

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Tuesday 10 May 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 Margy Newens (In the Chair)
Councillor Sunny Lambe
Councillor Maria Linforth-Hall

**OTHERS
PRESENT:** P.C. Ian Clements, Metropolitan Police Service

**OFFICER
SUPPORT:** Debra Allday, legal officer
Andrew Heron, licensing officer
Jayne Tear, licensing responsible authority officer
Andrew Weir, constitutional officer

1. ELECTION OF CHAIR

The clerk opened the meeting.

Councillor Maria Linforth-Hall nominated Councillor Margy Newens to chair the meeting. This was seconded by Councillor Sunny Lambe.

2. 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 apologies for absence from Councillor Dora Dixon-Fyle. Councillor Margy Newens was in attendance as the reserve member.

3. CONFIRMATION OF VOTING MEMBERS

The voting members were confirmed verbally, one at a time.

4. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were no late and urgent items of business.

5. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

6. LICENSING ACT 2003: CHILL OUT RESTAURANT AND BAR - ARCH 148, EAGLE YARD, HAMPTON STREET, LONDON SE1 6SP

The licensing officer presented their report. Members had no 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 legal advisor to the sub-committee also had questions for the applicant and their representative.

The Metropolitan Police Service officer addressed the sub-committee. Members had questions for the Metropolitan Police Service officer. The legal representative for the applicant also 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 licensing sub-committee heard from other persons objecting to the application. Members had questions for the other persons.

The meeting adjourned at 11.36am for a comfort break. The meeting reconvened at 11.42am.

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

The meeting adjourned at 11.53am for the sub-committee to consider its decision.

The meeting reconvened at 1.00pm and the chair advised everyone of the decision.

RESOLVED:

That the application made by Chill Out Billiards Pool Limited for a premises licence to be granted under s.17 of the Licensing Act 2003 in respect of the premises known as Chill Out Restaurant and Bar, Arch 148, Eagle Yard, Hampton Street, London SE1 6SP be granted as follows:

1. Hours

Activity	Hours
The sale of alcohol (on sales)	Sunday to Thursday: 10:00 to 23:30 Except a Sunday preceding a bank holiday: 01:00 The permitted hours may be extended until 02:00 on Christmas Eve, Boxing Day and New Year's Eve Friday to Saturday: 10:00 to 02:00
The provision of late night refreshment (indoors):	Sunday to Thursday 10:00 to 23:30 Except a Sunday preceding a bank holiday: 01:00 The permitted hours may be extended until 02:30 on Christmas Eve, Boxing Day and New Year's Eve Friday to Saturday: 10:00 to 02:00
The provision of recorded music (indoors):	Sunday to Thursday: 10:00 to 23:30 Except a Sunday preceding a bank holiday: 01:00 The permitted hours may be extended until 02:00 on Christmas Eve, Boxing Day and New Year's Eve Friday to Saturday: 10:00 to 02:00
Opening hours	Sunday to Thursday: 10:00 to 00:00 Friday to Saturday: 10:00 to 02:30 Except a Sunday preceding a bank holiday: 01:30

	<p>The permitted hours may be extended until 02:30 on Christmas Eve, Boxing Day and New Year's Eve</p> <p>Friday to Saturday: 10:00 to 02:30 hours</p>
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2. 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 following additional conditions, as agreed by the licensing sub-committee:

1. That the last entry to be one hour before closing with the exception of entry and egress for the purposes of smoking.
2. That there will two SIA security staff from 21:00 whenever the premises is open after 00:00.
3. That intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking a table meal and by consumption of such persons as an ancillary to their meal in the dining area.
4. That the accommodation limit for the premises shall not exceed 130 persons (excluding staff).
5. That the written dispersal policy shall be kept at the premises with the licence and made available for inspection by authorised council officers or the police. All relevant staff shall be trained in the implementation of the dispersal policy.
6. That the licensing authority and the police shall be informed at least 14 days prior to the provision of licensable activities under this licence.
7. That when this licence is used to provide licensable activities and the licence summary is displayed on the premises, the licence summary of any other premises licence will not be displayed at the same time.
8. That the dispersal policy is amended that patrons are encouraged to use public transport and that patrons leave the premises in the direction of Hampton Street and taxis should be directed to drop off/pick up at Hampton Street and the same is included on all relevant publicity material.
9. That there be no dancing in the premises after 23:00.

3. Reasons

The licensing sub-committee considered the application made by Chill Out Billiards [sic] Pool Limited for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Chill Out Restaurant and Bar, Arch 148, Eagle Yard, Hampton Street, London SE1 6SP.

The premises was described in the premises licence application as: “Tapas café restaurant with pool and billiards tables on the floor.”

The applicant’s legal advisor advised the sub-committee that the premises was a small premises based the furthest away from the local residents. The premises always dispersed its patrons away from the Draper House/Strata Tower and it was not possible that either the premises or its patrons caused any disturbance to local residents.

The current licence had been granted in May 2021 when there were approximately 20 objections. Since May 2021 no complaints had either been received or made concerning its operation. In comparison, only four resident objections had been received for this application. In addition, during the intervening period, some 18 temporary event notices (TENs) had also taken place, with no objection notices served. Some of these TENs had continued until 03:00 to 04:00. It was the view of the applicant’s legal advisor that the applicant had demonstrated that he could promote the licensing objectives.

The licensing sub-committee then heard from the licensing responsible authority officer, whose representation was based on Southwark statement of licensing policy 2021 – 2026. The representation was in relation to the licensing objectives for the prevention of crime and disorder and the prevention of public nuisance.

The licensing responsible authority officer advised that the premises was situated in the Elephant and Castle major town centre area and under the Southwark statement of licensing policy the appropriate closing time for public houses, wine bars or other drinking establishments on Sunday to Thursday was 23:00 and on Friday and Saturday 00:00. The appropriate closing time for restaurants and cafes on Sunday to Thursday was 00:00 and for Friday and Saturday was 01:00. The appropriate closing time for night clubs (with 'sui generis' planning classification) on Monday to Thursday 01:00 and for Friday and Saturday 03:00 and for Sunday 00:00.

The licensing responsible authority officer further added that the premises was located close to residents and the application sought opening hours in excess of those which are recommended for a restaurant establishment within the policy for the area on Friday, Saturday and Sundays. It was the officer’s view that the application did not provide any convincing reasons for the sub-committee to divert from policy framework hours detailed in the licensing policy. The officer recommended that the closing times be brought

back in line with those in the policy and for licensable activities to cease half an hour before the closing times. The officer also recommended conditions be added to ensure that the premises retained its nature as a restaurant and not a vertical drinking establishment.

The licensing sub-committee then heard from the Metropolitan Police Service officer who advised that the applicant had failed to provide any control measures that would restrict the use of the premises to that of a restaurant and that the closing times in accordance with the application were greater than the recommended closing times for a bar.

The officer also referred to high concentration of licensed premises in the Eagle Yard area and informed the sub-committee that the area was subject to an ongoing police operation to deal with anti-social behaviour and public nuisance caused by patrons from the licensed premises, along with noise issues relating to patrons leaving the venues. It was also the officer's opinion that the residential and commercial premises in the area were suffering from the cumulative impact as a result of the concentration of licensed premises. It was their view that the grant of the application would add to the cumulative impact issues and ultimately, would likely have a negative impact on the licensing objectives.

The licensing sub-committee heard from party C who objected to the application based primarily on the prevention of public nuisance licensing objective. Party C stated that he lived in Draper House for approximately seven years and that his home faced the servicing yard at the rear of the Strata SE1 tower, with Maldonado Walk (Eagle Yard) on the far side.

Party C stated that he was disturbed regularly by noise associated with late night activity from the licensed premises in the arches on Maldonado Walk, including noise from patrons congregating outside the premises, loud conversations, shouting, arguing and fighting. He also noted that patrons often urinated in the yard also. Staff from the premises could also be heard dealing with rubbish and bottles after the premises were closed.

They advised that the acoustic quality of the area meant that noise travelled and caused significant disturbance to the local neighbouring residents. There were 10 hospitality businesses within 85 metres. In their view, as the applicant described the premises as a "tapas cafe restaurant", the premises should be granted the restaurant hours as set out in Southwark's statement of licensing policy. They noted that the hours applied for exceeded the recommended hours significantly. Party C also referred to the lack of requisite planning permission being in place for the hours applied for.

The licensing sub-committee then heard from party D who objected to the application longstanding issues with noise creating nuisance for neighbours along this strip because it is overlooked by hundreds of bedrooms in private residences. The crime, disorder and noise was, in party D's view not a

possibility, but inevitable. The sub-committee were asked to no more than currently licensed for.

This was an application for a premises licence seeking opening hours Monday to Thursday 08:00 to 00:00 and Friday to Saturday 08:00 to 03:30, Sunday 08:00 to 01:30 with licensable activities ceasing 30 minutes before.

The premises were located in the Elephant and Castle major town centre area where the framework hours for a restaurant/café are recommended as being Friday to Saturdays 01:00 and Sundays 00:00. Within the framework hours detailed in the Southwark statement of licensing policy, night clubs (with 'sui generis' planning classification) are recommended as Monday to Thursdays 01:00, Friday to Saturdays 03:00 and Sundays 00:00.

The sub-committee noted that the application exceeded those for a nightclub and it was reasonable for the local community to suspect that the premises would morph from a restaurant/bar to a nightclub, given the hours sought were akin to the recommended hours for a nightclub.

The licensing sub-committee heard evidence that there were twelve licensed premises situated in the 100 metres radius around the premises and it was apparent that the residents from the Draper Estate and the Strata Building have suffered from noise made by patrons outside the various premises in Eagle Yard (also known as Maldonado Walk) when leaving.

The sub-committee is familiar with the on-going concerns of residents in relation to the cumulative impact in the form of crime and disorder and public nuisance from the licensed premises in the locality. This same has been raised in other licensing applications that have been considered by the sub-committee(s). Whilst there was no suggestion that the applicant had caused any crime and disorder or noise nuisance to date, the sub-committee was concerned about the cumulative effect that the grant of extended late night hours would have on nearby residents, who would be trying to sleep.

The premises may not be situated in a cumulative impact area but evidence of cumulative impact is a relevant consideration in respect of licensing applications and can take into account such evidence (reference Paragraph 14.42 of the Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018)).

Furthermore, paragraph 147 of Southwark's statement of licensing policy provides:

"147. The Authority also has three monitoring areas, where consideration may be given to introducing additional CIAs if the crime data analysis supports their implementation in the future. These monitoring areas are:

- Elephant and Castle;
- Old Kent Road;
- Walworth and East Street”.

Reference was also made by the other persons of planning permission (No. 20/AP/2809). Party C recognised that licensing and planning were two different regimes and that each regime is not bound by the other. As per the licensing sub-committee’s decision dated 26 May 2021, the applicant is again reminded that if they operate in breach of their planning permission they would be liable to enforcement action under planning legislation (Gold Kebab v Secretary of State for Communities and Local Government 2015 [2015] All ER (D) 48 (Sep)).

Additional conditions have been added and tailored by this sub-committee as additional control measure to take into account the characteristics and activities of the premises and to ensure that it remains a restaurant operation (paragraph 10.10, Section 182 Guidance). These also address the concerns raised by the local resident objectors.

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 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: CHILL OUT RESTAURANT AND BAR - ARCH 148,
EAGLE YARD, HAMPTON STREET, LONDON SE1 6SP - TEMPORARY
EVENTS NOTICE**

It was noted that this item had been conciliated prior to the meeting.

The meeting ended at 1.12pm.

CHAIR:

DATED: