

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 17 OCTOBER 2018

LICENSING ACT 2003: UNIT R1, BLOCK H6, ELEPHANT PARK, LONDON SE1

1. Decision

That the application made by Lendlease (Elephant and Castle) Retail Ltd for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Unit R1, Block H6, Elephant Park, London SE1 is granted as follows:

The sale by retail of alcohol (both on and off sales)	Sunday to Thursday from 10:00 to 23:00 Friday and Saturday from 10:00 to 23:30
Late night refreshment	Friday and Saturday from 23:00 to 23:30
Opening hours	Sunday to Thursday from 08:00 to 23:00 Friday and Saturday from 08:00 to 00:00

2. Conditions

1. That there is an accommodation limit of 60 inside and 10 outside staff.
2. That there is a maximum of 10 patrons outside at any one time including smokers.
3. That the external area will be out of use between 22:00 and 08:00 hours, with all furniture having lifted and brought into the premises or, if left outside, rendered unusable.
4. That the premises will use its best endeavours to ensure that any moving of outside furniture and barriers is done in a quiet and orderly fashion.

3. Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the representative for the applicant who advised that following the planning consent in 2013 the site where the premises was located is to the southeast of the central area of Elephant and Castle, where the New Kent Road runs to the north of the site and the National Rail railway line runs north/south to the west of the site.

Over the next 12 months the development would move into the operational phase, where community space and employment for residents would become available. Whilst the lease to Unit 1 had yet to be finalized and signed, the lease Hop Art had at the Art Works expires at the end of 2018 and would then open a bar and bottle shop with external seating. The premises licence the Hop Art currently had late hours seven days a week, until 01:00 hours. Hop Art were good licence holders with no issues known by the licensing authority.

All of the concerns raised by the other persons had been addressed by proposed conditions set out in the document submitted titled "Dispersal Policy" at section 10.

The licensing sub-Committee noted that licensing as a responsible authority had withdrawn their representation having conciliate with the applicant by agreeing conditions.

The licensing sub-committee then heard from Resident 5 who advised that their home was located approximately 20 metres from Garland Court where all the bedrooms are front facing the premises. The early opening until late closing seven days a week, would cause disturbance, increase the number of people milling around outside, raising noise and negatively impacting on residents' right to quiet enjoyment. Furthermore, the movement of furniture in the external area around would create a "scraping" noise that would disturb residents. There were also concerns of patrons of buying off-sales and consuming them in the local vicinity. Resident 5 called a witness who referred to planning considerations, but these were deemed irrelevant for the purposes of this provisional statement application.

The licensing sub-committee also heard from Resident 6 whose representation concerned the prevention of public nuisance licensing objective and raised similar issues as resident 5 regarding patrons smoking outside residential premises, noise that would disturb residents sleep and service deliveries and waste removal.

The licensing sub-committee noted the representations from 12 other persons.

Unit 1 forms part of a development that was granted planning permission 14/AP/3439. It is proposed that the unit will a bar and bottle shop leased to Hop Art, who currently hold a late licence premises licence at the Artworks, London SE17. The lease at the Artworks expires at the end of 2018. No evidence was presented to suggest that Hop Art is anything but compliant and reliable licence holders.

One of the concerns raised by the residents was that they were given explicit assurances prior to the purchase of their homes that licenced premises would not be permitted in the retail units. This is not a consideration for this sub-committee and alternatively, would need to be raised with the freeholders/developers.

The applicant has produced a schedule of conditions (within the dispersal policy) which addresses most of the concerns of the local residents. The hours applied for are within the recommended hours as detailed in Southwark's statement of licensing policy. This licensing sub-committee agree that these are placed on the provisional statement together with the conditions conciliated with licensing as a responsible authority. With the added conditions as detailed in this notice of decision, this committee is satisfied the premises, once operating will promote the licensing objective whilst the local residents will have sufficient protection from any adverse interference from the premises. Finally, this sub-committee recommend that the Elephant Park security ensure that all off-sales are not consumed on Wansey Street, London SE17.

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.

4. Appeal rights

The applicant may appeal against any decision:

- a) To impose conditions on the licence
- b) To exclude a licensable activity or refuse to specify a person as premises supervisor.

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

- a) The licence ought not to be granted; or
- b) That on granting the licence, the licensing authority ought to have imposed different or additional conditions to 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.

Issued by the Constitutional Team on behalf of the Director of Law and Democracy.

Date: 17 October 2018