

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 24 February 2022 at 10.00 am on MS Teams.

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Sunny Lambe
Councillor Jane Salmon

OTHER MEMBERS PRESENT: Councillor Adele Morris

OTHER AUTHORITIES PRESENT: PC Ian Clements, Metropolitan Police Service

OFFICER SUPPORT: Debra Allday, legal officer
Wesley McArthur, licensing officer officer
Jayne Tear, licensing responsible authority officer
Ray Moore, trading standards
Gerald Gohler, 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 no late and urgent items of business.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: STAFFORDSHIRE STREET STUDIOS, 47 - 49 STAFFORDSHIRE STREET, PECKHAM, LONDON SE15 5TJ

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 licensing officer and their legal representative.

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

The meeting adjourned at 11.06am for the sub-committee to consider its decision.

The meeting reconvened at 11.36am and the chair advised everyone of the decision.

RESOLVED:

That the application made by Staffordshire Street CIC for a premises licence to be granted under s.17 of the Licensing Act 2003 in respect of the premises known as Staffordshire Street Studios, 47-49 Staffordshire Street, Peckham, London SE15 5TJ is granted.

Hours

Alcohol:	Monday to Saturday – 09:00 to 22:30 hours Sunday – 09:00 to 22:00 hours
Plays, films, performances of dance and anything similar to live or recorded music, (indoors):	Monday to Saturday – 09:00 to 22:30 hours Sunday 10:00 - 22:00 hours
Opening Hours:	Monday to Saturday 09:00 to 23:00 hours Sunday 09:00 to 22:30 hours
With the exception of Sundays before a bank holiday which will follow the	

Monday to Saturday times.

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 with the council's environmental protection team, trading standards service and by licensing as a responsible authority during the conciliation process.

Reasons

This was an application made by Staffordshire Street CIC for a premises licence to be granted under section 17 of the Licensing Act 2003 in respect of the premises known as Staffordshire Street Studios, 47 - 49 Staffordshire Street, Peckham, London SE15 5TJ.

The licensing sub-committee heard from the applicant's representative who advised that Staffordshire Street Studios was located in the heart of Peckham. Since being developed as an art space, the gallery had been used for a variety of contemporary installations and exhibitions, working with young and emerging artists, giving them the space to explore and showcase their work.

The gallery was largely self-funding and relied on a calendar of events and activities throughout the year which delivered the funding to facilitate the primary purpose as a gallery space. Only one event (in total) had been run under a temporary events notice. The applicants had recently been granted a licence to perform civil marriages and civil partnerships. In order to achieve the requisite funding the applicant felt that it would be beneficial that those events were run under a premises licence which would allow a glass of wine to be offered at an exhibition launch, without having to apply for TENs. It would allow more flexibility in the nature of the events that could be delivered.

Since the primary function of the premises was a gallery, the applicant anticipated that these events would take this in the evenings and on average a few times a week. In addition to weddings, there would be book launches, film screenings, private supper clubs, corporate and private events, alongside the exhibitions and openings. Due to the nature of the projected events and the applicant's vision of sustainability, the applicant was committed to ensuring single-use plastics not being used.

The licensing sub-committee noted the outstanding representations from two local residents (other persons) who were not in attendance at the meeting. The representations informed the sub-committee that the premises was located in a quiet, highly residential area and that the proposed operation of the premises would give rise to anti-social behaviour, crime, disorder and nuisance in the locale. The applicant was questioned by the sub-committee about this and it was

accepted that the implementation of the dispersal policy would address all of the concerns raised.

A number of events had already been run at the premises under temporary events notices, without incident to date.

The licensing sub-committee noted that the application had been conciliated with the responsible authorities and the proposed hours reduced so that they were in line with Southwark's Statement of Licensing Policy framework hours. The premises is however located in a cumulative impact area, albeit on the edge of the designated area. Whilst in a designated CIA the sub-committee were satisfied that in view of the hours sought and the wealth of comprehensive conditions proposed and the relatively small number of events taking place, it would not undermine the licensing objectives. However, in the event that the premises should be open after 00:00 hours (under a TENs), this sub-committee recommends that SIA be employed from 22:00 hours until 30 minutes after the premises has closed.

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: SALT YARD, NEW HIBERNIA HOUSE, WINCHESTER WALK, LONDON SE1 9AG

The licensing officer presented their report. Members asked questions of the licensing officer.

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

The trading standards officer addressed the sub-committee. Members had questions for the trading standards officer.

The licensing responsible authority officer addressed the sub-committee. Members had no questions for the licensing responsible authority officer.

The Metropolitan Police Service officer addressed the sub-committee. Members had no questions for the police officer.

Councillor Adele Morris representing some local residents objecting to the application addressed the sub-committee. Members had questions for Councillor Morris.

The meeting adjourned at 1.24pm for a comfort break. The meeting reconvened at 1.35pm.

Two local residents objecting to the application (other persons 2 and 6) addressed the sub-committee. Members had no questions for the two residents.

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

The meeting adjourned at 2.52pm for the sub-committee to consider its decision. The meeting reconvened at 4.23pm and the chair advised everyone of the decision.

RESOLVED:

That the application made by Tortelli Ltd for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Salt Yard, New Hibernia House, Winchester Walk, London SE1 9AG be granted.

Hours

Sale of alcohol (on-sales)	Sunday 10:00-23:00 Monday – Saturday 10:00-23:30
Recorded music (indoors)	Sunday 10:00-23:00 Monday – Saturday 10:00-23:30
Late night refreshment (both)	Monday- Saturday 23:00-23:30
Opening	Sunday – 08:00 -23:30 Monday – Saturday – 08:00-00:00

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 trading standards, the Metropolitan Police and licensing as a responsible authority during the conciliation process and the following additional conditions agreed by the sub-committee:

- That all doors and windows will be closed after 22:00 with the exception of ingress/egress.
- That there shall be no vertical drinking permitted in the premises
- That the applicant shall liaise with the objectors on appropriate taxi drop off and collection points.
- That front of house staff will encourage patrons to disperse via Borough Market.
- That there shall be no off-sales of alcohol after 18:00, save for any alcohol to be delivered ancillary to food.
- That intoxicating liquor shall not be sold for consumption on the premises otherwise than to persons having substantial food at the premises and as ancillary to that person's meal save for 12 persons in the area hatched on the plan waiting to be seated for a food order.
- That no loudspeakers shall be positioned externally, or in a place/direction that causes a noise nuisance to residents.
- That there shall be no eating and/or drinking outside the premises. Food and drink purchased at the premises shall not be consumed in the external vicinity of the premises.
- That no more than five customers be permitted outside the premises at any one time for the purposes of smoking.
- That takeaway delivery drivers/riders shall be given clear, written instructions to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally outside the licensed premises, not to obstruct the highway and not to raise their voices in a manner that disturbs residents.
- That no customers shall be permitted to queue on the public highway or pavement.

- That no live sports events shall be screened at the premises.
- That external waste handling, collections, deliveries and the cleaning of external areas shall not take place between the hours of 20:00 and 08:00.

Reasons

This was an application for a premises licence made by Tortelli Ltd submitted under Section 17 of the Licensing Act 2003 in respect of the premises known as Salt Yard, New Hibernia House, Winchester Walk, London SE1 9AG.

The licensing sub-committee heard from the applicant's representative who advised that the application had been submitted by the applicants without any representation. After obtaining late representations, the applicant acknowledged how controversial the application was viewed amongst local residents.

The applicant's representative clarified that the premises would be a restaurant and the proposed operating hours (in the amended application (summary)) were now just short of the framework hours detailed in Southwark's Statement of Licensing Policy 2021-2026. Planning permission (reference 17/AP/0503) was granted in approximately 2019 which allowed the premises to be used as a bar or restaurant. The amended application provided for restaurant use with a very limited amount of bar use, amounting to two tables available to those waiting to be seated to eat. A 30-minute drinking up time had also been factored into the operating hours.

As a restaurant, patrons would disperse at a different time to the bars. A comprehensive dispersal policy had been drawn up and circulated to the objectors.

The applicants were reputable operators and operated four restaurant venues across London, three of which are located in cumulative impact areas (CIA) (namely Covent Garden, Goadge Street and Soho). It was accepted that the premises were located in the Borough and Bankside CIA and reference was made to paragraph 162 of Southwark's statement of licensing policy.

There were two exemptions that the premises fell within, namely it was a small premises that would cease operation before 00:00 and also, there was a comprehensive suite of conditions to ensure that the operation was food-led. Furthermore, the applicant had agreed with all the conditions recommended by the responsible authorities. The applicant was also agreeable to a condition that alcohol be via waiter/waitress service.

Any outstanding concerns local objectors may have concerning the small bar area could be addressed by the additional condition: "Save for 12 persons in the area hatched on the plan, intoxicating liquor shall not be sold for consumption on the premises otherwise than to persons having table meals or substantial food at the premises and as ancillary to that person's meal".

The applicant was also committed to limit all public nuisance and the application had been amended so that there would be no outdoor (alfresco) dining. Regarding the servicing of the premises, the premises agreed that all rubbish (including bottles) would not be moved, removed or placed in outside areas of the premises between 23:00 and 07:00. The pavement in the immediate vicinity of the premises would also be kept free from waste/refuse emanating from the premises while the premises are open.

It was felt that dispersal had been addressed in the applicant's policy, but the sub-committee were reminded that whilst Borough Market traded until 17:00, it remained open to the public all night. The bright lights from the market and the crowds of people in the vicinity allowed for a safe passage of patrons of the premises to walk to the various transport hubs.

The licensing sub-committee heard from trading standards who had raised concerns relating to age restriction policies. They advised that these matters had now been rectified by the applicant. However, their representation had not been fully conciliated as the premises was situated in the Borough and Bankside cumulative impact area (CIA), where there is a presumption that new premises licence applications would not be issued.

The licensing sub-committee then heard from the Metropolitan Police Service who advised there were minimal enforceable control measures within the operating schedule, and the application, included no drinking up time for on sales and no accommodation limit, which did not allow the police to assess whether SIA would be required or the extent the premises would have on cumulative impact.

Whilst the officer stated that the amended operating schedule provided by the applicant included those conditions suggested by the police, the police were unwilling to withdraw their representation. The premises was situated within the Bankside, Borough, London Bridge strategic cultural and Bankside and Borough district town centre area. Whilst the terminal hour in the application was within the framework hours detailed in Southwark's statement of licensing policy, the premises also fell within the Borough and Bankside CIA.

The licensing sub-committee then heard from licensing as a responsible authority. The officer stated that much of her representation had been conciliated. The operating hours had now been brought into line with the recommended framework hours set out in the statement of licensing policy. In addition, the applicant had now provided an accommodation limit and a copy of a dispersal policy. The remaining objection from licensing related to the premises being situated within the CIA for Borough and Bankside, which applied to premises of this nature.

The licensing sub-committee then heard from the ward councillor for Borough and Bankside. Councillor Adele Morris informed the sub-committee that the premises was located in the Borough and Bankside CIA and despite being introduced some years ago many new bars and restaurants had been approved in this area. In the Borough Market area alone, at least 16 new restaurant licences had been

approved in 2021.

The Borough and Bankside CIA was introduced as a way of managing noise, nuisance and alcohol-related ambulance call outs in the area. The introduction of another bar into the area was contrary to the recommendations of that policy. Hundreds of residents, including children lived in the vicinity of the premises and were fed up with the constant disturbances, urination, vomiting and general rowdy behaviour that would be exacerbated by opening another drinking establishment. Councillor Morris urged the sub-committee to reject the application.

The licensing sub-committee then considered the representations from 13 other persons (local residents). Eleven of the resident objectors requested that objector number 2 and objector number 6 represent the local residents jointly. Objector number 2 and objector number 6 provided a detailed PowerPoint presentation.

In summary, the licensing sub-committee were informed that the Salt Yard premises was embedded in a residential community of 55 people and metres from Southwark Cathedral. The only exit/entrance to the premises would be via Winchester Walk, meaning there would be no way for drinkers, diners, deliveries, bottle disposal trucks or taxis to reach/leave the premises except under the windows of these 55 residents. There was also an additional 260 other residents living close by, including young children, elderly and vulnerable residents.

Borough and Bankside already had more licences than any other part of Southwark. Borough and Bankside also had the most alcohol related crime, disorder and anti-social behaviour in the borough. The area was not just the worst area for crime and disorder in Southwark, but one of the worst in London. The crime rate was high despite a national lockdown.

Borough and Bankside is located in a CIA, and the local community struggled to understand what is meant by a CIA. Despite the policy stating any new licences in designated CIAs are likely to add to the potential crime and disorder impact and the presumption that such applications will be refused, the applicant had failed to demonstrate how they could be exempt from the CIA policy. The applicant had failed to adequately consult in advance of the application being submitted on 17 December 2021.

The objectors accepted that the premises was now no longer alcohol-led. They also accepted that their concerns relating to (but not limited to): accommodation limit, dispersal policy, parking/congestion on the roads and footpaths being blocked by patrons had largely been addressed by the applicants in their amended operating schedule and presentation in the sub-committee meeting. However, Borough and Bankside was now a drinking destination. Local residents were unable to access their own public realm because it had been commodified for visitors.

Visitors to the area drank alcohol and urinated in the local residents' doorways and gates, requiring the council to steam-clean the streets. Issues concerning "bottling-

up” and other servicing at 02:00, 03:00, 04:00 waking the neighbourhood with the crashing was also raised. Regardless of this, significant rubbish accumulated and attracted vermin. Drinkers then urinated on the piles of rubbish. Children were being put at risk and forced to witness indecent exposure when inebriated patrons use their front doors as urinals. The behaviours displayed affected all local residents and resulted in them being deprived of sleep making them struggle at school and work.

Patrons became disinhibited by alcohol and became rowdy, shouting, swearing, screaming and chanting under residents’ windows at all hours. The narrow tall streets transmitted all their noises straight into residents’ windows.

Complaints had been made to the council but residents had been informed that the Council cannot enforce such disturbances as it was “transient noise”. In view of this, it fell to the licensing sub-committee to take on board this inability of enforcing on this transient noise, when considering this and other licence applications. The licensing sub-committee recognises the issues and concerns of the local residents relating to crime, disorder and anti-social behaviour many of which are deeply entrenched. It is important to add that some of the issues through 2020 and 2021 related to a reaction to the coronavirus pandemic and that Borough and Bankside was a tourist attraction. By adding the most appropriate and proportionate control measures to the premises licences of well-run establishments and operators is a way in which these behaviours and issues can be changed.

Reference was made to the original 2015 planning consent for the premises in which it was specified that it should operate as a restaurant and should close at 22:00, to protect the amenity of nearby residents. The chair of the sub-committee intervened and informed the objector that planning was a different regime and could not be considered.

The premises is located directly opposite Borough Market and other premises selling food and beverages resulting in patrons buying takeaway food and beer and eat and drink while standing or crouching in Winchester Walk, Stoney Street or Clink Street. Borough Market also recently informed local residents there would be alfresco dining from April to October 2022, seven nights a week. That would also include alfresco drinking. The local residents sought that the applicant’s request for outdoor drinking be excluded.

Concerning the request for off-sales, it was the view of the local residents that the consumption (of alcohol) would take place in the immediate vicinity, Montague Close has a river viewing point and is a known trouble spot for drunken behaviour, drug dealing, rough sleeping and violence. People bring their own speakers and off-sales alcohol and continue through the night under residents’ windows.

Residents also raised concerns regarding the applicant providing a taxi strategy, as currently there was nowhere for taxis and Ubers to wait except under residents’ windows. In response to this, the sub-committee recommended that patrons of the premises be encouraged to take public transport.

Approximately 16 premises licences were granted in 2021, including 17 for the Borough Yard development. In view of this, local residents did not have any respite, even on Sundays. It was the view of all local residents' that the Borough and Bankside CIA was being ignored by the licensing sub-committee.

One primary trigger factor for the residents was when sports events (plus other mass events) were being televised in the vicinity. This in turn has an immediate and negative effect on the local community. For this reason, the applicant was asked to condition a prohibition of live match screenings or mass fan events.

The licensing sub-committee noted the content of the other 11 residents most of whom were not in attendance at the meeting.

This licensing sub-committee felt it would assist the resident objectors by explaining the balancing exercise it required when determining applications in CIAs. The starting point is that it is for an applicant to establish that the grant of a licence would not have a negative impact on the promotion of those objectives.

In R (on the application of Hope & Glory Public House Ltd) v (1) City of Westminster Magistrates' Court & Ors [2011] EWCA Civ 31, Toulson LJ stated:

"Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on. Sometimes a licensing decision may involve narrower questions, such as whether noise, noxious smells or litter coming from premises amount to a public nuisance. Although such questions are in a sense questions of fact, they are not questions of the 'heads or tails' variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgment rather than a matter of pure fact."

Paragraph 14.44 of the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018) provides that:

"A CIA should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted. After receiving relevant representations in relation to a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its CIA in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics".

Relevant paragraphs from Southwark's statement of licensing policy include:

- "130. In areas where the number, type and density of premises selling alcohol are high or exceptional, serious problems of nuisance and disorder may arise some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area. Typically this occurs when customers leave premises at peak times or where there is queuing at fast food outlets or for public transport. Moreover, large concentrations of people may also increase the incidence of other criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport services, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers and this can lead to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be dispersed quickly".
- "144. With over 1,400 licensed premises operating within the Borough, parts of Southwark have now reached saturation point. Where this occurs the economic benefits of providing alcohol outlets during the day and/or the night time economy begin to be outweighed by increased public nuisance and crime and disorder, loss of amenity and the costs of excessive alcohol consumption".
- "159. All Applicants for new premises licences or for variation of existing premises licences, made in respect of classes of premises affected by the policy, located within a special policy area, must address the local concerns raised within their application and operating schedule".
- "160. The licensing service, acting in its role as Responsible Authority, will review each application in the light of the special policies and will make representations where the application is likely to add to the existing cumulative impact".
- "161. Where a presumption against the grant of a licence exists and a relevant representation has been received, this Authority must consider whether it would be justified in departing from its special policy in the individual circumstances of the case. This Authority will need to be satisfied that the grant of the application under consideration will not impact further on the relevant licensing objectives, before any grant or part grant of the application can be approved".
- "162. Examples of factors that this Authority may consider as demonstrating that there will be no impact may include:

- Small premises intended to cease operation before midnight;
- Premises which are not alcohol led and only operate during the day time economy;
- Instances where an existing business operation is being relocated while maintaining the same style of operation;
- Where a suite of conditions is proposed that will ensure that the premises operates in a specified manner. For instance, in the case of a food led operation, a suite of conditions that governs the minimum number of covers provided; that alcohol will only be provided by waiter/waitress service and /or together with a table meal and /or in a designated area;
- Members may take steps to grant a premises licence outside of the recommendations of the Policy to promote the use of licensed premises by groups that are not well serviced with licensed premises within the Borough.”

(Statement of Licensing Policy 2021-2026. Parenthesis in extracts added by the Licensing Sub-Committee).

When deliberating the decision, members of the licensing sub-committee unanimously agreed that this was not an easy application to determine and took considerable time scrutinising this application. The resident objectors’ presentation, highlighted six key areas of concern:

- i. Cumulative Impact
- ii. Servicing
- iii. Dispersal policy
- iv. External areas
- v. Capacity
- vi. Public nuisance.

In response to the applicant’s document “Summary of Proposals” detailing how each of these key areas could be mitigated with the 65 conditions (53 conditions in the amended application and 12 conditions imposed by this sub-committee), this licensing sub-committee are satisfied that there are sufficient control measures in place to justify diverting from the CIA and that the grant of this licence would promote the licensing objectives.

It is also recommended that the full licensing committee clarifies and/or quantifies what it considers “small”, “medium” and “large” licensed premises.

This licensing sub-committee also acknowledges the potential controversy relating

to new premises licences and variation applications in CIAs. It is therefore recommended that the full licensing committee holds a discussion regarding such applications and whether Southwark's CIA policies should be reworded for the benefit of both applicants and resident objectors, making the licensing committee's expectations clearer on the subject of conciliation.

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:

- c. To impose conditions on the licence
- d. 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.

7. LICENSING ACT 2003: FOUR ARCHES, GROUND AND BASEMENT COMMERCIAL UNIT, ARCHES B,C,D AND E, MONTAGUE CLOSE, LONDON SE1 9DA

This item was not heard, as it had been conciliated prior to the meeting.

The meeting ended at 4.32pm.

CHAIR:

DATED: