



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 12 September 2024 at 10.00 am at Online/Virtual

PRESENT: Councillor Suzanne Abachor (in the chair)
Councillor Barrie Hargrove (reserve)
Councillor Sunny Lambe

**OTHER
AUTHORITIES
PRESENT:** P.C. Mark Lynch, Metropolitan Police Service

**OFFICER
SUPPORT:** Debra Allday, legal officer
Charlotte Precious, legal officer
Andrew Heron, licensing officer
Jayne Tear, licensing officer
Wesley McArthur, licensing responsible authority officer
Ken Andrews, environmental protection officer
Charlie Jerrom, trading standards officer

1. ELECTION OF THE CHAIR

The clerk opened the meeting at 10.12am.

Councillor Suzanne Abachor was nominated by Councillor Barrie Hargrove to be the chair for the meeting. This was seconded by Councillor Sunny Lambe.

2. APOLOGIES

The chair explained to the participants and observers how the meeting would run.

Everyone then introduced themselves.

Apologies were received from Councillor Maria Linforth-Hall. Councillor Barrie Hargrove was in attendance as the reserve member.

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 none.

5. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

At this juncture, the chair advised that the order of business would be varied to hear item 7 first. This was agreed by the other members of the sub-committee.

6. LICENSING ACT 2003: THE ARZNER, 10 BERMONDSEY SQUARE, LONDON SE1 3UN

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

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

An other person objecting to the application addressed the sub-committee. Members had questions for the other person.

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

The meeting adjourned at 12.55pm for the sub-committee to consider its decision.

The meeting reconvened at 1.15pm and the chair advised the attendees of the decision.

RESOLVED:

That the application made by Revolting on Screen Ltd for a premises licence to be granted under s.17 of the Licensing Act 2003 in respect of the premises known as The Arzner, 10 Bermondsey Square, London SE1 3UN be granted as follows:

1. Plays (indoors):

- Sunday to Wednesday: 10:00 to 23:00
- Thursday to Saturday: 10:00 to 00:00

2. Films (indoors):

- Sunday to Wednesday: 10:00 to 23:00
- Thursday to Saturday: 10:00 to 00:00

3. Live Music (indoors):
 - Sunday to Wednesday: 10:00 to 23:00
 - Thursday to Saturday: 10:00 to 00:00
4. Recorded music (indoors):
 - Sunday to Wednesday: 10:00 to 23:00
 - Thursday to Saturday: 10:00 to 00:00
5. Performances of Dance (indoors):
 - Sunday to Wednesday: 10:00 to 23:00
 - Thursday to Saturday: 10:00 to 00:00
6. Late night refreshment (indoors):
 - Thursday to Saturday: 23:00 to 00:00
7. Supply of alcohol (off the premises):
 - Sunday to Wednesday: 10:00 to 23:00
 - Thursday to Saturday: 10:00 to 00:00
8. Supply of alcohol (on the premises):
 - Sunday to Wednesday: 10:00 to 22:30
 - Thursday to Saturday: 10:00 to 23:30
9. Opening hours:
 - Sunday to Wednesday: 10:00 to 23:00
 - Thursday to Saturday: 10:00 to 00:00

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, any conditions derived from the operation schedule highlighted in Section M of the application form and the conditions agreed with trading standards and licensing as responsible authorities during conciliation.

Reasons

On 9 July 2024 Revolting on Screen Ltd applied under section 17 of the Licensing Act 2003 for a premises licence in respect of the premises known as The Arzner, 10 Bermondsey Square, London SE1 3UN.

The licensing officer updated all parties regarding errors within the report: firstly in respect of the hours that had been applied for, secondly in respect of the history of the premises.

The applicant considered cinemas to be a culturally important space for Londoners, they explained that their intention was to create a commercially viable business giving residents and visitors access to art house and independent films. They ran another licenced premises within the borough and The Arzner would provide a doubling of LGBTQ+ venues within the area. They would be the only LGBTQ+ cinema in London, operating as a safe space for all in one of the most densely populated LGBTQ+ areas of the country.

The premises was previously licenced but the licence holders went into administration, losing the licence before it was able to be transferred. The applicant was keen to highlight that the presence of a cinema was a planning requirement placed upon the building when it was first built.

They envisaged any live music or dancing would accompany a premiere or a press night, at the request of somebody that was hosting an event. They emphasised that they did not intend to be a live music venue and did not have space for a stage or a band.

The applicant detailed the layout of the building, explaining that the screening area had 50 seats and they hoped that people would use the bar before and after screenings, as well as some other customers. The outside area was approximately one and half picnic benches long and there were physical barriers to indicate this. No resident doors were close to the premises.

Three other persons submitted written representations in advance of the hearing, two of which were residents within the area and the other was submitted by the Bermondsey Square Recognised Tenants Association (RTA). The sub-committee gave these careful consideration.

A representative for the RTA was in attendance at the hearing, they explained that the RTA were very supportive of a cinema being in the square and considered it a real cultural hub. They welcomed the diversity an LGBTQ+ cinema would bring but were concerned in respect of noise nuisance that may result from the cinema, particularly when using any outside space. Many families with small children and babies resided in the block and they wished to limit live music, dancing and late operating hours.

The outside space was shown to the sub-committee and concerns were predominantly raised in respect of another premises, and whether The Arzner would add to the nuisance already suffered.

The sub-committee noted that the responsible authorities had withdrawn their representations after extensive conditions had been agreed with the applicant. These included conditions preventing the use of the outside space after 22:00 hours, which is compliant with the Southwark statement of licensing policy 2021-2026 (SOLP).

It had also been agreed that a sound limiting device would be installed at the premises, calibrated so that the level of amplified sound would not cause a statutory or public nuisance. It was further noted that no complaints had been made about the premises prior to the previous licence expiring.

The sub-committee were satisfied that the conditions imposed would address the concerns raised in respect of public nuisance. The applicant was an experienced venue runner who appeared to appreciate the concerns of the residents; in order to assist with strengthening the relationship with residents and addressing any issues that arise, the sub-committee recommended that the premises regularly liaise with the RTA.

In reaching this decision the sub-committee had regard to all of the relevant considerations, the four licensing objectives and the public sector equality duties 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 desires to contend:

- a) That the licence ought not to have been granted; or
- b) That, on granting the licence, the licensing authority ought not 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.

7. LICENSING ACT 2003: BARRIO LATINO, ARCH 183, 30 MANOR PLACE, LONDON SE17 3BB

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

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

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

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

The trading standards officer addressed the sub-committee. Members had questions for the trading standards officer.

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

Other persons objecting to the application addressed the sub-committee. Members had questions for the other persons.

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

The meeting adjourned at 12.00pm for the sub-committee to consider its decision.

The meeting reconvened at 12.22pm and the chair advised attendees of the decision.

RESOLVED:

That the application made by Barrio Latino Management Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Barrio Latino, Arch 183, 30 Manor Place, London SE17 3BB be refused.

Reasons

This was an application for a premises licence made by Barrio Latino Management Limited in respect of the premises known as Barrio Latino, Arch 183, 30 Manor Place, London SE17 3BB.

The licensing sub-committee heard from licensing officer who outlined the application for members. The applicant was Barrio Latino Management Limited, whose directors were listed as Lina Maria Ospina Usma and Luis Felipe Tilleria Limongi. The proposed designated premises supervisor (DPS) was listed on the application as Sergio Esteban Perez de la Cruz, who was also the manager of the

premises. The manager was also listed as the correspondent for the application. However, following the premises being found to be trading illegally the officer spoke with the directors who advised all correspondence should be sent to details to Lena Maria. It had appeared that the manager, was no longer involved with the business. However, the licensing officer had subsequently received an e-mail from him asking for an update about the application. It appeared to the officer that the DPS was still working at the premises.

The licensing sub-committee heard from the applicant, who from the outset apologised for the premises operating illegally and advised that the proposed DPS, Sergio Esteban Perez de la Cruz ("the DPS") was no longer working there. It was believed that he had experience in running a nightclub and the applicant had relied upon his experience.

It was believed that there were sufficient temporary event notices (TENs) to run the premises whilst the licence application was being processed, which it transpired, was not the case. The director again apologised for the oversight, stating that she had no experience in running a nightclub and admitted that she did not know about the number of TENs that were permitted each year.

Although the premises was described as a nightclub, it was more a cultural space for the Latino community. Since the incident in July 2024, a new manager had been appointed and together they were trying to correct the many mistakes that had been made.

It was accepted that the new manager did not have experience as a manager running a nightclub but had worked in nightclubs. The applicant also accepted it had not contacted any of responsible authorities because they had been trying to resolve the situation with the manager.

The licensing sub-committee heard from the Metropolitan Police Service officer whose representation was based on the crime and disorder licensing objective. The officer explained that to access the premises, customers were required to pass several residential buildings and police believed this would add to the anti-social behaviour already suffered by residents, especially in the early hours. The location was not suitable for a nightclub and the hours far exceeded those recommended in Southwark's statement of licensing policy 2021-2026 (SoLP).

The officer then explained that on 30 July 2024 police and officers from the council's trading standards team visited the premises and found it operating, with sales of alcohol and regulated entertainment taking place when neither a premises licence nor a TEN was in place. This demonstrated a disregard to the licencing process. The DPS was the person in charge and fully aware of the TENs regime, having submitted ten since 25 December 2023.

It appeared that the applicant company was unaware the premises had been operating as a nightclub for a significant period, nor did it have any contact with the DPS during that period. The police were then informed that the applicant's

director, Lina Maria Ospina Usma was to be the named correspondent for the application, but had failed to return any phone calls or emails so conciliation was not possible.

The licensing sub-committee then heard from the officer for the environmental protection team (EPT) who informed the sub-committee that they objected to the application on the prevention of public nuisance licensing objective. The premises was in close proximity to residential properties and would significantly impact the quality of life for residents in these areas with the noise generated by patrons entering/leaving the premises, particularly during the early hours of the morning.

The EPT officer advised that the location was noise sensitive for residents and noise complaints had already been received. To promote the prevention of public nuisance licensing objective, EPT recommended that the operational times should be brought in line with the SoLP and a noise impact assessment needed to be provided to determine the suitability of the premises for the proposed activities and the appropriate level for a noise limiter to be set. The officer confirmed that there had been no dialogue between him and the applicant and no noise assessment report had been forthcoming.

The licensing sub-committee heard from the trading standards officer who stated that his representation was in respect of all the four licencing objectives, but primarily the protection of children from harm. The officer also referred to the incident of the premises operating without a licence on 31 July 2024. Although trading standards had proposed some conditions, the applicant had failed to make any contact with any counter-proposals or whether they would accept the suggested conditions.

The licensing sub-committee then heard from licensing as a responsible authority, whose objection related to all four of the licensing objectives. The officer stated that the closing times applied for exceeded those recommended in SoLP. If the premises licence were granted, the officer stated that the operating hours should be curtailed so that they are within policy hours.

The officer explained that the conditions offered in the application did not sufficiently address the licencing objectives and therefore suggested a number of conditions should the licence be granted or whether additional conditions being required given the residents' concerns. The DPS had agreed the proposed conditions, this was done at a time when the applicant advised that he was not employed by them.

With the premises having already operated illegally prior to a licence being granted, the officer was not confident that the Applicant would operate compliantly in the future.

The licensing sub-committee then heard from the other persons who had submitted objections to the application (namely other persons C, F, J, H and I). Collectively, the other persons informed Members that there were many licensed

premises or shops on the High Street. However, Manor Place was very quiet, so it was strange that a nightclub would consider opening there. The area was noise sensitive and residents could hear patrons chatting.

The premises had already had a detrimental impact on residents in terms of the residents' ability to sleep because of the noise and drunken patrons every night. During the summer months it was not possible to keep the windows open at night. There was also a big issue with littering.

The premises had already operated without a licence, so the residents did not have any confidence that they would comply with licence conditions in the future. The resident only foresaw the premises as not causing a public nuisance if there was no sale of alcohol permitted.

Other person H stated that they lived 30 metres from the entrance to the premises. The noise from the venue was a public nuisance and occurred when people enter and exit the venue in addition to them loitering on the street outside after the premises closes. Complaints had been made to the management of the nightclub, but nothing had changed. The area was residential with vulnerable people at the Manor Place hostel, very close by. They further stated that it was not possible to open their windows at night because the noise was so intrusive.

The licensing sub-committee noted the representations from the five other persons who were not in attendance at the hearing. It also viewed the video footage provided by other person J.

This was an application for a premises licence in respect of a nightclub at Barrio Latino, Arch 183, 30 Manor Place, London SE17 3BB. The hours applied for had proposed closing hours of Sunday to Thursday until 03:00 and Friday and Saturday until 04:00.

In accordance with Southwark's SoLP, the premises was located in Elephant Castle, major town centre area. The recommended closing hours for nightclubs (with sui generis planning classification) for the location are: Monday to Thursday until 01:00 and Friday and Saturday until 03:00. Under the SoLP, the hours applied far exceed the recommended closing hours for the area.

Elephant and Castle is classified as a major town area in the SoLP, where the wider area was busy. However, the premises is located on Manor Place, which is a very quiet area, with a lot of residential dwellings. It does not have a lot of vehicular traffic, nor does it have a lot of pedestrian traffic aside from local residents.

From the outset, the applicant admitted they had no experience running a nightclub. All matters were left to the DPS. The premises operated under TENs that were submitted by the DPS and no measures were put in place to alleviate the impact the premises had on local residents. The premises was then found to be operating unlawfully on 14 July 2024 when the annual quota had been reached.

In spite of this, the DPS was permitted to continue in his role, until relatively recently. The applicant stated that the DPS no longer worked for them and that a new manager was now in place. It was noted that the new manager had no managerial experience in running a nightclub. It was also unclear whether the new manager had a personal licence.

The application submitted on 28 May 2024 lacked any robust control measures that the sub-committee would expect for a nightclub. Neither the directors from the applicant company, the DPS nor the new manager engaged with the responsible authorities or reach out to residents to address their concerns. The sub-committee also did not hear from the new manager concerning any proposed changes or how she intended the on promoting the licensing objectives.

Members were also concerned that although the applicant stated the DPS no longer worked for them, he continued to e-mail the licensing unit for an update about the application, giving the impression he still worked at the premises.

Nightclubs, by their very nature are late night venues and can be extremely challenging to manage when in operation at night and into the early hours of the morning and can be difficult to operate compliantly, even for the more experienced licensee. The premises committed a criminal offence (on 17 July 2024), showing either an ignorance or blatant disregard to the Licensing Act 2003.

Aside from changing management of the nightclub, the applicant failed to provide any specifics of the operational changes made since the DPS had left the company, nor did it propose any additional proposed conditions, to ensure a compliant running premises. The licensing sub-committee therefore had no confidence in its ability to run the premises.

In reaching this decision the licensing sub-committee had regard to all the relevant considerations, its equality duties 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:

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The meeting ended at 1.20pm.

CHAIR:

DATED: