

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 28 July 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

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Charlie Smith
Councillor Kath Whittam

OTHER MEMBERS PRESENT: Councillor Sabina Emmanuel (observing)

OFFICER SUPPORT: Debra Allday, legal officer
Wesley McArthur, licensing officer
David Franklin, representing licensing as a responsible authority
Richard Earis, environmental protection team officer
Matthew Lambert, planning enforcement officer
P.C. Ian Clements, Metropolitan Police Service
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 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.

It was noted that supplemental agendas 1, 2 and 3 had been circulated to all parties prior to the meeting.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: ORMSIDE PROJECTS, UNITS 32 A, B & C, PENARTH CENTRE, ORMSIDE STREET, LONDON SE15 1TR

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.

There was a short adjournment for a comfort break at 11.47am.

The meeting reconvened at 11.52am.

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

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

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

The planning enforcement officer addressed the sub-committee. Members had questions for the planning enforcement officer.

The sub-committee then heard from other persons supporting the premises. Members had no questions for the other persons.

The sub-committee also noted the written representations from the other persons supporting the premises, who were not in attendance at the meeting.

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

The meeting adjourned at 1.00pm for the sub-committee to consider its decision.

The meeting reconvened at 2.17pm and the chair advised everyone of the decision.

RESOLVED:

That the application made by PC32 Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Ormside Projects, Units 32 A, B & C, Penarth Centre, Ormside Street, London SE15 1TR be granted as follows:

Hours

The sale of alcohol to be consumed on and off the premises	Monday to Wednesday: 12:00 to 00:00 Thursday: 12:00 to 02:00 Friday and Saturday: 10:00 to 06:00 Sunday: 12:00 to 02:00
Plays, films, live music, recorded music, performances of dance and anything similar to live music, recorded music or performances of dance (all indoors)	Monday to Wednesday: 12:00 to 00:00 Thursday: 12:00 to 02:00 Friday and Saturday: 10:00 to 06:00 Sunday: 12:00 to 02:00
Late night refreshment (indoors):	Monday to Wednesday: 23:00 to 00:00 Thursday: 23:00 hours to 02:00 Friday and Saturday: 23:00 to 05:00 Sunday: 23:00 to 02:00
Opening hours:	Monday to Wednesday: 12:00 to 00:30 Thursday: 12:00 to 02:30 Friday and Saturday: 10:00 to 06:30 Sunday: 12:00 to 02:30
Non-standard timings:	On New Year's Eve all permitted licensable activities can take place at the premises from the terminal hour for licensable activities on New Year's Eve until the commencement of the permitted hours on New Year's Day. On any day preceding a Bank Holiday the hours for licensable activities at the premises will reflect those for Friday or Saturdays.

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 and the following additional conditions agreed by the sub-committee:

- i. Where live or recorded music is being played a sound limiting device will be used. The level will be preset by the premises licence holder or other authorised staff and the device will be locked away and only accessible to the premises licence holder.

Reasons

This was an application made on behalf of PC32 Ltd, of 32c Penarth Centre, Penarth Street, London, SE15 1TR relating to Ormside Projects.

The licensing sub-committee heard from the applicant's legal representative who advised that the premises was a multi-disciplinary arts centre and events venue, offering valuable facilities and resources for the development and presentation of a diverse range of projects, which was founded in 2015.

The legal representative informed the sub-committee that the premises supported music showcases, live performances, art installations and film screenings, also facilitating design and construction workshops and operating as a film and photography studio for emerging artists of diverse backgrounds to develop and present their work.

They advised that the premises was a grass-roots independent arts venue, recognised by, and receiving Arts Council funding from the Cultural Recovery Fund. It was also supported by the Mayor of London's Culture and Community Spaces at Risk programme, receiving business continuity and sustainability support.

The legal representative went on to advise that the premises was not a conventional drinking establishment with regular opening hours or passing trade. It was primarily funded via ticket and bar sales, which pay for the programme of events and help to ensure the continued viability of the premises. It was stressed that the premises was not a nightclub, nor akin to a nightclub. It was emphasised that the premises had strong relationships with the local community, including residents, businesses, in addition to artists and patrons, and was managed to a very high standard.

Some 73 temporary events notices (TENs) had been utilised over the past six years and no complaints or objections had been received from either the Metropolitan Police Service or the council's environmental protection team in respect of them.

It was advised that this application was primarily to regularise the operation of the premises and to provide long term stability, which would enable further financial investment. It would create over 35 jobs for a diverse range of local people between the ages of 18 and 60. The management team was led by women, 66% of whom lived and worked in Southwark.

The workforce was also representative of Southwark's diverse population and was inclusive of BAME and LGBTQ+ groups. In line with Southwark's Plan, Ormside actively worked with the LGBTQ+ community to provide an LGBTQ+ cultural space that meets the community's needs.

The sub-committee were informed that the premises also implemented a community outreach programme that provided training and jobs to local young people, enabling them to develop skills and experience in the creative industries. The management team for the premises were also working towards becoming Southwark Mentors and employed a community project manager, who had worked in housing associations, to work with Southwark residents.

All staff were paid by Ormside to attend training opportunities and were paid above the London Living Wage. The premises also put the safety of all women at the forefront of their thinking and initiatives by working with the Safe Night Out Campaign and the Metropolitan Police Service to develop community safety at night.

The licensing sub-committee then heard from licensing as a responsible authority, who advised that the representation objecting to the application had been made due to the late hours and concerns with the promotion of the licensing objectives, in particular with the prevention of public nuisance and prevention of crime and disorder.

Having considered the submissions that had been made it was felt that the applicant was promoting facilities for a niche clientele and this would be a key consideration for the members when determining the application. They advised that Southwark was looking for a diverse entertainment industry with premises that provide such niche entertainment and social outlets, particularly for LGBTQ+ and grassroots live music.

It was felt that the balance should be made between the potential for public nuisance from the people leaving the venue and from any music breakout from the venue against the need for premises such as Ormside within the London Borough of Southwark. The officer also added that an extensive number of TENs had taken place over a six year period and no complaints had been received (by the licensing unit) concerning dispersal from the premises, which also demonstrated that the premises did not have a negative impact on the on the local community.

The licensing sub-committee also heard from the Metropolitan Police Service, whose representation was based on Southwark's statement of licensing policy 2021-2026 (SoLP) and the prevention of crime and disorder and prevention of

public nuisance licensing objectives.

The officer stated that the premises was unique in the way it was run and that the premises wasn't generally open to the public. It had now been clarified that people could not walk off the street, which had been the initial main concern for the police objection. The premises was set-up very much as an event space. The bar was relatively very small to the overall size of the venue and could not be considered a "drinking establishment" per se, but an entertainment venue where alcohol was very much ancillary to the event(s) taking place.

There advised that the premises had run a vast number of TENs, more than many premises submit and the police had not submitted any objection notices to these TENs. There had been no crime and disorder associated with the premises. The grant of the premises would mean an increase in events at the premises twofold, which could potentially have an impact on the prevention of crime and disorder and in respect of this, the police relied on Southwark's SoLP, which was designed on the back of borough's crime and disorder data. Based on the management of the premises, the officer did not have great cause for concern other than the potential for crime and disorder to increase.

The licensing sub-committee then heard from the environmental protection team (EPT), whose objection was based on the prevention of public nuisance licensing objective. They informed the sub-committee that the premises had been run by TENs to the proposed hours without a high level of complaint.

The grant of a licence to 06:30 would permit a 100% increase of the premises being used, which increased the potential of public nuisance to local residents, whereas TENs could be limited to 20 a year. They added that residents would shortly be occupying housing blocks directly overlooking the premises.

EPT's concerns related to the risk of nuisance to the existing dwellings within the Penarth Centre itself, which shared party walls with the venue. Although the applicant had gone to significant lengths to acoustically insulate the premises, it was a commercial building and not built or designed for entertainment use and the internal transfer of sound was unknown. It was their view that it was unlikely that all internal sound transfer could be eliminated in an old building such as the Penarth Centre.

EPT also had concerns in relation to the risk to surrounding dwellings from music and people noise from the premises itself and its outdoor areas and recommended a restriction in line with the licensing policy for the courtyard. Finally, there was a risk of public nuisance to existing and future residents in the streets around the premises who could be impacted by dispersal and vehicle movements.

The licensing sub-committee heard from the planning enforcement team, who objected to the application as there was no planning permission for such a use at the premises. The officer also noted that there were two residential units within the Penarth Centre with numerous completed or under construction large residential

developments in the vicinity.

They advised that it was unlikely that planning permission would be granted for premises due to the risk of public nuisance from music to existing residential occupiers within the Penarth Centre building itself; risk of noise and nuisance to newly surrounding residents and the risk of noise and nuisance from people and vehicles coming/going to/from the premises.

The licensing sub-committee then heard from four supporters for the premises and noted the written representations of 115 other persons who were not in attendance at the meeting. All representations from other persons supported the premises and stated that the premises operated to a very high standard and that the operation was not detrimental to the promotion of the prevention of crime and disorder, protection of public safety or the prevention of public nuisance licensing objectives. They also stressed the cultural importance of the premises.

The Ormside Projects is situated within the Penarth Centre in a strategic protected industrial zone in South Bermondsey. It is a multi-disciplinary arts centre that supports a range of artistic offerings, including music showcases, live performances, art installations and film screenings whilst also facilitating design and construction workshops and operating a film and photography studio. It offers space for emerging artists to develop and present their work. The operation of the premises evolved in line with Southwark's Borough Plan 2020-22 in addition to Southwark's Night Time Plan.

A premises licence was issued in January 2020 when the hours were granted to 00:30. Under Southwark's SoLP, the premises is located in a residential area, where the suggested terminal hour is 23:00. When the licence was previously granted it was accepted by the licensing sub-committee that there was exception to depart from the policy's framework hours. The sub-committee members accept this and it also accepts that it should promote its diverse entertainment industry with premises such as this.

The premises was established prior to the regeneration in the vicinity therefore, and with this in mind, the recently constructed residential homes would be the agent of change and have the necessary insulation to protect any potential noise breakout from the premises. Whilst it is recognised that licensing and planning are two separate regimes, the sub-committee is mindful of paragraphs 100 to 104 of Southwark's SoLP and the two regimes are properly integrated. The applicant is therefore reminded to ensure that the necessary planning consent is secured.

It is unfortunate that the responsible authorities did not converse with the applicant as this sub-committee are of the view that there was scope to conciliate with at least two of the responsible authorities. The premises utilised 73 TENs until 06:30 over a six year period which generated only two complaints. All the responsible authorities accepted that the premises are well managed with an exemplary operating history.

The sub-committee were directed to R (On the Application of Daniel Thwaites plc) v. Wirral Borough Magistrates' Court 2008 EWHC 838 (Admin) which confirmed that hypotheses and/or speculation should not be made in respect of the potential future conduct and/or risks that the premises may pose.

In view of this, the licensing sub-committee found no reason why this premises licence should not be granted.

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:

- 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 granted; or
- b. That on granting the licence, the licensing authority ought to have imposed different or additional conditions to the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

The meeting ended at 2.17pm.

CHAIR:

DATED:

[CABINET ONLY]

DEADLINE FOR NOTIFICATION OF CALL-IN UNDER SECTION 17 OF THE OVERVIEW AND SCRUTINY PROCEDURE RULES IS MIDNIGHT, [DATE].

THE ABOVE DECISIONS WILL NOT BE IMPLEMENTABLE UNTIL AFTER THAT DATE. SHOULD A DECISION OF THE CABINET BE CALLED-IN FOR SCRUTINY, THEN THE RELEVANT DECISION WILL BE HELD IN ABEYANCE PENDING THE OUTCOME OF SCRUTINY CONSIDERATION.