

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 24 March 2022 at 10.00 am at Online/Virtual: please contact andrew.weir@southwark.gov.uk for a link to the meeting and the instructions for joining the online meeting

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Sunil Chopra
Councillor Sunny Lambe

OFFICER SUPPORT: Debra Allday, legal officer
Andrew heron, licensing officer
P.C. Ian Clements, Metropolitan Police Service
Jayne Tear, licensing responsible authority officer
Andrew Weir, 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: BELAIR HOUSE, BEAUBERRY HOUSE, GALLERY ROAD, LONDON SE21 7AB**

The licensing officer presented their report. Members had no questions for the licensing officer.

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

The Metropolitan Police Service officers addressed the sub-committee. Members had questions for the police officer.

The licensing responsible authority officer addressed the sub-committee. Members had questions for the licensing responsible authority officer.

The representative for the Dulwich Society addressed the sub-committee. Members had no questions for the representative for the Dulwich Society.

The representatives from the premises and their legal representative addressed the sub-committee. Members had questions for the representatives from the premises.

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

The meeting adjourned at 12.37pm for the sub-committee to consider its decision.

The meeting reconvened at 1.52pm and the chair advised everyone of the decision.

RESOLVED:

That the council's licensing sub-committee, having considered an application made under Section 51 of the Licensing Act 2003 by a local resident for the review of the premises licence issued in respect of Belair House, Gallery Road, London SE21 7AB having had regard to all relevant representations has decided to modify the conditions of the premises licence as follows:

Conditions

- i. That at least one SIA licensed officer will patrol in the vicinity of the neighbouring property. That when there are externally promoted/DJ led events that continue after 00:00 hours, at least one SIA licensed officer will patrol in the vicinity of the neighbouring property.

- ii. That when there are externally promoted events there shall be no entry after 00:00 hours.
- iii. That when there are externally promoted events there shall be no re-entry to the premises.
- iv. That there shall be an accommodation limit of 420, including staff.
- v. That there shall be at least one personal licence holder on the premises when the premises are open after 00:00 hours.
- vi. That condition 8AB be amended to include: That all staff trained in all of the premises policies in particular to the dispersal polic, in addition to the condition on the premises licence.
- vii. That condition 346 be amended to include: Any alterations to the dispersal policy will be done in consultation with the Metropolitan Police Service and the Southwark Council licensing unit.
- viii. That condition 842 be amended to include: That 21 days' notice shall be given to the Metropolitan Police Service, the Southwark Council environmental protection team, the Southwark Council licenisng, unit and the neighbouring property notifying them of the event.
- ix. That litter sweeps to take place on an hourly basis when externally promoted events take place, the last litter pick will take place 30 minutes after the premises closes.

Reasons

This was an application submitted by a local resident for the review of the premises licence issued in respect of Belair House, Gallery Road, London SE21 7AB.

The licensing sub-committee heard from the applicant for the review who complained that they had experienced months of problems concerning the promoted events that had taken place at the premises. In summary, the applicant's concerns included the premises operating beyond its permitted hours, patrons of the premises congregating outside of the applicant's home, excessive noise from patrons and loud music, drug taking and littering.

They advised that the promoted events had only started since the lock down. The patrons were different in nature to usual wedding parties (and the like). They were much younger, drank heavily and there were cars constantly pulling up outside the applicant's home. The patrons appeared heavily intoxicated and groups would loiter outside and set up a "bar", leaving empty drinking vessels in their planters or smashed on the pavement. The regular events were described as parties taking place on the street causing a massive disruption until sometimes, 04:00.

Attempts had been made to engage with the premises to address the issues but the applicant found the premises were extremely slow to respond. The applicant's husband had also attended a meeting with the premises, but the premises failed to turn up.

The licensing sub-committee heard from the Metropolitan Police Service who supported the resident review application in relation to all of the licensing objectives: prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

The officer advised that the current premises licence had been granted on 8 December 2021 and the police had initially objected to the application. The police objection was conciliated on the basis that additional control measures be added to the licence in addition to all the conditions on the previous licence being transferred to the new licence. The purpose of the control measures was to minimise the disturbance to local residents. The premises were known to run as a wedding venue with occasional other events. Concerns and issues regarding the premises only started to arise after the lockdown when promoted events started to take place. This was likely to be the reason why the premises did not come to the notice of police much before the start of its new operation.

Having studied the review application, the police informed the sub-committee that either conditions were not being complied with or the conditions themselves were not robust enough to control the dispersal or crowds. Since opening after the lockdown, the venue had been open most weekends, particularly on Friday and Saturday nights and condition 841 provided that there would be no more than 15 DJ led promoted events per calendar year.

Furthermore, regarding the promoted events at the premises, the Metropolitan Police Service had not been informed of any of the events prior to them taking place contrary to condition 842 (that at least seven days before any DJ or externally promoted event where licensable activities take place past 00:00 hours, the licence holder must notify the police and licensing authority in writing).

Since November 2021 police had received complaints from local residents with regard to nuisance and possible violence from patrons of this premises. The police were able to confirm that when credible information was received on/or before 13 November 2021 concerning two promoted events on 13 and 20 November 2021 regarding several rival gangs attending the premises with the intent of causing significant harm to others, the premises were contacted and agreed to cancel both these events, thus avoiding any disorder. The two events were back to back weekends and police were not informed of either of the events as contrary to condition 842. On 19 March 2022 at 02:09 hours police were notified of a large fight at the premises where security had lost control and fighting was continuing outside.

Concern was also raised of the language used on social media with events being described as "bottomless tickets", involving a glass of prosecco on arrival, followed

by an hour of unlimited drinks, promoting unlimited cocktails and/or Rum Punch for an hour contrary to condition 296 (only responsible drinks promotions will be allowed at the premises), condition 485 (concerning irresponsible drinks promotions). The police were of the view that the “bottomless tickets” and drinks promotions constituted irresponsible drinks promotions that encouraged patrons to drink alcohol within a limited period of time, leading to the possibility of patrons becoming heavily intoxicated or causing illness or injury to that person.

The licensing sub-committee heard from licensing as a responsible authority who supported the review application. Their representations were based on Southwark’s statement of licensing policy 2021- 2026 and relates to the licensing objective for the prevention of crime and disorder and the prevention of public nuisance.

On 22 November 2021 a licensing officer visited the premises and found that there were nine breaches of the licence, as detailed on page 42 of the agenda. The video footage of the premises provided by the applicant, taken on 30 January 2022 at 02:09 hours identified at least a further breaches six breaches of the premises licence detailed on pages 42 and 43 of the Agenda.

The officer stressed that the licensee and/or designated premises supervisor were not promoting the licensing objectives, particularly in relation to the prevention of crime and disorder and the prevention of public nuisance licensing objectives, nor were they taking dispersal of their patrons from the area seriously. The video footage provided no evidence of any SIA door supervisors or parking marshals with high visible uniform for the dispersal of patrons and the police were not informed prior to the event of 20 January 2022 taking place.

The licensing sub-committee then heard from another person who confirmed that she was authorised to speak on behalf of the Dulwich Society, who represented 1,100 local residents. The Dulwich Society stressed their concern of the licence being called on for review two months after it was granted on 8 December 2021.

Instances of late night noise nuisance, drugs, gangs frequenting the premises and fighting occurring in the Belair House grounds were contrary to the image portrayed by the premises of being an up-market restaurant and wedding venue. The closing hours exceed those recommended in Southwark’s statement of licensing policy. Concern was also raised of the premises not having a safe accommodation limit, which could result in serious and potentially dangerous overcrowding.

Finally, the licensing sub-committee heard from the legal representative for the premises. From the outset, the legal representative for the premises informed the sub-committee that the premises apologised to the applicant for the issues she endured.

Belair Mansion Ltd, had held the premises licence since 30 September 2019 which he stated operated as a “premium events space”, with weddings being its primary

function. It also hosts other private events (such as birthday parties) and it had also been used as a backdrop for TV/film. The premises also contributed to local events/community projects, such as the Dulwich Festival. It was the premises view that there was a genuine and significant demand for the later hours that the premises were permitted under its licence condition.

The current licence was granted in September 2019 and had suffered substantial losses like all of the hospitality trade. To make up for the losses incurred, the premises had operated promoted events, subject to the limit of 15 per year detailed on the licence. The promoted events commenced out of business necessity and did not form part of the business model. They were not a significant part of the overall business. Once the business recovers from the pandemic losses, there would no longer be a need for the promoted events to continue and the premises would revert to the usual business model of weddings etc.

Having examined the allegations submitted by the applicant, it was apparent that the promoted events were the cause of the issues raised. An experienced licensing consultant was instructed who provided an independent and critical eye on its operations. Concerning the promoted events, the premises sought the outstanding promoted events be permitted to proceed, overseen by the licensing consultant.

The premises also suggested that any new DJ promoted events be applied for via the temporary event notices (TENs) regime. This would allow the police and environmental protection team to satisfy themselves that the licensing objectives would be promoted.

The dispersal, build up and subsequent loitering of people outside the neighbouring property was clearly evident from the evidence submitted by the applicant. In response to this, a new wind down and dispersal policy was developed and implemented. This included the a SIA licensed officer/steward whose role it would be to patrol and move on people in the vicinity of the applicant's home for late night events. The dispersal policy also channels departing patrons through the East Gate, away from the applicant's home.

Door staff would be increased, particularly for promoted events, when the number would be a minimum of 10. In respect of promoted events, there would be a minimum of two traffic marshals. Litter sweeps would also be implemented for late night events. Also, the premises would seek to move Uber's default collection point from outside the applicant's house to the East Gate.

The final proposal made by the premises was that the general manager be made an additional personal licence holder.

During the discussion part of the licensee presentation, it was confirmed that they were not the freehold owner, but a sub-lessee. Under the terms of the lease, the primary business operation was that of a restaurant.

Belair House is a well-known and well-established premises whose primary

function is holding weddings (and the like). It was acknowledged that there had been failings on its part and conditions had been breached. The current management team (with the exception of the DPS) took over in or around September 2019 when a licence was granted.

Shortly after, they were subject to the government restrictions, as was the whole hospitality industry, due to the pandemic. Due to the substantial losses, the premises introduced promoted events and it has been these events that have caused the complaints raised.

The current premises licence was granted in December 2021 and because it was clear to the police that the premises had changed its operating model and more reliant on externally promoted club/ DJ led events. It was agreed to allow the premises 15 DJ led events per year to allow the premises some flexibility to the type of events they hold on an occasional basis. It is important to note that the premises are located within a residential area and night club venues are not suitable.

Since this time, the premises have operated in breach of the premises licence regularly, failing to inform the police of the promoted events at the premises and promoting irresponsible drinks promotions. The sub-committee found that the dispersal policy even if implemented, was not working. This resulted in the premises having a detrimental effect of the lives of the applicant and those in the vicinity. However, the introduction of the externally promoted club/ DJ led events was by the premises and there is no excuse for the failure to comply with licence conditions. If the premises found they were unable to manage the events without undermining the licensing objectives, they should have been cancelled.

The licensing sub-committee were reminded that it must, having regard to the application and any relevant representations to take such steps to promote the licensing objectives. It was also reminded on paragraph 11.20 of the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018) that: *“The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review”*. On the basis that the licensing sub-committee are of the view that remedial action is required, the options available to it are:

Revoke the licence

The premises licence (following a DPS transfer) was issued on 8 December 2019. It was felt that the current management team of the premises have only been in place for a relatively short period, much of which has been subject to restrictions as a result of the Covid-19 pandemic. The members are of the view that there has been insufficient time for the licensee to demonstrate whether these complaints were teething problems due to the new management team and the need to overcome the financial difficulties due to the pandemic and the introduction of the DJ led promoted events, or whether it was due to an irresponsible operator. The

sub-committee felt at this point, it would not be reasonable or proportionate to revoke the licence.

Suspend the licence for a period not exceeding three months

The licensing sub-committee did consider a period of suspension. However, in view of this determination any period of suspension in addition to any modifications to the licence would be deemed excessive.

Remove the designated premises supervisor (DPS)

The licensing sub-committee did consider removing the DPS. Similar to the reasons in (i) above, it was felt that it would not be appropriate or proportionate to remove the DPS.

Exclude a licensable activity from the scope of the licence

Belair House has largely held a premises licence for 20+ years and it is believed that this is the first time it has been called in for a licence review. Weddings are its primary function and the sale of alcohol is an essential part of that function. The sub-committee were of the view that excluding the sale of alcohol from the licence would be tantamount to revoking the licence. In view of this, it was felt it would not be reasonable or proportionate to exclude a licensable activity.

Modify the conditions of the licence by altering, omitting or adding any conditions

In all the circumstances, the licensing sub-committee considered it proportionate and reasonable to modify the conditions of the premises licence (detailed above). There have been positive developments since the submission of the licence review application, with the lines of communication with both the applicant and responsible authorities being more fluid.

The premises are now engaging with the applicant and has engaged a licensing consultant who has improved the dispersal policy. Whilst the applicant accepts that the situation has greatly improved, this sub-committee are of the view that additional measures are required to protect the local residents from any nuisance or disturbance from the venue and to encourage community cohesion:

- a. The suggestion by the premises to remove the 15 externally promoted/DJ led events and for them to proceed under the TENs regime was not agreed by the licensing sub-committee. This would shift the regulating/policing away from the premises, back to the responsible authorities. The sub-committee were of the view that the 15 externally promoted/DJ led events was an appropriate number of such events in a year. During the course of the meeting, the premises agreed not to use the TENs regime for any of these events. The premises also agreed that the licensing unit would be informed of all TENs.

- b. More robust conditions have been added to address the last entry and re-entry of when externally promoted/DJ led events take place.
- c. An accommodation limit has been added so that a footfall to the premises can be established for the purposes of potential crime and disorder.
- d. The litter sweeps/picks are to be conducted hourly, with the final litter sweep/pick to take place 30 minutes after the premises close to address public nuisance.

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

This decision is open to appeal by either:

- 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 ended at 2.01pm.

CHAIR:

DATED: