



LICENSING SUB-COMMITTEE

MINUTES of the Licensing Sub-Committee held on Thursday 6 August 2020 at 10.00 am at Online/Virtual: please contact poonam.patel@southwark.gov.uk for a link to the meeting and the instructions for joining the online meeting

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| PRESENT: | Councillor Renata Hamvas (Chair) Councillor Margy Newens Councillor Ian Wingfield |
| OFFICER SUPPORT: | Debra Allday, Legal Officer Charlotte Precious, Legal Officer (observing) Andrew Heron, Licensing Officer Jayne Tear, Responsible Authorities, Licensing Authority Officer Poonam Patel, 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: THEO'S, 2-4 GROVE LANE, LONDON SE5 8SY

The licensing officer presented their report and responded to all questions raised by the licensing sub-committee.

The applicant addressed the licensing sub-committee and answered their questions.

The responsible authorities, licensing authority officer drew the licensing sub-committee's attention to the conditions as set out in the report and responded to questions raised by the members.

The licensing sub-committee proceeded to hear from the objector to the application and noted the responses to their queries.

The licensing sub-committee allowed the applicant to respond to the collective observations raised and also heard from the objector and the members.

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

The meeting adjourned at 11.54am.

The meeting reconvened at 12.25pm.

RESOLVED:

That the application made by East 12th Restaurants Limited to vary the premises licence be granted under the Licensing Act 2003 in respect of the premises known as: Theo's, 2 – 4 Grove Lane, London SE5 8SY.

Conditions

1. That clear legible signage shall be prominently displayed where it can be easily seen and read, requesting that take-away food sales should not be opened and consumed in the vicinity of the premises.
2. That off-sales of alcohol to stop Sunday to Thursday 21.30 and Friday and Saturday 22.00.
3. That off-sales of alcohol only to be made with food.
4. That any 'off sales' of alcohol shall be provided in sealed containers and taken away from the premises.

5. That clear legible signage shall be prominently displayed where it can be easily seen and read, requesting that alcohol sold as 'off sales' should not be opened and consumed in the vicinity of the premises.
6. That condition 341 be amended to read "That the rear garden and all doors and windows from the indoor licensable area to the rear of the premises shall close at 20.45 on Sunday and 21.45 Monday to Saturday.
7. That condition 305 to be amended to read "That signage shall be displayed at the entrance to the back garden stating that the area is closed to patrons from 20.45 on Sunday and 21.45 Monday to Saturday.
8. That condition 315 "That the back garden area shall be closed to patrons at 20.45 on Sunday and 21.45 Monday to Saturday".
9. That condition 315 "That the back garden area shall be closed (including staff) at 21.00 on Sunday and 22.00 Monday to Saturday".
10. That condition 316 be amended to read "That deliveries, collections and bottling up in the outside area shall not occur between 20.00 and 08.00.

Reasons

The licensing sub-committee heard from the applicant that advised the application was to vary the premises licence to add off sales of alcohol for delivery and takeaway sold ancillary to food only and to extend the use of the rear garden area from 21.00 to 22:00.

The licensing sub-committee then heard from licensing as a responsible authority what had submitted their representation based on the Southwark's statement of licensing policy 2019 – 2021 and relating to the prevention of crime and disorder and the prevention of public nuisance the licensing objectives. The officer explained that the premises had previously held a premises licence, whereby the back garden area was used. The council had received complaints in the past, of noise from patrons using the back garden area from a nearby resident.

To address the complaints received, when this original licence was applied for, the back garden area was closed at 20.00. Conditions 305 (that signage shall be displayed at the entrance to the back garden stating that the area is closed to patrons from 20.00 on Sunday and 21.00 on Monday to Saturday) and 341 (that the rear garden and all doors and windows from the indoor licensable area to the rear of the premises shall close at 20.00 on Sunday and 21.00 Monday to Saturday) were also added. The officer recommended additional conditions should be added if the application was granted.

The licensing sub-committee then heard from the local resident another person who objected to the application based on the prevention of public nuisance and prevention promotion of public safety licensing objectives. It was put to members that there was already a saturation of off-licences in the area and an additional outlet selling alcohol would produce rubbish. Providing contemporaneous diary entries details, the licensing sub-committee were informed of individuals drinking on the pavement from the Hermits cave and the Stormbird, many of whom urinated in the street and residents dustbins being full of Theo's pizza boxes. The objector stated that Theo's customers regularly sit on his doorstep eating, refusing to move away from it whilst entering or exiting. If off-sales were allowed, there would be an increase of littering and street drinking. Concerning the use of the rear garden area, the objector stated that he was regularly disturbed by both patrons and staff and that he would prefer if the external area was closed from both at 21:00, so he could be certain that he would have peace from that time.

The licensing cub-Committee noted the observations from the planning authority as set out in Appendix C.

The licensing sub-committee recognised the frustration from the objector, but found on the balance of probabilities, that the street drinking and littering would have been patrons from the Hermits Cave and the Stormbird, since no breaches had been independently witnessed by officers. Concerning the use of the rear external area, the conditions added (and amended) allowed for the applicant to utilise the external space whilst providing the objector with the assurance of tighter restrictions on the premises licence.

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

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: SAYER STREET, ELEPHANT PARK, LONDON SE17 1FY

The licensing officer began by confirming in response to the additional information received from the applicant which had been circulated to the licensing sub-committee in advance to the meeting, the metropolitan police withdrew their representation as a consequence of receiving the additional (supportive) information from the applicant.

The licensing sub-committee noted from the licensing officer that late evidence was received from the objector however it was not deemed to be appropriate to be put before the licensing sub-committee and therefore the licensing sub-committee were advised to make a decision on the papers they had received..

The licensing officer then presented their report and answered all questioned raised by the licensing sub-committee.

The applicant addressed the licensing sub-committee and answered their questions.

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

The meeting adjourned at 12.50pm.

The meeting reconvened at 2pm.

RESOLVED:

That the application made by Lendlease (Elephant & Castel) Retail Ltd for a premises license be granted under the Licensing Act 2003 in respect of the premises known as Sayer Street, Elephant Park, London SE17 1FY.

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, the conditions agreed with the Metropolitan Police Service and trading standards during the conciliation process and the following additional conditions agreed by the sub-committee:

1. That the time limited premises licence is for a fixed term of 12-months and in any event ends on 30 September 2021.

Reasons

The licensing sub-committee heard from the applicant who stated that the application was for a grant of a time limited premises licence which was in response to Government restrictions on COVID19, a temporary use for 12 months, supplemental to the premises licences for Bobo Social (No.870625), KOI Ramen Bar (No. 869464), pot & Rice (No. 870477) and The Tap Inn (No.) 868499 with external seating. It would also allow consistency between the premises on Sayer Street, including for those premises still subject to provisional statements, awaiting them premises being tenanted and full premises licences being granted.

The licensing sub-committee noted the representation from the local objector, who was not present at the meeting. Additional supporting evidence had been received from the objector, but had been received too late to be included as evidence before the Sub-Committee as it had not been agreed by all parties in accordance with regulation 18 of The Licensing Act 2003 (Hearings) Regulations 2005.

The premises on Sayer Street are all located directly below residential premises. To accommodate patrons in accordance with the on-going government restriction on COVID19, provision for drinking/eating is required to be made available outside. Because the applicant is the owner of the land identified in the plan of the area, a pavement licence (for outdoor seating) application under the Highways Act 1980 could not (legally) be made. As a result, this premises licence application was made extending the licensed area to beyond the premises themselves, but also, areas in what appears to be an open space/park.

The licensing sub-committee were concerned with the amount of public realm being taken up by the extension of the licensed premises, albeit on a time limited basis. The applicant was reminded that the necessary planning permissions are required to be in place prior to taking advantage of the outside areas identified in their application.

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.

The meeting ended at 2.06pm.

CHAIR:

DATED: