

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Tuesday 2 August 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 Barrie Hargrove (reserve) Councillor Andy Simmons
OTHER MEMBERS PRESENT:	P.C. Ian Clements, Metropolitan Police Service
OFFICER SUPPORT:	Debra Allday, legal officer Steve Warby, legal officer (observing) Andrew Heron, licensing officer Mark Prickett, environmental protection team 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.

Apologies for absence were received from Councillor Ian Wingfield. Councillor Barrie Hargrove was in attendance as the reserve member.

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.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003 : THE LUNCHEONETTE AND GIUSEPPES RESTORANTE ITALIANO - 47-49 BOROUGH HIGH STREET, LONDON, SE1 1NB

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

The Metropolitan Police officer, the applicant for the review, addressed the sub-committee. Members had questions for the police officer.

The meeting adjourned at 11.25am to allow the police and the representatives for the premises time to discuss a matter that the police were considering raising.

The meeting reconvened at 11.30am and both the police and representatives for the premises advised that they had resolved the matter.

It was noted that the licensing responsible authority officer was unable to attend the meeting.

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

The meeting adjourned at 11.40am for the sub-committee to consider its decision.

The meeting reconvened at 12.42pm and the chair advised everyone of the decision.

RESOLVED:

That the council's licensing sub-committee, having considered an application made under Section 53C of the Licensing Act 2003 by the Metropolitan Police Service for the review of the premises licence issued in respect of the premises known as The Luncheonette and Giuseppe's Ristorante Italiano, 47-49 Borough High Street, London SE1 1NB and having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

Modify the conditions on the premises licence to include:

- (1) The conditions set out in page 8-9 of the premises licence holder's supporting documents (part 1) with the following amendments:
- (2) 1(a) - Condition A2 – That there is at least one personal licence holder
- (3) 1(b) - Condition A6 – 02:00 hours to 04:30 hours
- (4) 2(c) - Condition A4 – Copies will be provided to the Police and Licensing Authority
- (5) That all members of staff will undertake conflict management training.

Reasons

This was the full review hearing of an application made by the Chief of Police for the Metropolitan Police area of a summary review made under Section 53C of the Licensing Act 2003 in respect of the premises known as The Luncheonette and Giuseppe's Ristorante Italiano of 47-49 Borough High Street, London SE1 1NB, the full hearing of which will be heard on 2 August 2022.

The licensing sub-committee heard from an officer for the Metropolitan Police who informed the committee that since the interim steps hearing on 8 July 2022 an agreement had been reached that satisfied the Metropolitan Police's concerns that had rightly, resulted in a section 53A Licensing Act 2003 application being submitted.

Since that time, the premises licence holder had fully engaged with the police and a number of changes had been made in the day to day management of the premises. When asked, by members about the outcome of the 2 July 2022 incident, it was confirmed that it was resolved by a community resolution. The officer was also asked about an incident that had occurred on 15 July 2022, following the interim steps hearing. The officer stated that it was due to the non-payment of a bill and although the staff member may have been heavy handed, it was resolved without police intervention. The officer was content that this was an incident that would not occur again.

The licensing sub-committee heard from the legal advisor for the premises who referred to the proposed conditions detailed in annex two headed "Additional Proposed Conditions for Discussion" in the additional evidence produced by the premises licence holder that promoted the licensing objectives.

Members queried the incident of 15 July 2022 which the legal advisor accepted may have been initially addressed in a heavy handed fashion by the staff member concerned, but ultimately, very reasonably dealt with. The incident involved a large party who had attempted to make off without paying. When the staff member had confronted the customer(s) about this he was injured having been pinned against the deserts display fridge by one of the customer(s). The staff member chose not to take the matter further.

Members questioned why such a decision had been made and it was explained that all of the staff, had worked at the premises for many years felt under immense pressure with the risk of losing their jobs should the sub-committee decide to revoke the premises licence. A situation such as this had never happened before and was ever likely to happen again.

The licensing sub-committee noted the representation received from licensing as a responsible authority, who were not in attendance.

The licensing sub-committee also noted the many letters in support of the premises, none of whom were in attendance.

The licensing sub-committee were pleased that since the incidents (that resulted in the summary review process) the premises licence holder had engaged licensing consultants and the entire operation of the premises had been reviewed and many of the recommendations had been implemented.

The CCTV system would be replaced if the premises were able to operate with later hours. In addition, the premises licence holder would introduce weekly CCTV checks to ensure any issues with it could be immediately rectified.

The door security company previously employed had been dismissed and an alternative door security company appointed, with all SIA staff would have body worn video cameras.

All of the premises policies and procedures had been reviewed and revised. The licensing consultants employed would also undertake compliance checks and at least two mystery test purchases to check compliance with age restrictions and conditions.

An online incident reporting system would also be implemented, allowing security and staff and to complete and make available for the police/local authority. Extensive training had also been provided including welfare and vulnerability engagement (WAVE) as recommended by the police and crime scene preservation training.

Due to the additional administrative requirements, the premises licence holder had also increased the services of his daughter. Finally, the premises licence holder agreed not to use glass receptacles after the restaurant operation had concluded.

In view of the positive changes made by the premises licence holder (as agreed by the police), this sub-committee are minded to modify the licence but include a requirement that all staff undertake conflict management training due to the incident that occurred on 15 July 2022.

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.

Review of interim steps pending appeal

At the conclusion of the review hearing the licensing sub-committee reviewed the interim steps to determine which interim steps were appropriate for the promotion of the licensing objectives, pursuant to section 53D of the Licensing Act 2003. The sub-committee concluded that these interim steps were appropriate:

1. That until the all staff receive the training as detailed in the document "Steps Taken" in addition to the conflict management training and documentary evidence confirming the same to the Southwark Police Licensing Team and the Licensing Authority, the interim steps imposed on 8 July 2022 remain place being:

Alcohol (on-sales only)	<u>Ground Floor</u> Sunday to Saturday:11:00 to 23:30 <u>Basement</u> Sunday to Saturday:11:00 to 23:30
The provision of late night refreshment (indoors):	<u>Ground Floor</u> Sunday to Saturday – 23:00-23:30 hours <u>Basement</u> Sunday to Sunday – 23:00-23:30

Opening	<u>Ground Floor</u> Sunday to Saturday – 06:00-00:00 <u>Basement</u> Sunday to Sunday – 09:00-00:00
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2. That Artur Cami and Massimo Olmo be excluded from the premises and are not involved in anyway whatsoever with the running or operation for the premises.
3. No alcohol shall be served other than to patrons seated who are taking a substantial table meal. All service shall be by waiter/ess service.
4. That there shall be no vertical-drinking permitted in the premises.

The licensing sub-committee were satisfied that these modified interim steps are more appropriate and proportionate to promote the licensing objectives to modify the interim steps, as detailed above

The interim steps are open to appeal by:

- a) The chief officer of police for the police area in which the premises is situated; or
- b) The holder of the premises licence

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.

6. LICENSING ACT 2003 : SOUTHBANK NIGHTCLUB T/A/ LA ESTACION - 57-59 CAMBERWELL ROAD, LONDON, SE5 0EZ

The licensing officer presented their report. Members had questions for the licensing officer.

It was noted that the licensing responsible authority officer was unable to attend the meeting.

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

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

The environmental protection team officer (standing in for the environmental

protection team officer who made the representation in the agenda papers) addressed the sub-committee. Members had questions for the environmental protection team officer.

The legal representative for the premises objected to some of the environmental protection team officer's evidence, relating to alleged complaints against the premises. They advised that they had not been made aware of these alleged complaints prior to the meeting.

The meeting adjourned at 1.40pm in order to allow the legal representative for the premises to have time to review the alleged complaints.

The meeting reconvened at 2.15pm.

Members had further questions for the environmental protection team officer.

The chair allowed the legal representative for the premises time to ask questions of the environmental protection team officer.

The legal representative advised the sub-committee that they felt that the meeting would have to adjourn as there were a number of issues raised by the environmental protection team officer that needed to be addressed.

The meeting adjourned at 2.25pm to allow the sub-committee to take legal advice on adjourning the meeting to a future date.

The meeting reconvened at 2.48pm and the chair advised all parties of the sub-committee's decision:

RESOLVED:

That the council's licensing sub-committee has agreed to adjourn this matter to be reconvened at 10:00 on 18 August 2022.

Reasons

This licensing sub-committee having heard the evidence from the applicant, the Metropolitan Police Service and having part heard the evidence of the environmental protection team have agreed to adjourn this meeting to be reconvened at 10:00 on 18 August 2022 for the environmental protection team officer to provide the following information:

1. A copy of all the alleged complaints made about the premises, appropriately redacted.
2. Clarification on whether the attached table is an accurate representation of the alleged complaints made from 2019 until the present day.

3. In relation to the twelve complaints during 2021 and 2022, confirm how many were corroborated/witnessed by an officer of the council.
4. Of the complaints witnessed, how many resulted in being assessed as either a statutory noise nuisance or public nuisance in accordance with the Environmental Protection Act 1990 and the Licensing Act 2003.
5. In 2020, there appears to be only two dwellings complaining about unwanted noise coming from our client's premises. The officer is asked to confirm whether these dwellings are in the same building and if so, are the dwellings directly above the premises or on an upper floor (and at which level)?
6. When the officers attended the premises, did they stand at either the front or the rear of the premises? Did they witness noise break out which would result in a statutory noise nuisance and/or public nuisance?
7. Has the premises licence holder been written to regarding each complaint made in 2021 and 2022? There were eight alleged complaints in 2021 and four alleged complaints in 2022. What engagement has the Environmental Health department of the local authority had with the premises for a gradual approach to enforcement to ever establish the cause of concern and/or any causal connection with the premises regarding the alleged unwanted noise and noise nuisance?
8. Mr Ken Andrews, the Principal Environmental Health Officer, says in his letter of representation dated 6 July 2022 amongst other things that, based on the file notes, EPRA could not deduce that the venue has caused a public nuisance. Can Mr Andrews confirm that this statement is true? If the statement is not correct, a full explanation as to why Mr Andrews' opinion has changed is required.

Appeal rights

There is no right to appeal to this notice of adjournment.

The meeting adjourned at 2.58pm.

CHAIR:

DATED: