

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 7 September 2023 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
Councillor Charlie Smith

OFFICER SUPPORT: Debra Allday, legal officer
David Franklin, licensing officer
Andrew Weir, constitutional officer

1. APOLOGIES

The meeting opened at 10.01am.

The chair explained to the participants and observers how the 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: UNIT 229 - SHADOW LICENCE, ARCH 229, BANK END, LONDON SE1 9FJ

It was agreed by all parties to hear items 5 and 6 of the agenda together.

The licensing officer presented their report. They advised that the application for a shadow licence for Railway Arch 219-221,18 Stoney Street, London SE1 9BU had been withdrawn. Members had questions for the licensing officer.

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

The other person objecting to item 5 addressed the sub-committee. Members had questions for the other person.

The other person objecting to item 6 addressed the sub-committee. Members had questions for the other person objecting to item 6.

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

The meeting adjourned at 10.57am for the sub-committee to consider its decision.

The meeting reconvened at 11.16am and the chair advised everyone of the decisions (see item 6 for decisions relating to:

- Arch 213, Stoney Street, London SE1 9AD
- Arch 215, Stoney Street, London SE1 9AD
- Railway Arch 219-221,18 Stoney Street, London SE1 9BU (withdrawn)
- 14-16 Stoney Street, London SE1 9AD).

RESOLVED:

That the application made by Mark Bermondsey (Guernsey) Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Unit 229 - Shadow licence, Arch 229, Bank End, London SE1 9FJ be granted.

Hours

Films (indoors)	Monday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 23:00
Recorded music (indoors):	Monday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 23:00
Late night refreshment (indoors and outdoors):	Monday to Saturday: 23:00 to 00:00
The sale by retail of alcohol (on and off the premises):	Monday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 23:00
Opening hours:	Monday to Saturday: 10:00 to 00:00 Sunday: 10:00 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 conditions agreed with licensing as a responsible authority.

Reasons

This licensing sub-committee was in respect of applications made by Mark Bermondsey (Guernsey) Limited for shadow premises licences for 14-16 Stoney Street, London SE1 9AD, Unit 229, Arch 229, Bank End, London SE1 9FJ, Arch 213, Stoney Street, London SE1 9AD and Arch 215, Stoney Street, London SE1 9AD.

The licensing officer confirmed that the application in respect of Railway Arch 219-221, 18 Stoney Street, London SE1 9BU had been withdrawn.

The licensing sub-committee heard from the applicant's representative who advised that the applications were made by Mark Bermondsey Guernsey limited, both the original developer of the Borough Yards site and now the landlord for each of the units.

The purpose of the applications were insurance policies and served two purposes: firstly, if a tenant holding a primary licence went into administration, or if an individual licence holder were to become incapacitated or die, then the license could lapse. In such cases the tenant could effectively hold the premises licence for ransom. However, a shadow licence could be used as part of the commercial negotiations with a landlord to prevent this.

In addition, a shadow licence would benefit local residents and also the licensing objectives in that the licences would add an extra layer of supervision and responsibility upon the applicant, ensuring that no tenant undermined the objectives. There would be greater responsibility on the Applicant/landlord if

something went wrong with the tenants and would have a vested interest to ensure any problems are resolved quickly.

It was explained that the shadow licences would not be used unless the worst case scenario arose. The applications were for operational reasons and also to cover any potential issues with any future operators.

The shadow licences would not be used while the primary licence was operative. In the event that a shadow licence were to become operative, the Applicant/landlord would be obliged to contact both the police and the council to advise of the position. Also, in the event that the primary licence being revoked as a result of a review application, there was a 30-day cooling off period during which the shadow licence could not be used.

Although all the premises were located in the Borough and Bankside cumulative impact area, the policy did not apply because there would be no additional impact on the area by granting the shadow licences. The policy did not apply since the application(s) was neither for a premises licence or a variation, attempting to extend the hours and/or activities of the licence. The application was for the same footprint, the same activities, the same operating hours and the same conditions as the existing licence. The applications therefore could not contribute to raising cumulative impact in the area. With the exception of the five 'shadow licences conditions' agreed with licensing as a responsible authority, the application(s) were identical to the primary licence.

For the benefit of the other persons that had submitted representations, the representative for the premises highlighted the most pertinent of conditions attached to each of the units that addressed their concerns. These included:

1. Condition relating to capacity – This would assist responsible authorities prevent overcrowding giving rise to risk of crime and disorder.
2. Condition 340 - Restaurant condition (alcohol only be to a person taking a table meal there and for consumption ancillary to their meal, with the usual holding bar for people waiting for their tables). This would prohibit the premises from changing its style of operation to be anything but a restaurant.
3. Condition 351 – the licence holder has to operate in accordance with Borough Yards operational management plan, which was designed to control all aspects of the operation, including (but not limited to limiting impact on residents conditions) on matters such as a dispersal policy, bottling, waste dispersal etc.
4. Condition 353 - Patrons not being permitted to use the external area after 22:00 hours, apart for access & egress and for smoking in the designated smoking area, so there's no excessive noise from people drinking outside.
5. Condition 840 - Customers not permitted to drink alcohol in Stoney Street,

Clink Street, Bank End or Park Street or to remove open vessels of alcohol from the premises (save for designated external areas shaded pink on the overall plan where a unit has access to that area). This would restrict customers from drinking in Stoney St Clink Street, Bank End or Park Street.

6. Condition 842 - External tables/chairs to be rendered unusable by 22:30 hours, until the start of trading hours the following day. Again, this would prevent patrons from remaining on site drinking/smoking.
7. Condition 843 – Preventing vertical drinking in designated external areas, those that are most sensitive to residents it also restricts the use of off-sales, save for certain circumstances.

The representative for the premises also referred to the quarterly residential meetings provided in condition 858. The next meeting was due to take place on 13 November 2023 and the invitation was extended to the other persons.

The other issues raised by the members that would have an impact on local residents concerning bottling, waste disposal and deliveries were all matters addressed in the operational management plan in great detail. All leaseholders are required to comply with this and it is policed on a local level. It was confirmed that such operations, would not take place during nocturnal hours as it would cause disturbance to residents.

The licensing sub-committee heard from the three other persons who advised that their representations were not objections to the concept of restaurants or the actual licences per se. The residents objected to the shadow licences, regardless of them being replications of existing licences as it would eliminate an opportunity to make representations and the ability of residents to raise their concerns in the future.

The residents' primary concern was that of noise, particularly when the bedrooms face the units (which were the subject of the applications). The buildings in the vicinity were multi-storey buildings, four or five stories high, which resulted in noise reverberating/being amplified, meaning conversations on the street could be heard within the flats.

In recent years the residents noted that there had been a marked difference in the characteristics of the behaviour at night down where there were already existing bars and pubs. There was a notable difference in the amount of noise, not just up until midnight, but well after the businesses were closed. People tended to loiter, and there was a concern that the post-midnight noise would spread down to the further end of Stoney Street.

The licensing sub-committee recognises that there is no restriction in the Licensing Act 2003 for there to be more than one licence to be in effect at any one time at the same premises and was approved in the licensing regime in *Extreme Oyster & Star Oyster Ltd. v Guildford Borough Council* [2013] EWHC 2174 (Admin).

There is nothing to show that the impact of the grant of these licence would be any greater than what is already there or would undermine the reasons for the cumulative impact area policy, particularly since the applications are in identical terms to the primary licence (with the exception of 'shadow licence conditions'). This reflects paragraphs 122-129 of Southwark's Statement of Licensing Policy 2021-2026. On this basis, the applications were granted.

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: FOUR SHADOW LICENCES FOR: ARCH 213, ARCH 215, 14-16 STONEY STREET, LONDON SE1 9AD AND RAILWAY ARCH 219-221,18 STONEY STREET, LONDON SE1 9BU

It was agreed by all parties to hear items 5 and 6 together. Please see item 5 for the proceedings.

Please note that the application for a shadow licence for Railway Arch 219-221,18 Stoney Street, London SE1 9BU was withdrawn.

RESOLVED:

That the application made by Mark Bermondsey (Guernsey) Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Arch 213, Stoney Street, London SE1 9AD be granted.

Hours

Films (indoors	Monday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 23:00
Recorded music (indoors):	Monday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 23:00
Late night refreshment (indoors and outdoors):	Monday to Saturday: 23:00 to 00:00
The sale by retail of alcohol (on and off the premises):	Monday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 23:00
Opening hours:	Monday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 23:00

That the application made by Mark Bermondsey (Guernsey) Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Arch 215, Stoney Street, London SE1 9AD be granted.

Hours

Films (indoors	Monday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 23:00
Recorded music (indoors):	Monday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 23:00
Late night refreshment (indoors and outdoors):	Monday to Saturday: 23:00 to 00:00
The sale by retail of alcohol (on and off the premises):	Monday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 23:00
Opening hours:	Monday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 23:00

That the application made by Mark Bermondsey (Guernsey) Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as 14-16 Stoney Street, London SE1 9AD be granted.

Hours

Films (indoors	Monday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 23:00
Recorded music (indoors):	Monday to Saturday: 10:00 to 00:00 Sunday: 10:00 to 23:00
Late night refreshment (indoors and outdoors):	Monday to Saturday: 23:00 to 00:00
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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 conditions agreed with licensing as a responsible authority.

Reasons

This licensing sub-committee was in respect of applications made by Mark Bermondsey (Guernsey) Limited for shadow premises licences for 14-16 Stoney Street, London SE1 9AD, Unit 229, Arch 229, Bank End, London SE1 9FJ, Arch 213, Stoney Street, London SE1 9AD and Arch 215, Stoney Street, London SE1 9AD.

The licensing officer confirmed that the application in respect of Railway Arch 219-221, 18 Stoney Street, London SE1 9BU had been withdrawn.

The licensing sub-committee heard from the applicant's representative who advised that the applications were made by Mark Bermondsey Guernsey limited, both the original developer of the Borough Yards site and now the landlord for each of the units.

The purpose of the applications were insurance policies and served two purposes: firstly, if a tenant holding a primary licence went into administration, or if an individual licence holder were to become incapacitated or die, then the licence could lapse. In such cases the tenant could effectively hold the premises licence for ransom. However, a shadow licence could be used as part of the commercial negotiations with a landlord to prevent this.

In addition, a shadow licence would benefit local residents and also the licensing objectives in that the licences would add an extra layer of supervision and responsibility upon the applicant, ensuring that no tenant undermined the objectives. There would be greater responsibility on the Applicant/landlord if something went wrong with the tenants and would have a vested interest to ensure any problems are resolved quickly.

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The meeting ended at 11.21am.

CHAIR:

DATED: