



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 1 August 2024 at 10.00 am at Online/Virtual

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Barrie Hargrove
Councillor Andy Simmons

**OTHER
AUTHORTIES
PRESENT:** None

**OFFICER
SUPPORT:** Toyin Calfos, legal officer
Jayne Tear, licensing officer
Anusyutha Krishnan, licensing unit support officer
(observing)
Gerald Gohler, 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.

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: THE KERNEL TAPROOM, 132 SPA ROAD, LONDON SE16 3AE

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

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

Other Persons 5, 9, 10 and 11 addressed the sub-committee and responded to questions from members of the sub-committee.

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

The meeting adjourned at 11:32am for the sub-committee to consider its decision.

The meeting reconvened at 12:12pm and the chair advised attendees of the decision.

RESOLVED:

That the application made by The Kernel Taproom Ltd. for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as The Kernel Taproom, 132 Spa Road, London, SE16 3AE is granted as follows:

Supply of Alcohol (on Sales)	Monday to Sunday from 09:00 to 22:30
Supply of Alcohol (off Sales)	Monday to Sunday from 09:00 to 23:00
Opening hours	Monday to Sunday from 09:00 to 23:00

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 J, K, L, and M of the application form and the conditions agreed with the Metropolitan Police Service, Trading Standards and the Licensing Unit during the conciliation process, and the following additional conditions as agreed by the licensing sub-committee:

1. That the applicant agrees to replace the entrance doors of the premises to double doors with a vestibule in between to limit noise nuisance prior to opening the Kernel Taproom to paying customers.

2. Condition 31 amended as follows

That any external areas of the premises will be closed to customers between 21:30 hours and 09:00 hours the following day, except for up to a maximum of 7 people at any one time using the external areas after 21:30 hours to smoke only. No open drinks shall be permitted into any external area after 21:30 hours.

3. That there be an outside capacity limit of patrons of 30 persons maximum up to 21:30 hours.

4. That any outside furniture is to be rendered unusable or stored indoors by 22:00 hours each day.

5. That the applicant have regular meetings with the residents of Dockley Apartments and other neighbouring residents to discuss issues that may arise.

6. The applicant is not permitted under this licence to use home delivery services without applying for a variation to the licence.

Reasons

The licensing sub-committee convened to consider an application for a new premises licence in respect of the premises known as The Kernel Taproom, 132 Spa Road, London, SE16 3AE.

The licensing sub-committee heard from the licensing officer who outlined the nature of the application and the remaining objections from 15 other persons who were primarily concerned about the potential noise nuisance, public safety and crime and disorder. She confirmed the applicant had conciliated with the Licensing Unit, the Metropolitan Police Service and Trading Standards after the applicant agreed to a number of conditions put forward by them. After conciliation, one Other Person withdrew their representation. She went on to say the premises was not situated in a cumulative impact area, that the hours applied for were consistent with Southwark's Statement of Licensing Policy 2021-2026 and; the premises is located in a residential area.

The licensing officer confirmed that the applicant had run a similar business locally and there had been no complaints from the Responsible Authorities or Other Persons.

The licensing sub-committee heard from the applicant.

He stated that he set up The Kernel Brewery 15 years ago and, moved to its current site about 12 years ago. He opened the taproom five years ago and has held a licence throughout that time. He said his current premises is local to the new premises. During his time running his establishments, he has never had a complaint. He opined, his business has been a good thing for the area and, in essence all he was doing is moving the business some 50 metres to a new space. He said that he was asking for a licence that extended his current licence hours by 30 minutes.

In relation to the representations made, he believed most of them were already dealt with as he has a premises nearby which he operates responsibly. In terms of the new premises, he believed that the additional conditions agreed with the Responsible Authorities including a reduction in hours would allay the concerns raised by Other Persons.

Currently, at his present site, he stated that despite having longer hours on the licence, the actual opening hours are 15:00 - 22:00 hours, Wednesday to Friday. Mondays and Tuesdays the premises is closed and on Sundays, he is open from midday until 20:00 hours. He said the early opening times are more for takeaway sales which is usually busy on Saturday mornings.

In relation to the objections that had been put forward, he said that he did not plan to change the opening hours at the new site. He also mentioned that some of the objections failed to note he already has a bar locally and had done so for the last five years which, he said, was a good thing. He anticipates no change in the level of footfall and trade should the business move.

The new premises has more seating and air conditioning which would encourage people to sit inside. He went on to describe the premises as a seated venue as opposed to a standing upright bar.

The sub-committee queried why, in a purpose built building, there were several objections suggesting the correct planning permissions were not in place. A committee member pointed out that planning and licensing were separate, distinct regimes, and planning permissions would not be considered during the deliberation process, he further explained that that would be a matter for the planning team. The committee member expressed surprise that planning permissions could potentially be an issue in a purpose built building. The committee member went on to inform that the business could not operate lawfully if the correct planning permission was not in place.

In answer to the sub-committee's question, the applicant's landlord and developer stated that they had applied for the correct permissions when the building was being built however, planning regulations subsequently changed. Having taken further advice from their planning advisors, they had been told; as there was food being served it was not just a bar and so the unit did have the right planning permission in place.

In relation to the children's play area, he confirmed that there was a small play area within the development, which is only accessible to residents. He said that the bar faces away from the play area so the play area is not overlooked. He accepted some chatter may be heard in the play area but believed the 10 meter distance between the play area and the back of the premises, would not cause an issue to people using the space.

The applicant confirmed that they would be willing to consider reducing the on sale hours further so that drinking would not start at 09:00 hours.

The applicant confirmed that he had agreed with the Responsible Authority that patrons could be outside drinking until 22:00 hours. He stated, around 30 people could use the outside space/pavement. He then agreed to a capacity limit of 30 people. He told the sub-committee the main business is the brewing of beer, but the taproom is a separate entity which is also owned by the brewery. At the taproom, there would be small-scale sales with no deliveries leaving the premises and, they do not use food/drinks delivery services.

He confirmed that the premises do not use single use plastics.

He confirmed that he would be willing to change the entrance doors of the premises to double doors with a vestibule in between to eliminate, as much as possible, noise escape.

The applicant stated that they had built a full kitchen which can cater to 80-90 covers an evening, whilst the menu has not been settled the applicant hopes to work with a number of pop up companies/chefs. He went on to say that he planned to apply for a pavement licence so that they can have outside furniture. He confirmed that there is space within the premises where outside furniture can be stored away.

The applicant agreed a condition whereby bottling would not take place between 21:00 and 09:00 hours. He said drinks would normally come from kegs into glasses.

The applicant stated he would be willing to have regular meetings with the residents to alleviate concerns they may have about the premises being in close proximity to their homes. He stated that he wanted to foster a good relationship with his neighbours and wants to take their concerns seriously. He went on to say he would hope that they would one day, become patrons. He also confirmed that the building has good soundproofing so noise would not travel up the building. He agreed to keep noise levels under review.

The licensing sub-committee then heard from the Other Persons objectors who were mostly residents.

In essence, they raised concerns about public nuisance, in particular, the number of intoxicated persons who would congregate by the main entrance to the resident's flats due to the premises' close proximity. It was suggested that patrons from other establishments already gathered from time to time outside the residential flats and it was felt that this problem would likely get worse once the premises opens, due to its close proximity to the residential homes. Another raised a concern that the congregation of intoxicated persons outside the main entrance is intimidating to lone females and potentially, other vulnerable residents returning home in the evening. In addition, a concern was raised that a noise nuisance will arise from these persons.

It was also suggested that 10 smokers using the outside area after 22:00 hours was too much and would create a noise nuisance as the bar is directly below a number of properties that would be effected by noise travelling from the premises.

It was stated that the 30 persons limit was too much. It was believed that 30 persons would not be a suitable or sustainable number as the pavement outside the venue is quite narrow and concerns were raised that there was a real risk that patrons would drift away from the boundary of the premises. One resident stated that the pavement area is not large enough to accommodate tables and chairs without causing inconvenience to other pedestrians. It was also said that 30 persons would create quite a lot of noise for the residents in the immediate surrounding properties.

The Chair pointed out to the resident(s) that any tables or chairs placed by the premises would be regulated by a pavements licence. She stated that a table and chairs assessments would be carried out before a pavement licence was granted.

A resident stated there were two playgrounds in quite close proximity to the venue, the second playground being on a nearby road. The area is highly residential and it was not good to have a bar in that particular location which would be more suited to a 9-5 business.

One resident suggested that the applicant runs a brilliant brand and that they have been a good neighbour but raised concerns as to how the noise after 21:00 hours would be managed and suggested the hours they currently run is appropriate. This resident wanted an active strategy to manage noise nuisance.

A committee member explained the three potential decisions the sub-committee could make at the conclusion of the meeting. He then asked if there were any restrictions they would like the sub-committee to consider which could make the application more tolerable.

A resident stated that not having noise emanating from the outside of the premises after 21:00 hours would make a radical difference to residents. Another stated that 10 smokers was too much for the location and would likely cause too much noise.

In response to the residents' concerns, the applicant stated that he did not object in principal to lowering the number of smokers to 8 or possibly 7 people. He said that if everyone is to be indoors he would be happy to close the outside space at 21:30. He confirmed that he had agreed with the Responsible Authority that drinks are not to be taken outside whilst smoking after 22:00 hours.

Finally, a resident stated that they would like the applicant to be active in ensuring that patrons do not stray from the designated area.

In summing up, the applicant stated that when outside, the area that patrons are permitted to be in would be delineated clearly and that area would be policed. He stated that he does this already and would do it more diligently in the new space. In terms of noise, he stated he would monitor things and would take feedback from his neighbours.

After hearing all the parties, the licensing sub-committee retired to deliberate and consider the application, representations and all the potential conditions put forward.

The licensing sub-committee were impressed with the applicants wish to accommodate the objectors and were heartened that the applicant stated that patrons would be actively managed to ensure that they stayed within the bounds of the outside designated area. They also noted that the applicant's current premises had been managed without complaint.

Upon considering the objections and conditions agreed; the licensing sub-committee were persuaded that the objections raised could be allayed by the imposition of further conditions. The most pressing of which, concerned the management of noise nuisance.

1. To that end the sub-committee conditioned that the applicant replaces the entrance doors of the premises to double doors with a vestibule in between, to limit noise nuisance prior to opening the Kernel Taproom to paying customers. This was conditioned with a view to reducing noise escape as

patrons entered and left the premises.

2. They reduced the hours patrons are permitted to be outside by 30 minutes and amended Condition 31 to:

That any external areas of the premises will be closed to customers between 21:30 hours and 09:00 hours the following day except for up to a maximum of 7 people at any one time using the external areas after 21:30 hours to smoke only. No open drinks shall be permitted into any external area after 21:30 hours.

3. The sub-committee felt that there should be an outside capacity limit of 30 persons up to 21:30 and;
4. That outside furniture should be rendered unusable or stored indoors by 22:00 hours each day to limit persons/passers-by using the outside seating area to congregate outside the residential blocks
5. The sub-committee thought that it would assist all the concerned parties to have regular meetings to discuss issues that may arise. To that end it conditioned the applicant to have regular meetings with the residents of Dockley Apartments and other neighbouring residents to discuss issues that may arise.
6. As the applicant had stated that he did not use home delivery services, the sub-committee mindful of the noise that emanates from mopeds, cars and other transportation vehicles conditioned that the applicant is not permitted under this licence to use home delivery services without applying for a variation to their licence.

In reaching its decision, the licensing sub-committee had regard to all the relevant considerations, the four licensing objectives and; considered that its decision was appropriate and proportionate in all the circumstances

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

Issued by the Constitutional Team on behalf of the Assistant Chief Executive - Governance and Assurance.

The meeting ended at 12.18pm.

CHAIR:

DATED: