

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 10 November 2022

PRESENT: Councillor Margy Newens (Chair)
Councillor Charlie Smith
Councillor Kath Whittam

OFFICER Debra Allday, legal team
SUPPORT: Andrew Heron, licensing team
Ken Andrews, environmental health team
David Franklin, neighbourhood nuisance service team
P.C. Mark Lynch, Metropolitan Police Service
Tim Murtagh, constitutional team

1. ELECTION OF THE CHAIR

The clerk opened the meeting.

Councillor Kath Whittam nominated Councillor Margy Newens to chair the meeting. This was seconded by Councillor Charlie Smith.

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 no apologies for absence.

3. CONFIRMATION OF VOTING MEMBERS

The voting members were confirmed verbally.

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

There were no late and urgent items.

5. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

6. LICENSING ACT 2003: IBBS BAR (LEGACY RESTAURANT), 53 CAMBERWELL ROAD, LONDON SE5 0EZ

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

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

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

The neighbourhood nuisance service officer addressed the sub-committee. Members had questions for the neighbourhood nuisance service officer.

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

The meeting adjourned at 11.20am and reconvened at 11.25am.

Other persons, namely local residents, supporting the review, addressed the sub-committee. Members had questions for the local residents.

The legal representative for the premises licence holder addressed the sub-committee. Members had questions for the legal representative and the premises licence holder.

The meeting adjourned at 1.14pm and reconvened at 1.19pm.

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

The meeting adjourned at 1.37pm for the sub-committee to consider its decision.

The meeting reconvened at 2.32pm and the chair advised everyone present of the decision.

RESOLVED:

That the council's licensing sub-committee, having considered an application made under Section 51 of the Licensing Act 2003 submitted by an other person on behalf of the Roffo Court Residents for the review of the premises licence issued in respect of Ibbs Bar (Legacy Restaurant), 53 Camberwell Road, London SE5 0EZ having had regard to all relevant representations has decided to modify the premises licence.

Hours

The sale of alcohol to be consumed on the premises as follows:

Monday to Sunday: 10:00 to 22:30

Opening hours as follows:

Monday to Sunday: 10:00 to 23:00

Conditions

1. That there shall be a dispersal policy for the premises agreed with the Southwark Police Licensing Unit and approved by an authorised officer of the licensing authority to be held with the premises licence holder and made available immediately upon request by an authorised officer.
2. That there is a maximum of 10-patrons only standing and/or sitting at the bar.
3. That there are prominent, clear and legible notices that must be displayed at all exits requesting that patrons leave in a quiet and orderly manner that is respectful to neighbours.
4. That a contact number for the duty manager and email address shall be displayed inside the premises or immediately outside the premises such that it is clearly visible from outside without the need to enter the premises.
5. That there shall be no more than 5 persons permitted outside on the frontage, to smoke only.
6. That there shall be no drinks permitted outside on the frontage of the premises.
7. That alcoholic drinks may only be consumed within the premises. The management must ensure that no alcohol is consumed outside the premises.
8. That suitably qualified or experienced persons shall be employed at all times whilst the entertainment is being provided and shall take all reasonable steps to ensure that patrons will not cause a nuisance to the neighbourhood.

In the event of a temporary event notice, after 23:00 hours the following

conditions will apply from 22:00 hours:

9. That three (3) SIA registered door staff be employed from 2200 on until 30 minutes after the terminal hour at least one of which will be female.
10. There shall be no new entry or re-entry to the premises after 00.30 hours.

Reasons

This was a review application brought by a resident (an other person) on behalf of the Roffo Residents Association under s.51 of the Licensing Act 2003 of the premises known as Ibbs Bar (Legacy Restaurant), 53 Camberwell Road, London SE5 0EZ.

The licensing sub-committee heard from the applicant who brought the review under all of the licensing objectives: the prevention of crime and disorder, the promotion of public safety, the prevention of nuisance and the protection of children from harm. The applicant had lived in the locality since 2013. Between Mondays and Thursdays the area was relatively quiet and peaceful. But come the weekend, Friday to Sunday mornings, between 22:00 hours and 03:00 hours, patrons loiter around the neighbourhood. The street would be very noisy and local residents would experience a lot of anti-social behaviour. The premises and its patrons caused serious noise nuisance and crime and disorder in the locale; customers would fight outside of the premises; customers would scream and shout outside of the premises; patrons would leave waste and broken glass from the premises in the surrounding streets; patrons would urinate and vomit in the surrounding streets. The local residents felt intimidated by the patrons of the premises; local residents were frequently woken from their sleep due to the operation of the premises and the premises are frequently operated in breach of the conditions of the premises licence.

The applicant highlighted aspects of video footage that they had taken demonstrating patrons spilling out of the premises and loitering, with SIA officers not moving its patrons on. Patrons could be seen urinating on residents' doorsteps. The sub-committee were reminded that during the 2022 summer it did not rain for 6-weeks, with the warmest temperatures on record. Residents were unable to open their windows up in and with the patrons urinating everywhere, it was nauseating to walk outside due to the smell. A screenshot of a message was also shown from a single mother being woken up one night in which she was begging for help.

The residents had been inflicted with the noise and anti-social behaviour from the premises and its patrons for over 18-months. The residents' lives were a living misery over the weekends.

The applicant also referred to one incident that occurred on a Sunday night/Monday morning when they were required to get out of bed and talk to some of the patrons requesting that they turn their music down. This resulted in the

applicant being assaulted on the street. Thankfully, they ran fast enough to avoid being very seriously assaulted by two males. The males chased the applicant to their home and were banging on the window trying to gain entry to their home. This all took place in front of their young child who has also been disturbed by the noise.

The licensing sub-committee then heard from an officer from the Metropolitan Police Service provided intelligence that supported the review application and which identified breaches of the premises licence on 17 October 2021, 7 November 2021, 12 November 2021, 13 November 2021, 05 March 2022, 2 April 2022, 30 April 2022, (carrying on licensable conditions outside of their terminal hour and allowing customers to leave and re-enter the venue after 02:30 hours. Patrons were also seen leaving making noise by talking very loudly and consuming alcohol from bottles contrary to the premises licence that permitted on-sales only).

The licensing sub-committee then heard from the environmental protection team. The premises was close to residential premises and several complaints had been received about loud music and public nuisance caused by patrons' screaming, fighting, congregating outside, loud music blasting out of cars and the premises. Although no statutory noise nuisance had been witnessed, the officer implied that the matters complained of could amount to a public nuisance.

The licensing sub-committee then heard from resident F who also spoke on behalf of the Roffo Court Residents Association and other residents in the area of Boyson Road and Red Lion Rd. Roffo Court was a block of 140 flats, with hundreds of residents, and which borders Boyson Road and Red Lion Rd. The premises was around the corner from Boyson Road and the patrons use Boyson Road and the Red Lion Road pavement as their own private car park party location, urinal rubbish and dump. Often people would come out of the premises, open their car doors, put the stereos on and stand around for hours and actually dance and party, especially in the summer. Resident F bought a flat in Roffo Court in 2013, but moved out at the end of 2021.

For the majority of their time, it was a good place to live and they were really happy there for many years, living fairly central in London. There was a certain amount of background noise to be expected, and they knew that when they bought their flat in Roffo Court. Boyson Road was typically a peaceful road. In 2020 the premises became a major fixture of nuisance. There were large groups of people partying in the street, right up until 5:00 hours. People were constantly going back and forth between the premises and the street. Resident F had witnessed people going in and out of Legacy with bottles and glasses of alcohol. Patrons will come out, hang out around cars, with stereos blasting. The patrons would dance, drink, shout, argue and fight. Patrons frequently urinated along the roads, against resident's front doors in the middle of the pavement and between cars. The noise was so loud that residents had to keep their windows closed in extreme heat wave. In winter, through triple glazing, residents could hear shouting and fighting on a regular basis.

There was a clear, undisputable link between the premises and the activities witnessed. The council asked residents to provide proof that the link was clear, so resident F and the applicant parked across the road from the premises in full view of both the premises and Boyson Road and watched and videoed until gone 03:00 hours

The licensing sub-committee then heard from resident N who echoed everything that had been submitted by the Roffo Court Resident's Association. The premises had completely turned residents' lives upside down. Before 2020 there was never illegally parked cars parked cars, residents weren't ever woken up in the middle of the night by rowdy, drunken people. Now, resident N dreaded the weekends, being woken up to 03:00 hours to people shouting, loud music and car horns beeping. During the day resident N avoided walking down Boyson Road with their children as it had become so dirty. The street was full of rubbish and urine left by the patrons. The premises was having a negative impact in every aspect of their life. They were stressed and exhausted.

The licensing sub-committee then heard from the representative for the premises who informed the members that there were many bars and restaurants located on Camberwell Road, several of which had licences for late night trading. The licensee had welcomed the efforts of the police to ensure a safe neighbourhood and whenever he had been alerted to potential problems he had cooperated with the authorities to try to resolve them. Examples of this included increasing the number of SIA officers at weekends from two to three who patrolled the area. Limiting the number of entries, turning the music down and stopping it promptly at 02.30 hours. The premises licence holder did not accept that he had not complied with his licence conditions. The matters complained of by the local residents were not due to the activities of the premises or its patrons, but by patrons of other nearby premises. Alternatively, it was simply the lively character of the area. When alerted to complaints, the premises licence holder readily cooperated by limiting the number outside the premises smoking to 6. However, many of the complaints were not matters within the premises licence holder's power to manage, such as fighting. The premises welcomed the implementation by the police of dispersal orders and it was submitted that that was likely to be a more effective and proportionate response to the anti-social behaviour the residents complain about than reviewing the licence would be. Neither the police nor the environmental protection team had sufficient evidence to warrant bringing a review and it was suggested that there was also insufficient evidence from the residents that warranted a review also. The premises licence holder could not be held accountable to what happened outside and although he had security trying to keep the noise down when people went to smoke, he could not control what happened in adjoining streets.

The representative for the premises also mentioned that there had been a lack of complaints in the previous two weeks was because the adjoining premises, the Southbank Nightclub (AKA La Estacion) was no longer operating after it had its licence revoked, which demonstrated that the conditions attached to the premises licence for Ibbs was working.

By the premises licence holder's admission, Ibbs Bar (Legacy Restaurant) was a food led restaurant that provided a late night offering of food for the African community. This licensing sub-committee is aware that there are a number of premises in the locality that hold late night licences and according to the representative for the premises, it is these other premises that caused the anti-social behaviour being effected by local residents. This sub-committee does not agree with this contention. Residents have endured at least 18-months of "misery" (as described by the applicant). This sub-committee considered the considerable video evidence which clearly demonstrated the premises breaching conditions in its premises licence: allowing patrons re-entry beyond last entry time, patrons loitering outside the premises, shouting, urinating, patrons allowed entry without being searched and disposing waste in the streets. The premises by their own admission confirmed that contrary to conditions 343 and 344 (relating to the sound limiter), they had operated for at least seven months without one operating because the sound limiter in place was broken.

Whilst the area does not sit in a cumulative impact area under Southwark's Statement of Licensing Policy 2021-2026 the cumulative impact areas will be considered by the full Licensing Committee in February 2023. In the meantime, paragraph 11.8 of the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018) provides: "*Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned*".

Under the Southwark's Statement of Licensing Policy, the area is identified as residential, where closing time for restaurants and cafes is 23:00 hours daily; for public houses is 23:00 hours daily and with nightclubs (with 'sui generis' planning classification) not considered appropriate for this area.

In view of the premises being a restaurant, with table service, this licensing sub-committee considers it appropriate to modify the licence to bring the hours in line with Southwark's Licensing Policy and to add conditions to regulate the behaviour of the premises patrons.

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.

Issued by the Constitutional Team on behalf of the Director of Legal Services

Dated 10 November 2022

The meeting ended at 2.38pm

CHAIR:

DATED: