREET AND BRANDON STREET), LONDON SE17 1NA

The licensing officer presented their report and advised that the environmental protection team and the applicant had now conciliated. The licensing officer circulated a list of conditions agreed by the environmental protection team and the applicant. Members had no questions for the licensing officer.

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

The sub-committee heard from the environmental protection officer who confirmed that they had conciliated with the applicant. Members had questions for the environmental protection officer.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had questions for the licensing officer representing the council as a responsible authority.

The sub-committee went into closed session at 10.40am.

The sub-committee resumed at 11.28am and the chair read out the decision of the sub-committee.

RESOLVED:

That the application by Mobile Gardeners Community Interest Company for a grant of a premises licence issued under the Licensing Act 2003 in respect of Mobile Gardeners Park Land between Wansey and Brandon Street, London SE17 is granted as follows:

Licensable Activity	Thursday	Friday	Saturday	Sunday
Plays (outdoors)	12.00 – 21.00	12.00 – 21.00	12.00 – 21.00	12.00 – 21.00
Films (outdoors)	12.00 – 21.00	12.00 – 21.00	12.00 – 21.00	12.00 – 21.00
Live music (outdoors)	12.00 – 21.00	12.00 – 21.00	12.00 – 21.00	12.00 – 21.00
Recorded music	12.00 – 21.00	12.00 – 21.00	12.00 – 21.00	12.00 – 21.00
Performance of dance (outdoors)	12.00 – 21.00	12.00 – 21.00	12.00 – 21.00	12.00 – 21.00

Conditions

In addition to the decision as above, the following conditions will apply:

1. That events that take place in will generally be accessible to all members of the public including children.
2. That if an event with an age limitation, e.g. showing a rated film or selling alcohol (under additional licence), were to take place, advanced notice, appropriate signage and controlled entry of the event will be undertaken and proof of age be requested.
3. That there will be only one event per calander month using a sound amplification system of up to 650 watts. There will be only three events per calander month using a sound amplification system of up to 100 watts. All other events will be acoustic. There shall be no acoustic performances containing drums/loud percussion or un-muted brass instruments.
4. That there will a total of no more than five hours regulated entertainment on any permitted day.
5. That any amplification system shall be set up in the south west quadrant of the garden and face north east.
6. That speakers shall be kept low to the floor, be placed on rubber/anti vibration matting and point away from noise sensitive boundaries.
7. That the volume and bass levels of any licensed entertainment shall be kept at a level that does not cause significant intrusion beyond the premises boundary. (It is strongly recommended that there are regular checks at the boundary/sensitive receptors to ensure this remains the case).
8. That a representative of the company will be on site at any event held.
9. That patrons must not be permitted to socialise in significant numbers close to sensitive boundaries.
10. That any temporary electrical circuits must be safety checked.
11. That all trailing cables shall be secured.
12. That free drinkable water should be available at all times.
13. That pedestrian traffic routes and all regular and emergency exits be kept clear at all times.
14. That portaloos be sensitively sited to ensure odour does not impact on adjacent land uses.
15. That there be no fireworks at any time.

16. That there should be effective arrangements for the managing, collecting, containing and disposal of waste and litter.
17. That the generator shall be sensitively sited to ensure fumes and noise from it's use do not impact on adjacent land uses.
18. That the licence shall not commence until the licensing team have received a satisfactory risk assessment, a management plan and child safety plan from the applicant.

Reasons

The licensing sub-committee heard evidence from the applicant who informed the sub-committee that they were a community interest company who run a community garden. They obtained a lease in November 2012 for three years to provide a garden for the community and to hold free community events.

The applicant stated that as the site would be redeveloped in November 2014, he is essentially applying for a "time limited licence". He explained that the community events are not run on a commercial basis. Following receipt of objections the applicant advised that they had agreed to limit the number of events where amplified music (through a 650 watt music system) shall be played to once a month. The applicant further advised that he had spoken to the local resident who had objected to the application and had agreed to ensure that people do not congregate outside the boundary of the site. He advised that portaloos will be installed in approximately two weeks to address the objector's concerns.

The applicant responded to the proposal for ending events on the site by published time of sunset. He advised that from a practical point a 9.00pm end time would be more manageable and the environmental protection officer agreed with a 9.00pm end time.

The licensing sub-committee heard from the environmental protection officer who advised that she had met with the applicant on Friday 13 September 2013 to discuss conditions to be added to the licence. These conditions were subsequently agreed and are attached herewith. The environmental protection officer advised that she was happy that the agreed conditions would limit the impact from the events on the residential community, whilst allowing the voluntary project to continue.

The licensing sub-committee heard from the licensing officer representing the council as a responsible authority who advised the sub-committee that he had written to the applicant requesting a copy of their risk assessment, management plan and child safety plan. However, he had not received these to date. He also proposed that the licence should not commence until satisfactory copies of these documents were provided.

The applicant advised that these documents were available as these were required when they applied for funding. The applicant confirmed that he would send these documents to the licensing officer.

The licensing sub-committee noted that the local resident objector was not in attendance but had not withdrawn their representations.

In reaching this decision the sub-committee had regard to all the relevant considerations

and the four licensing objectives.

The licensing sub-committee considered that it was appropriate and proportionate to attach these conditions in order to address the licensing objectives.

Appeal rights

Any appeal must be made to the magistrates' court for the petty sessions area (or any such area) in which the premises concerned 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 - DISTRIANDINA, UNIT 6 FARRELL COURT, ELEPHANT ROAD, LONDON SE17 1LB

The licensing officer presented their report and circulated a copy of the time line of events relating to CCTV footage, proposed conditions from the police and a list of conditions agreed by all parties. Members had no questions for the licensing officer.

The representative from the police addressed the sub-committee. Members had questions for the police representative. Members had questions for the police.

At the request of the sub-committee CCTV footage relating to an event of serious disorder associated with the premises on 27 July 2013. Members had further questions for the police representative.

The representatives from Distriandina addressed the sub-committee. Members had questions for the representatives from Distriandina.

The sub-committee went into closed session at 1.15pm.

The sub-committee resumed at 2.50pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the council's licensing sub-committee, having had regard to the application by Metropolitan Police for a summary review under Section 53A of the Licensing Act 2003 of the premises licence granted to Distriandina (UK) Limited in respect of the premises known as Distriandina, Unit 6 Farrell Court, Elephant Road, London SE17 1LB and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

Modify the conditions of the licence as follows:

- i) That all licensable activities shall stop at 04.00 and the premises shall close at 04.30 on Friday and Saturday.
- ii) That no spirits (alcohol containing more than 20% abv) shall be sold by the bottle or

half bottle.

- iii) That all spirits (alcohol containing more than 20% abv) shall be sold by the measure of 25ml or 35ml at a maximum of two measures per container/glass.
- iv) That polycarbonate/plastic drink ware be used by all persons after 22.00. All alcoholic and soft drinks are to be decanted by the premises staff into such drink ware at the point of sale.
- v) That no bottles or glass be stored between 22.00 and 06.30 in a place where the public have access.
- vi) That the premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Metropolitan Police Service. All entry and exit points shall be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of the police or authorised officers throughout the proceeding 31 day period. The CCTV system shall be updated and maintained according to police recommendations.
- vii) That there be a full change of designated premises supervisor of the venue.
- viii) That there be a change of security company employed by the premises.
- ix) That an ID scanning system, to the reasonable satisfaction of the police, be installed and maintained. The system shall be capable of sharing information about banned customers with other venues, identify the hologram of an ID, read both passports and ID cards and identify fake or forged documents to a reasonable standard. The system will be in operation at all times that the premises are in operation under the premises licence. All persons in the premises prior to 20.00 must be scanned at this time.
- x) That a minimum of five SIA licensed door supervisors shall be on duty at the premises at all times whilst it is open for business on Friday and Saturday, at least one of whom shall be a female. There shall be three SIA licensed door supervisors on duty Sunday to Thursday after 20.00 till the terminal hour, one of whom shall be a female.
- xi) That a management policy be submitted by the security company employed by the premises to the Metropolitan Police Service and Southwark's licensing unit within 14 days.
- xii) That condition 342 be amended condition to read: There shall be no new admissions or readmissions to the premises after 2.00am on any day with the exception of smokers. There shall be no more than five persons who can be smoking outside the premises at any one time in the designated smoking area.
- xiii) That no drinks be removed from the premises at any time.

The operating hours shall be:

	Sunday to Thursday	Friday and Saturday
Activity		
Opening Hours	08:00 to 03:00	08:00 to 04:30
All licensable Activities	08:00 to 03:00	08:00 to 04:00

Reasons

This was a hearing of an application by the Metropolitan Police Service for a review of the premises known as Distriandina, Unit 6 Farrell Court, Elephant Road, London SE17 1LB.

This application was made under Section 53A of the Licensing Act 2003 for serious disorder.

The licensing sub-committee heard evidence from the Metropolitan Police Service the applicant for the review who confirmed the grounds for the review related to the prevention of crime and disorder licensing objective. The premises had been involved in two incidents of serious disorder in the three weeks prior to 19 August 2013. On 27 July 2013, serious disorder broke out involving approximately 20 people, fighting with poles and weapons who were all seen coming out of the premises. On 18 August 2013, a male was seriously assaulted outside the premises, having been punched by a customer from the venue. The victim sustained life changing injuries and was in a coma in hospital.

On 20 August 2013, the licensing sub-committee considered the application under Section 53B of the Licensing Act and imposed interim steps pending the full review hearing of today.

Whilst the review was instigated by the incidents that took place on 27 July 2013 and 18 August 2013, the Metropolitan Police Service submitted that since May 2012, there had been 13 crime reports for serious violent offences linked to the premises. This included seven incidents of grievous bodily harm, two instances of actual bodily harm, one incident of violent disorder and three robberies. The police indicated that either the victim or the suspect of these incidents were intoxicated at the time of the offences, having been inside at the time or having just left the premises. Furthermore, the police advised of an incident in May 2013 when police were called to a fight at the location and a female was found with facial injuries, believed to have been from the fight. It transpired that the female had been inside the premises and had got so intoxicated that she was unable to stand and kept falling over, hitting her face.

The police were of the view that the premises and the management undermined the crime and disorder licensing objective by the continued sale of alcohol to drunk and intoxicated people within the premises. There was also no control measure in place to deal with the sale of bottles of spirits and its consumption resulting in excessive amounts of alcohol being consumed and individuals being the victim of crime or perpetrating one.

The officer from the police advised the sub-committee that despite this a number of conditions had been conciliated as set out in the document entitled "Requested Conditions

Distriandina”.

The licensing sub-committee heard evidence from the representatives of Distriandina who informed the sub-committee that in spite of the serious incident that took place on 27 July 2013 the police did not apply for the expedited review until 18 August 2013. After the incident on 27 July 2013, the police and the premises had been in negotiations to find an amicable resolution to the situation. He advised that it was unfortunate that a further incident occurred on 18 August 2013 after which, interim steps were properly imposed.

The representative for Distriandina advised that the premises catered for the Latin American community and that the premises were generally run well. An analysis of the incidents contained in the papers before the sub-committee indicated that the instances of disorder occurred after 05.00. Therefore, it would be more appropriate for the hours to be restricted to 04.00 rather than the restriction to 02.00, as imposed by the interim steps.

The clientele mainly worked in the service industry and came to the premises after work, which was generally after midnight. Patrons came from all over London. Under the interim steps, the 02.30 closing time and licensable activity restriction to 02.00 had resulted in a drop of 70% in takings and a continued restriction to the operating hours would lead to the club's closure.

Having viewed the CCTV footage from the incident of 27 July 2013, the sub-committee were extremely concerned by the incident where a male from the club starting to push and fight with a group, people coming out of the club and a large scale fight occurring outside in addition to a male picking up a security barrier and throwing it at the crowd.

The sub-committee took a very dim view of the outcome of the inspection that took place on 31 August 2013. An officer from the licensing unit attended the premises to check compliance with the interim steps (that no spirits (alcohol containing more than 20% abv) were to be sold by the bottle or half bottle). The officer witnessed large sports type plastic bottles on the tables. It transpired that alcohol above 20%abv was contained in these bottles. The officer was required to explain that this defeated the objective of the interim measure, which was for the premises to take control over how intoxicated people may get and that if people have to order drinks one at a time, the staff would be able to make a decision as to whether the person appeared drunk before they were sold any more alcohol. The officer also noted a male slumped at a table, intoxicated.

The sub-committee feel it important that the licensee takes some responsibility in the level of intoxication of their patrons. The amended guidance under section 182 of the Licensing Act 2003, paragraph 10.50 provides that the responsible person “shall ensure that the following drinks, if sold or supplied on the premises in the following measures...gin, rum, vodka or whisky in 25ml or 35ml measures”. Whilst the representative advised the customary alcoholic drink of many of the patrons was 29%abv, it was lower than gin, rum, vodka or whisky as referred to in paragraph 10.50 of the guidance. Due to the level of incidents involving intoxicated patrons, this licensing sub-committee feel it appropriate and necessary to impose the two conditions (conditions 2 and 3 of the requested conditions).

In reaching this decision the sub committee had regard to all the relevant considerations and the four licensing objectives.

The licensing sub-committee considered that its decision was appropriate and proportionate in order to address the licensing objectives.

Appeal rights

This decision is open to appeal by:

- 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 closed at 3.05pm.

CHAIR:

DATED: