



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 30 May 2024 at 10.00 am at Online/Virtual

PRESENT: Councillor Renata Hamvas
Councillor Margy Newens
Councillor Kath Whittam

**OTHER
AUTHORITIES
PRESENT:** P.C. Walter Minka Agyeman, Metropolitan Police Service

**OFFICER
SUPPORT:** Debra Allday, legal officer
Toyin Calfos, legal officer
Jayne Tear, licensing officer
Wesley McArthur, licensing responsible authority officer
Paul Newman, environmental protection officer
Andrew Weir, constitutional officer

1. APOLOGIES

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.

It was noted that Councillor Newens was a ward councillor in relation to item 5.

5. LICENSING ACT 2003: BIRD HOUSE BREWING COMPANY, ARCH UNIT 1127, BATH FACTORY ESTATE, 41 NORWOOD ROAD, LONDON SE24 9AJ

The licensing officer presented their report. Members had questions.

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

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

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

The meeting adjourned at 10.54am for the sub-committee to consider its decision.

The meeting reconvened at 11.45am and the chair advised everyone of the decision.

RESOLVED:

That the application made by Bird House Brewing Company for a premises licence to be varied under Section 34 of the Licensing Act 2003 in respect of the premises known as Bird House Brewing Company, Arch Unit 1127, Bath Factory Estate, 41 Norwood Road, London SE24 9AJ be granted.

Hours

The sale by retail of alcohol (both on and off sales):	<ul style="list-style-type: none">• Sunday to Thursday: 23:00 to 00:00• Friday and Saturday from 23:00 to 01:00
The provision of late night refreshment (indoors):	<ul style="list-style-type: none">• Sunday to Thursday from 23:00 to 00:00• Friday and Saturday from 23:00 to 01:00
The provision of regulated entertainment in the form of live and recorded music (indoors):	<ul style="list-style-type: none">• Sunday to Thursday: 11:00 to 00:00• Friday and Saturday: 11:00 to 01:00
Opening hours	<ul style="list-style-type: none">• Sunday to Thursday from 23:00 to 00:30• Friday and Saturday from 23:00 to 01:30
Seasonal variations for all licensable activities and opening hours:	<ul style="list-style-type: none">• Sundays before Bank Holidays, Christmas Eve and New Year's Eve from 11:00 to 01:00.

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, the conditions agreed with the Metropolitan Police Service and the following additional conditions agreed by the sub-committee

- i. That only management staff shall have access to any amplification equipment at the premises, and only management staff shall be permitted to change any control settings on said equipment.
- ii. That any advertising, marketing or media relating to the premises (including websites and social media) will advise customers that there is no readily available parking in the vicinity of the premises, shall list public transport options available in the vicinity and shall advise customers to refrain from driving to the premises.
- iii. That in the event of on-line sales alcohol age verification is required.

Reasons

This was an application made by Bird House Brewing Company for the grant of a variation to the premises licence in respect of Bird House Brewing Company Arch Unit 1127, Bath Factory, 41 East Norwood Road, SE24 9AJ

The licensing sub-committee heard from the representative for the applicant who advised that the premises was formerly known as the Canopy Beer Company and was acquired in June 2023 and opened as the Bird House Brewery in March 2024. They informed the sub-committee that they served craft beers, wines, signature cocktails and street food alongside their very own brewed house lager and pale ale. The applicant was a small independent brewing company, established in 2019, but an experienced licenced operator, with premises in Shepherd's Bush and Peckham.

There were two parts to the variation application. First, for the approval of a new plan which was unopposed by any of the responsible authorities and therefore, should be granted. The second part of the application sought the extension of licensable activities and hours.

The only outstanding objection was from licensing as a responsible authority (LRA) based on the hours recommended in Southwark's statement of licensing policy 2021 (SoLP) for a premises in a residential area.

It was accepted by the sub-committee that the map at appendix E of the agenda was erroneous as it did not show the actual location of the premises and the premises was not near residential properties. There was also a number of other licensed premises with later trading hours (The Koi Ramen Bar, the Florence Pub, the 127 Bar and Restaurant, the Half Moon, Peachy Goat and the Off the Cuff) in and around the Bath Factory Estate where the premises was located. The sub-committee also accepted that the premises was actually in the Herne Hill district

town centre area, which had different recommended hours in the SoLP.

The application included the provision of late night refreshment and although there was no kitchen or food preparation area in the premises, street food traders with vans in the private courtyard outside would provide food at the weekends. There would be rotating street food providers so that the food offering was kept fresh and exciting. The only food stuffs stored at the premises were hops and wheat for the beer and lemons/limes for beverages.

It was noted by members that there was no disabled toilet due to the size of the premises. Unfortunately, due to the size of premises (a capacity of 30 people inside and 50-60 people outside) and the size of the company, under the Disability Discrimination Act 1995 it would be unreasonable and impractical to install them.

Background music would be played, with the regulated entertainment primarily reserved for weekends. On Friday and Saturday evenings, there would be low key DJ's playing background music to create an ambience for customers to enhance the customers' beer, tap room and overall brewery experience. The applicant was working with local artists to provide this. The premises had two small directional speakers that pointed into the bar area, so any noise outbreak would essentially go out into the private courtyard.

Because Southwark had declared climate emergency, members enquired on the applicant's sustainability practices. It was confirmed that when finalised, the website for the premises would encourage travel by public transport and provide the necessary signposts for it. It was also confirmed that all beer would be served in glass and single use plastics would not be used.

The licensing sub-committee then heard from licensing as a responsible authority (LRA) who concurred that the premises fell within the Herne Hill district town centre area. The recommended closing times in SoLP for public houses, wine bars or other drink establish establishments and bars and other types of premises is Friday and Saturdays at 00:00 and Sunday to Thursdays at 23:00. The officer did not agree with the applicant's representative that his suggested conditions were a duplication of existing legislation.

It was clarified that the premises were located in an industrial park that formed part of arches, with a busy railway line running above and the pictures in the LRA representation (showing Straddella Road and Croxted Road) were included to show the location of the nearest residential premises.

The officer representing LRA confirmed that he had no objection to the change of plans or the inclusion of licensable activities, but in view of live and recorded music being provided, requested that his suggested condition regarding amplification equipment be imposed as the management of the premises should have the ultimate control of the equipment.

The hours applied for still exceeded those recommended in the SoLP and since the sub-committee were the gatekeeper of the policy, the decision to grant beyond

the SoLP hours should be the sub-committee's decision. Overall, if granted, the extended hours and operation of the premise would not have a negative impact on the promotion of the licencing objectives

This was an application for a variation of a premises licence for the change of plans and extending licensable activities and hours. The change of plans is not opposed and is granted.

The licensing sub-committee noted that the Licensing Act 2003 was a permissive regime where there should be a more relaxed approach to responsible operators who will promote the licencing objectives and to support local night time economy.

The applicant had already conciliated with the police, agreeing an additional 15 conditions. Many of the conditions proposed by LRA duplicate existing statutory obligations, contrary to the Home Office Revised Guidance issued under Section 182 Licensing Act 2003, paragraph 1.19. The conditions proposed by LRA would make this premises licence extremely onerous, disproportionate and unnecessary to promote the licensing objectives.

The licensing sub-committee was satisfied that the impact on local residents and the promotion of the licensing objectives would be negligible.

In reaching its decision the licensing sub-committee had regard to all the relevant considerations, the public sector equality duty 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.

6. LICENSING ACT 2003: RINCON COSTENO, ARCH 146 MALDONADO WALK, EAGLE YARD, HAMPTON STREET, LONDON SE1 6SP

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

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

The meeting adjourned at 12.10pm in order for members to take legal advice.

The meeting reconvened at 12.25pm.

RESOLVED:

That the application made by Irina Elizabeth Solorzano Chango for a premises licence to be granted under s.17 of the Licensing Act 2003 in respect of the premises known Rincon Costeno, Arch 146 Maldonado Walk, Eagle Yard, Hampton Street, London SE1 6SP be adjourned until 10:00 hours on 20 June 2024 for Licensing as a responsible authority and the Metropolitan Police Service to attend.

Reasons

When asked by the licensing sub-committee, the applicant initially stated that she was not connected with the previous operation of the premises when it was known as Pasaje Primavera that had its premises licence revoked on 10 August 2024. When probed by members, it transpired that the applicant was in fact related to the previous owners; the Applicant had taken over the premises and that family members would assist in the operation in the premises.

While the application being considered was for a premises licence, the sub-committee was conscious of the sentiment of paragraphs 94 and 95 of Southwark's statement of licensing policy 2021-2025:

"95. Where, such applications are made, this Authority will require documented proof of transfer of the business / lawful occupancy of the premises (such as a lease), to the new proposed licence holder to support the contention that the business is now under new management control".

The licensing sub-committee recognised that both the responsible authorities conciliated with the applicant and therefore not entitled to make further verbal representations. However, it was unclear whether either were aware the applicant's connection with the previous owner. In view of this, the sub-committee request that their attendance to confirm:

- i. Whether they were aware of the connection.

- ii. Whether any documentation was seen proving the transfer of the business/lawful occupancy of the premises (such as a lease) was provided by the Applicant to support the contention the business was under new management control.
- iii. In light of this information, whether responsible authorities remain satisfied with the conciliated control measures.

A copy of the transcript of the licensing sub-committee is to be made available to all parties.

Appeal rights

There is no right to appeal this notice of adjournment.

7. LICENSING ACT 2003: MALIBU RESTAURANT BAR, 229 OLD KENT ROAD, LONDON SE1 5LU

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

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

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

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

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

The meeting adjourned at 2.08pm for the sub-committee to consider its decision.

The meeting reconvened at 2.56pm and the chair advised everyone of the decision.

RESOLVED:

That the application made by Jose Rafael Ferreira Minaya for a premises licence under the Licensing Act 2003 in respect of the premises known as Malibu Restaurant Bar, 229 Old Kent Road, London, SE1 5LU be granted as follows:

Live Music (indoors)	Sunday to Thursday from 11:00 to 23:00, Friday and Saturday from 11:00 to 00:00
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Recorded music (indoors)	Sunday to Thursday from 10:00 to 23:30, Friday and Saturday from 10:00 to 00:30
Late night refreshment (indoors)	Sunday to Thursday from 23:00 to 23:30, Friday and Saturday from 23:00 to 00:30
Supply of Alcohol (On Sales)	Sunday to Thursday from 11:00 to 23:30, Friday and Saturday from 11:00 to 00:30
Opening hours	Sunday to Thursday from 08:00 to 00:00, Friday and Saturday from 08:00 to 01:00

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operating schedule highlighted in parts E, F, I, J, K, L, and M of the application form and the conditions agreed with the Metropolitan Police Service and trading standards through the conciliation process and the conditions imposed by the sub-committee.

Sub-committee conditions

1. When this licence is used to provide licensable activities and the licence summary is displayed on the premises, the licence summary of any other premises licence will not be displayed at the same time.
2. That only management staff shall have access to any amplification equipment at the premises, and only management staff shall be permitted to change any control settings on said equipment.
3. That suitable external containers for customer cigarette butts shall be provided at all times that the premises are in use. Such containers shall be emptied regularly to ensure that they can be used at all times that the premises are in use, and so that they do not overflow and cause cigarette butt litter in the vicinity.
4. That clearly legible signage stating a dedicated contact telephone number for the premises shall be prominently displayed. The signage shall state to the effect that the phone number shown can be used to contact the premises in respect of any complaints regarding the operation of the premises. Such signage shall be kept free from obstructions at all times.

The sub-committee adopted all the conditions put forward by the environmental protection team:

5. That patrons shall not be permitted to use any external area of the premises after 22:00 on any day until the premises reopens the following day, apart from for access and egress and for smoking (no more than 5 persons shall be allowed to use the external area to smoke at any one time after 22:00)
6. That amplified music, song or speech shall not be broadcast in external areas at any time.
7. That all external doors and doors to noise lobbies used by patrons to enter the premises shall be kept closed except for access and egress and shall have acoustic seals, brushes and self-closers (in accordance with BS 6459 Pt. 1 1984) fitted to those doors.
8. That clearly legible signage will be prominently displayed at all patron exits, where it can easily be seen and read, requesting that patrons leave the premises in a quiet and orderly manner that is respectful to neighbours.
9. That a comprehensive dispersal policy shall be produced and implemented at the premises, with all staff trained on the most recent iteration of the policy- A record of staff training on the dispersal policy shall be kept at the premises and a copy of the policy and training records be made available to the council or police on request.
10. That suitably qualified or experienced persons shall be employed at all times whilst licensable activity is being provided, and shall take all reasonable steps to ensure that patrons do not cause a nuisance in the vicinity of the premises.
11. That any background music played shall remain at a volume that permits normal conversation and the volume control of any music shall be behind the bar/counter and in the full control of staff at all times.
12. That a sound limiting device shall be installed, set and maintained, to control maximum levels of amplified sound inside the premises so as to ensure entertainment noise from the premises does not cause a public nuisance in the vicinity of the premises, and in particular is not audible inside any nearby noise sensitive premises.
13. That all audio and musical equipment used in the premises, permitted under the Licensing Act 2003 or the Live Music Act 2012, shall be played through the installed sound limiting device.
14. That all speakers for the broadcast of sound within the premises shall be isolated from the structure of the premises by anti-vibration mountings or mats.

15. That the premises management shall regularly monitor outside the premises to ensure that the volume and bass levels of any licensed entertainment is kept at a level that does not cause disturbance at the closest or most exposed noise-sensitive facade to ensure the prevention of public nuisance.

Conciliated conditions with trading standards

16. 4AA – That the premises shall operate an age check 'Challenge 25' policy whereby customers purchasing alcohol who look or appear to be under 25 years of age will be asked for an approved form of proof of age to verify their age. Approved forms shall include a driving licence, passport or a PASS approved proof of age card such as the Southwark Proof of Age (SPA) card.
17. 4AB – That all staff involved in the sale of alcohol shall be trained in the age check 'Challenge 25' policy. A record of their training, including the dates that each member of staff is trained, shall be available for inspection at the premises on request by the Council's authorised officers or the Police.
18. 4AC – That Age check or 'Challenge 25' signage shall be displayed at entrances to the premises, areas where alcohol is displayed for sale and at points of sale to inform customers that an age check 'Challenge 25' policy applies and proof of age may be required.
19. 4AI – That a register of refused sales of alcohol shall be maintained in order to demonstrate effective operation of the policy. The register shall be available for inspection at the premises on request by Council authorised officers or the Police.

Conciliated conditions with the Metropolitan Police Service

20. That a digital CCTV system shall be installed at the premises, shall be maintained in full working order and shall be continually recording at all times that the premises are in use. The CCTV system must be capable of capturing a clear facial image of every person who enters the premises in all lighting conditions. The CCTV system shall be correctly time and date stamped at all times. The CCTV system shall cover all interior and exterior areas of the premises, including the frontage of the premises, and shall collect clearly defined / focused footage. That all CCTV footage shall be kept for a period of thirty one (31) days and shall be made immediately available to Police and responsible authority officers on request.
21. That a member of staff shall be on duty at all times that the premises are in use, who is trained in the use of the CCTV system and who is able to view, and download to a removable storage device, CCTV footage at the immediate request of Police and responsible authority officers.

22. That clearly legible signage shall be prominently displayed where it can easily be seen and read by customers advising to the effect that CCTV is in operation at the premises. The signage shall be kept free from obstructions at all times.
23. That all relevant staff shall be trained in their responsibilities under the Licensing Act 2003, the promotion of the licensing objectives and the terms and conditions of this licence. Records pertaining to such training ('the staff training logs') shall be kept at the premises, shall be updated every six months and shall be made immediately available to responsible authority officers on request. The training logs shall include the trainee's name (in block capitals), the trainer's name (in block capitals), the date(s) of training and a declaration that the training has been received and understood by the trainee. If the staff training logs are a paper hardcopy then the signature of the trainee, the signature of the trainer shall be included. That all digital records of training and/or logs shall be made immediately available to police and responsible authority officers on request.
24. That clearly legible signs shall be prominently displayed where they can easily be seen and read by customers at all exits from the premises, requesting that:
 - a) Customers leave the premises and area in a quiet and orderly manner.
 - b) Customers do not consume alcoholic drinks bought at the premises in the vicinity of the premises. Such signs shall be maintained free from obstruction when the premises are in use in accordance with this licence.
25. That the supply of alcohol on the premises shall be to a person seated taking a substantial hot table meal there and for consumption by such a person as ancillary to their meal.
26. That an incident book/incident recording system shall be kept at the premises to record details of any of the following occurrences at the premises:
 - i. Instances of anti-social or disorderly behaviour or violence
 - ii. Calls to the police or fire brigade
 - iii. Abuse of staff and/or customers
 - iv. Ejections of people from the premises
 - v. Visits to the premises by the local authority, police or fire brigade
 - vi. Refused sales of alcohol
 - vii. Any malfunction in respect of the CCTV system
 - viii. Any other relevant incidents.

The incident book/incident recording system shall record the time, date, location, and description of each incident as well as the printed name of the person reporting the incident and any action taken in respect of the incident. The incident book/incident recording system shall be available and accessible

at the premises at all times that the premises are in use in accordance with this licence and shall be made available immediately to police and responsible authority officers upon request. A record of the preceding 12 months' incidents shall be available at the premises at any time. That all digital records of training and/or logs shall be made immediately available to police and responsible authority officers on request.

27. That if a Pubwatch scheme exists in respect of the local area, then the licensee / management will join and participate in the Pubwatch scheme (details can be obtained from Southwark Police Licensing and night time economy team).
28. That the premises must have a welfare and vulnerability policy and all staff must receive this training. All new staff must receive this training before starting their role and all staff must have refresher training every 12 months. All training must be recorded and these records must be available on immediate request by responsible authority officers. That all digital records of training and/or logs shall be made immediately available to police and responsible authority officers on request.
29. That the venue shall support "Ask for Angela" or another similar safety initiative and posters shall be displayed on the premises. All staff shall be trained in "Ask Angela" or a similar safety initiative and a record of this training shall be kept on the premises and made available for inspection immediately to responsible authority officers upon request. That all Digital records of training and/or logs shall be made immediately available to Police and responsible authority officers on request.
30. That customers shall use no outside area other than those who temporarily leave the premises to smoke with no more than five (5) people permitted to smoke at one any time. The Staff shall monitor the area and ensure patrons do not obstruct the highway or cause any disturbance to their neighbours.
31. That a dispersal policy to assist with patrons leaving the premises in an orderly and safe manner shall be devised and maintained regarding the premises. A copy of the dispersal policy shall be accessible at the premises at all times that the premises are in operation. The policy should include (but not necessarily be limited to) the following:
 - i. Details as to how customer / staff egress at the premises shall be managed to minimise causing nuisance.
 - ii. Details of public transport in the vicinity and how customers will be advised in respect of it.
 - iii. Details of the management of taxis to and from the premises.
 - iv. Details of the management of any 'winding down' period at the premises.
 - v. Details of the use of security and stewarding in respect of managing customer dispersal from the premises.
 - vi. Details of road safety in respect of customers leaving the premises.
 - vii. Details of the management of ejections from the premises.

- viii. Details as to how any physical altercations at the premises are to be managed
 - ix. Details of how refuse / waste in the local vicinity arising through the operation of the premises will be cleared up (e.g. flyer clean up, post event clean up).
32. That there shall be no removal of glassware by patrons from the premises at any time.
33. That there shall be no DJ led events at the venue.

Reasons

The licensing sub-committee convened to consider an application for a new premises licence in respect of the premises known as Malibu Restaurant Bar, 229 Old Kent Road, London SE1 5LU.

The licensing sub-committee heard from the licensing officer who outlined the nature of the application and the remaining objections by the environmental protection team (EPT) and the licensing unit. She confirmed that there were no residents objecting and that the premises was not situated in a community impact area (CIA).

She stated, the Metropolitan Police Service “the police” and trading standards had conciliated with the applicant after the applicant agreed to a number of conditions put forward by each responsible authority.

The officer went on to state, there is an existing premises licence in respect of the premises made by another but, that licence had been suspended for non-payment of fees. She confirmed that if the outstanding fees were to be paid against that licence, it would be re-instated.

The licensing sub-committee heard from the applicant. He stated that the business had opened a few months ago and that drinks are primarily served with meals. He confirmed that it was not a nightclub and there was no dancefloor. He described the premises layout consisting of tables and chairs and said he did not provide live music as the premises is quite small.

He accepted that there had been issues with noise nuisance when the business first opened but, those issues had now been resolved. He said that he had a good relationship with his neighbours and the responsible authorities and had run the restaurant using temporary event notices (TENs) during which, the premises had conducted itself appropriately.

In respect of his ambition for the business, he stated that he would like to give his customers the opportunity to have a glass of wine or beer with their meal and that he wanted people to be able to enjoy Spanish cuisine. He went on to say that the premises provided a place for families to get together opining that, it is a

community space. He noted neighbouring establishments were opened until the early hours of the morning and wanted parity.

In answer to the committee's questions, he said that he was not aware of a licence on the premises and that the business had leased the premises from the owner who lived in the flat above it. He said he had leased the premises in September 2023, renovated the building, had no contact with and did not know the previous licensee.

He said that he mainly serves drinks with a substantial table meal however, after 23.00 some people may just want a drink. He said that the main focus would be to serve alcohol with a drink and all patrons will be seated at a table where they would be served by waiting staff. He confirmed that there was a small outside terraced area attached to the premises but that terraced area was not being utilised by the business.

In relation to single use plastics, the applicant explained that after 23.00 he would use single use plastics. He said that the police had insisted when operating under a TEN that the premises use plastic crockery and cups and he followed that advice. He confirmed that the plastics used in the premises were single use. He then went on to agree that he could use re-usable plastics after 23.00.

In response questions regarding advertisements, he stated his patrons would normally walk or use public transport to attend the premises. He agreed that he would emphasise the use of public transport and inform patrons of the various public transport links in future advertising.

The licensing sub-committee heard from the licensing responsible authority officer. The officer stated that the hours applied for were outside of Southwark's statement of licensing policy. He opined that the new licence should mirror the hours set out in the suspended licence and suggested the conditions set out in the representations should be applied to the new licence.

The committee noted that there was a significant number of conditions which were over protective and perhaps, outside the jurisdiction of the licensing unit. The committee asked if there was a particular reasons for those conditions in relation to this particular premises. The officer stated the conditions were standard and went on to say it would be a matter for the committee as to whether it wished to adopt them.

The licensing sub-committee heard from an officer from the EPT. He pointed out that there had been noise nuisance shortly after the premises had opened and a member of the nuisance team attended the premises. At that time the premises was operating under a TEN. That officer determined that there was a statutory noise nuisance emanating from the premises which subsequently led to an abatement notice being served. He confirmed that following the abatement notice being served; the police issued a closure notice after alcohol was being served without a licence or TEN in place. Due to the breaches they objected to a late TEN which led to a counter notice being served.

Following talks with the applicant, EPT decided to give the applicant a chance and stated they would not object to a TEN if they adhered to conditions going forward. Those conditions form part of the EPT representations. The officer stated that since those conditions had been adopted there had been no further complaint from the premises whilst it operated under TENs

The officer went on to state should the committee grant a licence, all 11 conditions should be applied to the licence.

The applicant in answer to questions, confirmed that there was not a sound limiter in place as there isn't a sound system at the premises. He said music is played through the television. He said that there are no plans to get a sound system as the music provided through a TV channel was sufficient for background music for the restaurant.

In summing up all parties reiterated or stood by their/its positions.

After hearing all the parties, the licensing sub-committee retired to deliberate the application. It considered all the conditions put forward by the responsible authorities.

On considering the conditions put forward by the police it noted that it had a condition relating to off-sales. As the application did not relate to off-sales, the committee deleted that condition.

The committee were taken aback by the applicant's statement that the police had encouraged and advised the use of single use plastics in place of crockery and glassware. The committee saw no good reason why a restaurant would be advised to not use crockery and glassware and, felt that this approach was the contrary to the council's approach taken in its climate change strategy. The committee was shocked and disappointed that this contrary approach was being adopted by the premises. The committee went on to recommend that the applicant use crockery and glassware at all times but, where this is not possible, use its best endeavours not to use single use plastics wherever possible.

The licensing sub-committee also considered that it would be prudent for the applicant to give better particulars of public transport links via its promotional platforms to enable patrons to better plan their journeys to and from the premises.

It considered all the conditions put forward by the EPT and found them to be proportionate. The committee were impressed and satisfied that these conditions had contributed to reducing noise nuisance emanating from the premises.

The committee found the conditions put forward by the licensing unit to be particularly arduous, ill-considered and not specifically relevant to the premises. On that basis, a number of those conditions were not considered proportionate and were subsequently disregarded.

Overall, it took the view, the objections raised could be allayed by imposing the conditions which it did.

The licensing sub-committee formed the view that the revised conditions were proportional, would promote the licensing objectives and allay the concerns put forward by the environmental protection team and the licensing responsible authority whilst allowing the applicant to grow his business.

In reaching this decision, the sub-committee had regard to all the relevant considerations, the public sector equality duty 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 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.

The meeting ended at 3.00pm.

CHAIR:

DATED: