

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Tuesday 17 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 Renata Hamvas (Chair)
Councillor Sunny Lambe
Councillor Maria Linforth-Hall

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

**OFFICER
SUPPORT:** Debra Allday, legal officer
Wesley McArthur, licensing officer
Raymond Binya, environmental protection team officer
Jayne Tear, licensing responsible authority officer
Ray Moore, trading standards officer
Tim Murtagh, constitutional officer

1. WELCOME AND 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: PECKHAM FOOD AND WINE, 176 PECKHAM HIGH STREET, PECKHAM, LONDON SE15 5EG

The licensing officer presented their report.

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

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

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

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

The environmental protection team officer addressed the sub-committee. Members had questions for the environmental protection team officer.

The meeting adjourned at 11.40am for a short comfort break.

The meeting reconvened at 11.45am. All parties were given up to five minutes for summing up.

The meeting adjourned at 11.58am for the sub-committee to consider its decision.

The meeting reconvened at 12.45pm and the chair advised everyone of the decision.

RESOLVED:

That the application made by Mr Muhammad Baloch for a premises licence under the Licensing Act 2003 in respect of the premises known as Peckham Food and Wine, 176 Peckham High Street, Peckham, London SE15 5EG and subject to the appointment of a designated premises supervisor be granted as follows:

Hours

The sale of alcohol to be consumed off the premises	Monday to Sunday 09:00 to 23:00
Opening hours of the premises	Monday to Sunday: 07:00 to 23:00

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, and the following additional conditions, as agreed by the licensing sub-committee:

1. That no alcohol will be stored or displayed within 2-metres of the entrance/exit unless behind the staff counter.
2. That no beers / ciders in single cans, bottles or multi-packs with an ABV of above 6.5% will be displayed / sold or offered for sale from the premises.
3. That when the premises are open to the public and the licence is not in operation, all alcohol shall be stored in a locked cabinet/cooler, behind a lockable blind or behind the counter.
4. That all previous management involved in the premises are excluded from the premises and take no part in the operation of the premises namely: Asif Ali, Kiran Israr, Saeeda Yasmeen and Shazia Imran Islam and Mohammad Islam.
5. That alcohol is displayed as set out in the plan submitted with the application.
6. That an electronic point of sale system (EPOS or POS) is installed and operated at the premises.
7. That a written dispersal policy is 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.

Reasons

This was an application made by Mr. Muhammad Baloch for a premises licence to be granted under s.17 of the Licensing Act 2003 in respect of the premises known as of Peckham Food and Wine, 176 Peckham High Street, Peckham, London SE15 5EG.

The licensing sub-committee heard from the applicant's representative who advised that the premises was a convenience store offering a range of groceries and goods in addition to the sale of alcohol. Concerning the responsible authorities referring to the premises being located in a cumulative impact area (CIA), the

applicant's representative stated that they were not specifically referred to in the Licensing Act 2003. There were public houses on each side of the Peckham Food and Wine premises and any cumulative impact would be at 23:00 hours when the pubs were closing. Peckham Food and Wine would have a steady egress of customers therefore, no cumulative impact would occur. There had also been a previous premises licence, so the argument that a "new licence" was largely irrelevant. Furthermore, the CIA presumption did not relieve the responsible authorities in providing evidence as to how the cumulative impact would be affected by the operation of a new premises. None of the responsible authorities had provided direct evidence to demonstrate their cause of concern. Concerning the issues relating to the proposed DPS raised by trading standards, the applicant had withdrawn this aspect of the application and until a new DPS had been identified by him, he would act as the DPS. Obviously, until the applicant had obtained his personal licence, the premises could not sell alcohol.

The licensing sub-committee heard from the officer from trading standards whose representations were submitted with regard to all four of the licensing objectives. The officer accepted that the applicant was not connected to the previous owners when the licence had been revoked. The concerns raised by Trading Standards were relevant because the area was particularly challenging. In addition, the proposed DPS (withdrawn by the applicant) had previously been refused an application in 2021. It was the officer's view that this questioned the applicant's abilities of due diligence.

The Metropolitan Police Service informed the sub-committee that the premises had previously been subject to a trading standards premises licence review in 2017, when the premises licence was revoked, and that an appeal against the licence revocation was rejected by the Magistrates' Court. The officer also stated that the premises were located in the Peckham CIA and that the locale has a large problem with street drinking, alcohol abuse and associated crime and disorder; the applicant had failed to address cumulative impact at all in the application.

The environmental protection team confirmed that their representation related to the prevention of public nuisance licensing objective. The premises were located in a cumulative impact area and any increase in alcohol sales in the already saturated CIA was likely to contribute to the negative cumulative impact on public nuisance caused by street drinking, drunkenness, street fouling, and rowdy conduct in the street. Further, the environmental protection team stated that the applicant had failed to address cumulative impact within the body of its application, or at all.

The licensing sub-committee heard from the officer representing licensing as a responsible authority submitted a representation with regard to all four licensing objectives. The licensing responsible authority notes that the premises are located in a cumulative impact area. Licensing as a responsible authority contends that the applicant has failed to address both cumulative impact, and the presumption to refuse applications that are subject to a cumulative impact policy. The premises

were subject to a premises licence review submitted by this council's trading standards service in 2017, when the premises licence was revoked, and that an appeal against the revocation was rejected by the Magistrates' Court. An application for a premises licence submitted in 2021 was refused by the licensing sub-committee and the officer was of the view that the previous licensee or DPS may still have an interest in the business. Licensing as a responsible authority recommends that the application is refused unless the applicant can demonstrate that the proposed operation of the premises will not contribute to crime and disorder and public nuisance within the Peckham cumulative impact area.

The licensing sub-committee considered all of the representations made by the applicant and the responsible authorities carefully. The applicant's points concerning cumulative impact, that the responsible authorities had not provided any direct evidence concerning this was not accepted. Southwark's statement of licensing policy was reviewed and subsequently ratified by Council Assembly 25 November 2020. As part of the that review there was a partnership analysis of alcohol related violence as part of the consideration of cumulative impact on licensed premises within Borough & Bankside; Camberwell and Peckham (in addition to areas under monitor) CIA. A partnership analysis was currently being carried out and due to be considered by the full Licensing Committee in late 2022. The sub-committee also took into account *Westminster City Council v Middlesex Crown Court [2002] EWHC 1104* which confirmed that a premises licence could be refused on the sole ground that the area was already saturated with licensed premises.

The initial concerns of previous names held by the applicant were explained and the sub-committee were satisfied with the responses they received. The sub-committee concluded that the 2017 issues with the operation of the premises could be satisfactorily resolved with the exclusion of previous management for the operation of the premises, in addition to the conditions referred in this decision.

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: RUNWAY EAST LONDON BRIDGE, GROUND FLOOR
18-20 CRUCIFIX LANE, LONDON SE1 3JW**

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

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

The meeting adjourned at 2.41pm for a comfort break.

The meeting reconvened at 2.50pm.

The licensing sub-committee heard from two local residents' objections to the application. Members had no questions for the local residents.

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

The meeting adjourned at 3.40pm for the sub-committee to consider its decision.

The meeting reconvened at 4.28pm and the chair advised everyone of the decision.

RESOLVED:

That the application made by Runway East Ltd for a premises licence to be granted under s.17 of the Licensing Act 2003 in respect of the premises known as of Runway East London Bridge, Ground Floor 18-20 Crucifix Lane, London SE1 3JW be granted as follows:

Hours

The sale by retail of alcohol (on premises):	Monday to Friday: 12:00 to 23:00
Opening hours:	Monday to Sunday: 00:00 to 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 recommended in the representations with trading standards, during the consultation process and the following additional conditions agreed by the sub-committee:

1. That the outside terrace area of the licensable area shall be regularly monitored by staff for noise from customers, and any customers repeatedly exceeding an acceptable noise level will be asked to vacate the property.
2. That the licensee shall ensure that no noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
3. That alcoholic drinks purchased from the premises shall not be taken away from the licensed premises.
4. That there shall be signage that states no alcoholic drinks shall be taken off of the premises.
5. That all licensable activities cease at 21:00 for the outside area and to be cleared for all items relating to licensable activities before 21:30.
6. That bottling/waste disposal will not take place between 20:00 and 08:00.
7. That a written dispersal policy approved by the Metropolitan Police Service and licensing unit shall be produced and 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. That a dispersal policy to be approved by the licensing unit and the police.
8. That there shall be a total capacity of 100 including staff, with no more than 40 persons outside.

Reasons

This was an application made by Runway East Ltd for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Runway East London Bridge, Ground Floor 18-20 Crucifix Lane, London SE1 3JW.

The licensing sub-committee heard from the representative for the applicant who advised that the premises was a 7-storey construction of mixed tenants, owned by the landlord Peer Group. The applicant manages the building and currently occupies 23,334 ft² across six of the premises floors. The premises was essentially a shared workspace for the provision of office services with private offices, meeting rooms, conference rooms, meeting facilities, to facilitate receptions, conferences and seminars. The work space attracted start-ups/scale-up business and could hold approximately 550 people.

A premises licence was sought for the ground floor and outside courtyard area only, which was located at the back of the building. It was the applicant's intention to serve and sell alcohol from a shipping container in the outside area, in addition to from a bar in the middle of the breakout space on the ground floor. The outdoor area was under construction. The sale of alcohol was for their members and private events with guest list only and would not be open to the public.

The applicant's representative managed four other properties in London (Borough Market, Finsbury Park, Shoreditch and Soho) and two further properties in Bristol. Each of which provided shared working spaces (etc.) and had premises licences to allow for members (with guest list only) to hold exhibitions and other such private events and none of the proposed events would provide regulated entertainment or externally promoted events. Again, the public could not access the premises. Obtaining a premises licence was very much secondary to use of the building.

The representative for the premises suggested to the sub-committee that there had been no fundamental objections to the applications. Changes had been made to the application, to address concerns raised in the representations. These changes included training in respect of Challenge 25 which had been agreed with trading standards. The representative clarified that there would be no off-sales.

Because of the nature of the premises, the primary use being workspace, it was not proposed to have any SIA authorised officers, as it was felt that this would send the wrong message to potential clients wishing to hire any offices in the building. There was also a maximum capacity of 120 for the licensable area which included staff (being 60 inside and 60 outdoors). Similarly, it was felt that a dispersal policy as unnecessary, but it was proposed that a dispersal plan would be instigated for each event.

The tenants on the six floors could access both the inside and outdoors licensed area, but the licensed area would not be utilised for every day of the week (for example after work drinks). It would operate only when exhibitions or functions were being held.

Members queried tenants who were 18 years of age such as trainees or apprentices and the applicant was agreeable to add a condition that those under the age of 18 would be supervised.

The licensing sub-committee heard from licensing as a responsible authority representation who disagreed that a dispersal policy was unnecessary. The building could hold 500 people, with potentially an additional 60 in the licensed area. The events for which the premises licence was sought had been inadequately described in the application. Although no regulated entertainment had been applied for, with a capacity of 120, regulated entertainment could still be provided before 23:00 hours. In response to this, the applicant's representative referred the sub-committee to the judgement in *Brewdog -v- Leeds City Council* and that the officer's rationale was not sustainable and that small events would take place at the premises and a formal dispersal policy was unnecessary and disproportionate.

The applicant indicated that whilst they were agreeable not to use single use plastics, stating that wine would be served in glasses, making a condition to polycarbonate reciprocals unnecessary.

The licensing sub-committee heard from an officer from the Metropolitan Police Service who stated that he had no real objections to the grant of a premises licence the original application contained minimal enforceable control measures within the operating schedule. The officer referred sub-committee members to the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 which detailed the importance in setting the parameters within which a premises could operate; conditions were required to be precise and enforceable. The Metropolitan Police also referred to the lack of drinking up time in addition to the lack of information on how the applicant would prevent alcohol being taken from the premises. The lack of a dispersal policy was also referred to.

The licensing sub-committee noted the outdoor area would be closed at 22:00 and the applicant agreed that licensable activities would cease at 21:00 and the area closed at 21:30.

There were concerns of the noise that bottling-up and clearing would create. The applicant stated that it was not in the ethos of the business for large quantities to be consumed. Regardless, the sub-committee took the view that there would be no bottling-up or waste collection beyond 21:30.

The licensing sub-committee then heard from other the persons. Other person one was the company secretary for local business, Shiva who referred the committee to posts on social media by the applicant in connection with their Soho property and that the premises was being used for after works drinks. There was no guarantee that the licensable area would only be used for business meetings when the premises licence was being operated. Other person one also referred to the need for a glass bin being stored within the premises.

Party two mentioned when parties were held at the premises it was tantamount to having a party in his back garden. Party two mentioned a local resident who had submitted a representation who also raised similar noise concerns. Although the local resident's representation had been received outside the consultation period,

party two was informed by the licensing officer administering the application that they could still give evidence to the committee. The legal advisor to the sub-committee members advised that this was not the case. The local resident was not able to give evidence in their own right, but alternatively, could be called as a witness for part two. Part two chose not to call this resident to give evidence as their witness.

Party two continued that there was no objection to a premises licence being granted for the inside area. It was the outdoor area that was the issue for all local residents. The carpark (the outdoor area) was still under construction and loading was required to take place elsewhere, causing congestion and traffic issues in the area. There was no planning permission in place and the reason why there was no planning in place was because outside drinking would not be permitted by the planners. The site was simply not appropriate for outside use as part of a premises licence; the risk of noise nuisance was very high in a densely populated residential area, where there was no sound barriers between the premises and residential properties.

Reference was made to an application made in respect of Black Swan Yard which party two had successfully appealed at the Magistrates' Court. The legal adviser to the sub-committee advised reference or comparison to another premises was not appropriate (that each application was considered on its own merit, paragraph 1.17, Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018)) and in any event, party two had misinformed the sub-committee, the Magistrates' Court upheld the decision of the licensing sub-committee and ordered that party two pay Southwark's legal costs. In summary, party two urged the sub-committee to only grant a licence in respect of the inside area only, prohibit the applicant from submitting temporary event notices (for the outdoor area) and reconvene at a later date in respect to consider the use of the outdoor area when a planning application had been considered. At this stage, the grant of a licence for the outdoor area would pre-empt the planning decision area.

Attempts were made by party two to have party one further time to make their presentation to the sub-committee were denied. Party one did however sum up their position to the sub-committee directed by party two.

The licensing sub-committee dismissed other person two's contention that the applicant's wording in the proposed draft conditions was ambiguous.

The licensing sub-committee noted the representations from one other person who was not in attendance at the meeting.

The premises was situated within the Bankside, Borough, London Bridge Strategic Cultural and Bankside District Town Centre Area. Whilst this is not in a cumulative impact area, the question of overall cumulative impact remained a relevant consideration in respect of licensing applications and can take into account such evidence (reference Paragraph 14.42 of s.182 Guidance 2018). In view of this, the sub-committee were in agreement that a dispersal policy was required to account

for non-primary business related operation.

The sub-committee noted the concerns of the other persons regarding the outside area and for this reason, the capacity was reduced to 40-persons.

Concerning the planning issues referred to by party two, the licensing sub-committee referred to paragraph 100-103 of Southwark's Statement of Licensing Policy 2021-2026. Licensing and planning are two separate regimes and each regime is not bound by the other. The applicant is 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)).

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 4.33pm.

CHAIR:

DATED: