

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 3 November 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 Suzanne Abachor (Reserve)
Councillor Margy Newens

OTHERS PRESENT: P.C. Ian Clements, Metropolitan Police Service
P.C. Mark Lynch, Metropolitan Police Service
Simon Geffney, Community Warden (Witness for the police)

OFFICER SUPPORT: Charlotte Precious, legal officer
Wesley McArthur, licensing 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 Sandra Rhule. Councillor Suzanne Abachor 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 none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

The chair advised that a ward councillor had emailed the members of the sub-committee with an objection to the application. However, this was not in the consultation period and would be disregarded.

5. LICENSING ACT 2003: 107 BOROUGH HIGH STREET, LONDON SE1 1NL

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

The sub-committee noted the written representation from one other person objecting to the application.

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

The meeting adjourned at 11.21am for the sub-committee to consider its decision.

The meeting reconvened at 12.22pm and the legal officer advised everyone of the decision.

RESOLVED:

That the application made by The Chelsea Food and Wine Company Limited for a premises licence to be varied under Section 34 of the Licensing Act 2003 in respect of the premises known as 107 Borough High Street, London, SE1 1NL is granted as follows:

1. The supply of alcohol to be consumed off the premises
 - Monday to Sunday: 00:00 to 00:00

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

1. That a staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premise is open.
2. That no noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
3. That notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
4. That a direct telephone number for the manager at the premises shall be publicly available at all times the premises is open.
5. That all tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
6. That conditions 4AL, 263, 288 and 289 shall be removed and replaced with the following:
 - a. That the premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Southwark police licensing team.
 - b. That all entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
 - c. That the CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.
 - d. That all recordings shall be stored for a minimum period of 31 days with date and time stamping.

- e. That viewing of recordings shall be made available immediately upon the request of police or authorised officer throughout the entire 31 day period.
7. That condition 343 shall be removed and replaced with: That a Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
 8. That condition 344 shall be removed and replaced with: That a record shall be kept detailing all refused sales of alcohol. The record should include the date, time and reasons of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the Council at all times whilst the premises is open.
 9. That condition 345 shall be removed and replaced with: That members of staff who are authorised to sell alcohol shall be properly trained in the legal requirements and restrictions to sell alcohol. A record shall be maintained and kept at the premises.
 10. That condition 346 shall be amended to read as follows: That between the hours of 23:00 to 06:00 there will be two people on the premises of which one member of staff will be a personal licence holder.
 11. That no external advertising of alcohol shall be permitted.
 12. That alcohol shall only be sold from those areas marked as such on the floor plan attached to the premises licence at Appendix 4.
 13. That between the hours of 02:00 and 06:00, no beers, lagers or ciders with an alcohol by volume (ABV) of above 6.5% will be displayed, sold or offered for sale at the premises unless prior written permission is obtained from Southwark police licensing office, Southwark Council licensing unit or Southwark Council trading standards service. Such permission must be kept at the premises and be made available immediately to council and / or police officers on request.
 14. That between the hours of 02:00 and 06:00, no beers, lagers or ciders in containers of 2 litres or above shall be sold at the premises.
 15. That between the hours of 02:00 and 06:00, no spirits where the quantity is 100ml or less shall be sold at the premises.
 16. That the premises shall not accept any orders for delivery through online delivery companies, for example Deliveroo and UberEats, between the hours of 02:00 and 06:00.

Reasons

On 22 August 2022, The Chelsea Food and Wine Company Limited applied for a premises licence to be varied in respect of the premises known as 107 Borough High Street, London, SE1 1NL.

The applicant submitted a detailed skeleton argument and witness statement in advance of the hearing, offering several additional conditions to assist in furthering the licensing objectives. Their representative explained the premises was a small convenience store with a commensurate small amount of alcohol on offer, a plan was circulated with the agreement of all parties labelling the areas of the shop where alcohol was displayed.

The premises opened for 24 hours a day and sold alcohol for 20 of them, no complaints had ever been received by the licensing unit and no evidence was provided by the police of incidents at or coming from the premises. No evidence or representations were provided by any other responsible authorities; one resident had submitted a representation but the representation was silent in respect of any incidents or issues with the premises.

The premises stated they did not consider they had trouble with street drinkers, drunks or those who pre-loaded alcohol before going out. Their late night trade was quiet and their customer base was typically ordinary people wanting to pick up food or drink on their way home, particularly staff working in shifts at Guy's Hospital given its close proximity to the premises.

Between the hours of 02:00 and 06:00, the night time economy within the area was largely shut down, and so it was submitted that there would be very little, if any, cumulative impact at that time. In order to test this the applicant applied for 20 temporary event notices (TEN) permitting 24 hour sale of alcohol on a Saturday, they considered this to be the busiest time of the week. No objections were made to the TENs and there was no demonstrative impact on any of the nights TENs were in place.

The representative for the Metropolitan Police relied upon statistics detailing the number of complaints received in the Borough and, specifically, the vicinity of Borough High Street: a total of 887 calls were received between 1 January 2021 and 30 September 2022 with a closing theme of anti-social behaviour and 40 calls were recorded with a qualifier of alcohol. The applicant contended that, when breaking down the evidence, two calls per month are in respect of alcohol and it isn't clear what time these incidents occur, whether they happen between 02:00 to 06:00 and whether they have anything to do with the premises.

The Metropolitan Police submitted that, whilst issues or incidents may not have arisen at the store, they may have further up the road and so the whole cumulative impact must be looked at. After 02:00 when other premises close, people wander seeking places to purchase further beer. Permitting the variation applied for, would allow people to purchase further alcohol and become more intoxicated. These

people may then be on public transport or proceed on foot elsewhere in the borough and cause disorder and nuisance.

A community warden with experience of the area was called as a witness for the Metropolitan Police Service. They explained how street drinkers travelled from as far as Peckham to continue their drinking, defecating and urinating in the street when intoxicated. He didn't work late evenings but did work early mornings and often arrived in the area at 06:00 to find people begging because of the higher street traffic there, he considered the presence of a premises selling alcohol 24 hours a day would add to this and the wider criminality and anti-social behaviour within the community.

One resident submitted a representation but was not in attendance at the hearing, the sub-committee took the written representation into consideration in making their decision.

The applicant submitted that the street drinkers the police are concerned about quickly become known to shopkeepers within a community and are often recognisable by their attire, character and appearance and have usually dispersed home by 02:00, the sub-committee agreed with this and noted the premises said it did not sell to street drinkers.

It was further noted that the premises offered to send all staff on refresher training that would be specifically tailored to address street-drinking, vagrants and the borough's objectives, the sub-committee agreed this would be very beneficial in furthering the licensing objectives and recommend that such training is facilitated.

The premises falls within a cumulative impact area (CIA); in accordance with paragraph 131 of Southwark's statement of licensing policy 2021-2026 (SOLP), there is an automatic presumption that premises are deemed likely to add to the potential impact the policy is intended to avoid and applications made within a CIA will be refused. However, each application must be judged on its own merits.

The sub-committee carefully considered whether permitting the premises to sell alcohol between 02:00 and 06:00 would be likely to add to the cumulative impact during these times. Whilst they determined there would be an impact, this was considered to be small as the majority of premises within the area close by 02:00 and patrons would largely have already dispersed home. The sub-committee concluded appropriate conditions would be effective in addressing concerns and furthering the licensing objectives, and so the presumption was rebutted.

The Metropolitan Police asked the sub-committee to consider a number of conditions, including the installation of a service hatch to be in use between the hours of 02:00 and 06:00. The sub-committee did not consider this condition to be necessary or proportionate, service hatches typically serve to protect staff and safeguard items in the shop when there is only one staff member working. The premises had no record of public safety issues and a condition requiring two members of staff to be present between 02:00 and 06:00 would address concerns

regarding the shop being unattended.

Furthermore, a condition limiting the sale of beer and lager to a minimum of four cans at a time was disproportionately restrictive considering the average customer travelling home from their shift at work would not typically want to buy alcohol in those quantities. Conditions preventing the sale of alcohol in quantities and volumes that are frequently bought by street drinkers, drunks and those who pre-load before going out would address concerns along with the prevention of external advertising.

The sub-committee considered the premises to be a small one that does not appear to be alcohol led, a condition limiting the sale of alcohol to only those areas marked on the plan would ensure the premises remains so.

A condition requiring the installation of external CCTV would serve as a deterrent and assist in managing crime and disorder in the area, it was noted the premises also had a condition to disperse those loitering at the front of the shop and refuse such persons service. A condition preventing the use of online delivery companies such as Deliveroo or UberEats between the hours of 02:00 and 06:00 would prevent noise and nuisance to nearby residences by those collecting or awaiting orders.

The sub-committee made the applicant aware of the policy regarding single-use plastics contained within paragraph 205 of Southwark's statement of licensing policy 2021-2026 (SOLP) and recommend that the applicant uses single-use plastics wherever possible. The premises agreed with this recommendation and stated they only use paper bags as opposed to plastic.

The sub-committee considered the applicant to be a responsible and experienced premises and agreed that the conditions proposed within the applicant's witness statement would assist in furthering the licensing objectives.

It is on this basis the application was granted. In reaching this decision, the sub-committee had regard to all of 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 to modify the conditions of the licence; and:

Any person who made relevant representations in relation to the application who desire to contend that:

- a) The variation ought not to be been granted; or
- b) That, when varying the licence, the licensing authority ought not to have modified the conditions of 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 12.30pm.

CHAIR:

DATED: