

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 11 April 2016 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

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**PRESENT:** Councillor Renata Hamvas (Chair)  
Councillor David Hubber  
Councillor Sunny Lambe

**OTHERS PRESENT:** Gary Grant, legal representative, Tate Modern  
Andrew Wong, legal representative, Tate Modern  
Sarah Bailey, applicant, Tate Modern  
Piers Warner, applicant, Tate Modern  
Councillor Adele Morris, ward councillor  
Stephen Hough, local resident  
Jane Levi, local resident  
Jill Segal, local resident

**OFFICER SUPPORT:** Debra Allday, legal officer  
Mark Orton, licensing officer  
Jayne Tear, licensing officer as a responsible authority  
Andrew Weir, constitutional officer

### 1. APOLOGIES

There were none.

### 2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

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

There were none. At this point the chair advised that the order of business would be varied to hear item 6 first.

#### 4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were no declarations from members. The clerk advised that they were a local resident. For transparency, the clerk advised that they would leave the room while the members made their decision.

#### 5. LICENSING ACT 2003: TATE MODERN (AND EXTENSION), BANKSIDE, LONDON SE1 9TG

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

The applicant and their legal representative addressed the sub-committee. Members had questions for the applicant and their legal representative.

The licensing officer representing the council as a responsible authority addressed the sub-committee. The licensing officer advised that they would call on the ward councillor as a witness. Members had questions for the licensing officer.

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

All parties were given five minutes for summing up.

The meeting went into closed session at 1.50pm

The meeting resumed at 2.45pm. The parties were not present so the chair did not read out the decision.

#### RESOLVED:

That the application submitted by Board of Trustees for the Tate Gallery for the grant of a premises licence issued under the Licensing Act 2003 in respect of Tate Modern, 53 Bankside, SE1 9TG be granted as follows:

Licensable Activity	Monday to Friday	Saturday and Sunday
Sale and supply of alcohol (on the premises)	07:00 to 00:00 (midnight)	08:00 to 00:00 (midnight)
Films, live music, recorded music, performance of dance or anything similar	07:00 to 00:00 (midnight)	08:00 to 00:00 (midnight)
Late Night Refreshment	23:00 to 00:00 (midnight)	23:00 to 00:00 (midnight)
Hours premises are open to the public	07:00 to 01:00	08:00 to 01:00
Non-standard timings	To extend all licensable activities on no more than 15	

	<p>occasions per calendar year to 2am. A record shall be kept for inspection.</p> <p>To extend the opening hours on no more than 15 occasions per calendar year to 3am. A record shall be kept for inspection</p> <p>New Year: From the end of hours on New Year's Eve to the start of hours on New Year's day</p> <p>For non licensable activities the inside of the premises can remain open 24 hours a day.</p>
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### 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 between the applicant and the police, environmental protection team, health and safety team and trading standards during the conciliation process and the following additional conditions:

1. That after 22:00 there shall be no licensable activities in any external area hatched black on the attached plan including the balconies and terraces.
2. That no more than 1800 customers are permitted on the premises when licensable activities continue after midnight.
3. That at least seven days before any event where licensable activities take place post midnight, the licence holder must:
  - Notify the licensing authority and local ward councillors in writing (including email)
  - Leave leaflets with the management or concierge of Falcon Point, Neo Bankside, Bankside Lofts, Bankside House and Hopton Alms Houses.
4. That when licensed entertainment is being provided, where appropriate (e.g. large scale events, any events after 23:00 or when any outside areas are used for large scale events) the premises management shall carry out regular checks to monitor the sound level at the closest noise sensitive locations to the premises and shall ensure that the sound level of the entertainment does not cause a public nuisance in the vicinity of the premises at the/those locations. A written record of sound level checks shall be kept and shall contain details of: the time, date and location of each check, the person who undertook the check and any actions taken as a result of the check. Each check shall be signed in the record by the person who made the check. The monitoring record shall be kept at the premises and made available to officers of the police or council on request.
5. That there will be taxi marshals for larger events.

## Reasons

This was an application submitted by Board of Trustees for the Tate Gallery for the grant of a premises licence issued under the Licensing Act 2003 in respect of Tate Modern, 53 Bankside, London SE1 9TG.

The licensing sub-committee noted that four of the responsible authorities had conciliated prior to the meeting. The one outstanding representation was from the licensing responsible authority.

The licensing sub-committee heard from the applicant's representative who advised that the Tate Modern extension was a £260 million development and in September 2015 Southwark's cabinet described the Tate Modern development as a huge success story for Southwark. The licence application was made seeking flexibility to run corporate and private functions, the proceeds of which would ensure the viability of the Tate's funding and to ensure the continued free entry to the gallery for all.

The licensing sub-committee heard from the licensing officer representing the council as a responsible authority who called on a ward councillor representing local residents' views as a witness. The applicant and their representative agreed to this in advance.

The licensing officer advised that she had initial concerns relating to the extension of the licensable activities on no more than 50 occasions per year with licensable activities until 2am and opening hours till 3am. Further, the proposed hours were contrary to those recommended as appropriate in the current Southwark Council licensing policy and also the premises was situated within the Borough and Bankside saturation area. The size of the premises was described in the application as increasing by 60%. It could therefore have a potential adverse impact on cumulative impact within the area. However, she proposed conditions which she felt, along with the numerous other conditions agreed between the applicant and the other responsible authorities and the assurances from the applicant, would mitigate these concerns.

The ward councillor echoed the concerns of the licensing officer.

Concern was raised regarding consultation and the applicant erecting the requisite consultation posters. The applicant advised that they had erected the blue A4 posters at every 50 metres around the Tate Modern site and had therefore satisfied their statutory obligations. The licensing officer presenting this application stated that he was present when the posters were put up and confirmed this. The officer for licensing as a responsible authority advised that on 3 March 2016 she witnessed that a section of the site did not have any such posters erected. When the applicant was advised of this the following day, they rectified the position immediately. It is believed that the posters were attached to the hoardings which fell due to stormy weather.

The licensing sub-committee were directed to R (D & D Bar Services Ltd) -v- Romford Magistrates' Court and Redbridge Borough Council [2014] EWHC 344 (Admin). Posters had been erected every 50 metres and these were erected following the recent storms. Furthermore, the application had been advertised on both the Tate Modern and London Borough of Southwark's websites and in addition the application was advertised in the public notices section of the South London Press on Friday 19 February 2016. There had therefore, been more than substantial compliance with consultation requirements. The ward councillor for the Cathedrals ward also spoke on behalf of local residents, despite no formal accepted representation being submitted (it was noted that a representation was

submitted albeit late). The licensing sub-committee therefore felt that it would not serve the interests of justice or the public interest to determine that the consultation was wholly flawed.

The licensing sub-committee were grateful for the extended conciliation between the applicant, licensing as a responsible authority and the ward councillor representing local residents' views. They felt that the applicant had made considerable concessions to ensure the limited impact on the local residents and to maximise the promotion of the licensing objectives. Having heard the representations from licensing and the ward councillor, this licensing sub-committee are satisfied that the conditions as detailed address the concerns of the outstanding representation.

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 in order to address the licensing objectives.

### **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 been 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.

## **6. LICENSING ACT 2003: APPLICATION FOR A PERSONAL LICENCE**

The sub-committee noted the open report and considered the information in the closed agenda.

### **RESOLVED:**

That the application for a personal licence issued under the Licensing Act 2003 be refused.

The reasons for the decision are set out in the closed minutes.

**7. LICENSING ACT 2003: APPLICATION FOR A PERSONAL LICENCE**

**EXCLUSION OF PRESS AND PUBLIC**

It was moved, seconded and

**RESOLVED:**

That the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in categories 1 and 2 of paragraph 10.4 of the Access to Information Procedure Rules of the Southwark Constitution.

The following is a summary of the decisions taken in the closed section of the meeting.

The licensing sub-committee considered the closed information relating to this report.

Meeting ended at 2.46 pm

**CHAIR:**

**DATED:**