



## NOTICE OF DECISION

### LICENSING SUB-COMMITTEE – 4 MARCH 2021

#### SECTION 51 LICENSING ACT 2003: LANT STREET WINE COMPANY, 59-61 LANT STREET, LONDON SE1 1QN

#### 1. Decision

That the council's licensing sub-committee, having considered an application made under Section 51 of the Licensing Act 2003 by a local resident for the review of the premises licence issued in respect of Lant Street Wine Company, 59-61 Lant Street, London SE1 1QN and having had regard to all relevant representations, has decided to modify the premises licence by adding the following conditions:

#### 2. Conditions

1. That a CCTV system be installed at the premises and be maintained in good working order and be continually recording at all times the premises are in use under the licence. The CCTV System must be capable of capturing a clear facial image of every person who enters the premises.
2. That all CCTV footage be kept for a period of 31 days and shall on request be made immediately available to officers of the police and the council.
3. That a member of staff should be on duty at all times the premises is open that is trained in the use of the CCTV and able to view and download images to a removable device on request of police or council officer.
4. That all staff are trained in their responsibilities under the licensing act 2003 and training records to be kept and updated every six months and shall, upon request, be made immediately available to officers of the police and the council.
5. That signs shall be displayed in the window with the telephone number of the manager on duty.
6. That a personal licence holder will be on the premises at all times when intoxicating liquor is being offered for on sales.
7. That there shall be no on sales of alcohol at the premises until a scheme of noise isolation has been submitted to the EHO and approved. The details of the scheme thus approved shall be implemented in full and maintained permanently thereafter. The scheme shall ensure that a minimum airborne sound insulation of 55dB DnT,w + Ctr is provided between the ground and first floor premises.

Furthermore the solution shall ensure that a noise level of 25dBA  $L_{eq5mins}$  is not exceeded in the first floor flat above the premises due to noise from the use of the premises.”

Access is to be provided to the first floor flat in order to establish:

- a) Existing base line performance.
- b) Performance level achieved and efficiency of measures during works phase.
- c) Final performance following completion of works.

If such access is not provided then the level will be deemed acceptable and satisfied in full and on sales of alcohol shall be permitted to be carried out at the premises.

The resident of the first floor flat above the premises will cooperate with providing of access to his premises, the request of which will be made in writing giving seven days notice.

### **3. Reasons**

This was a review of the premises licence of Lant Street Wine Company, 59-61 Lant Street, London SE1 1QN which was brought by a local resident (the applicant).

The applicant addressed the licensing sub-committee and explained that they were the person most directly affected by the premises. They advised that they had been a resident in the building for many years and that the complaint related solely to the warehouse premises at number 59 Lant Street. The operation of the shop at 61 Lant Street had caused no problems that warranted any complaint.

The applicant gave a background to the complaint and advised that the premises had failed to advertise the variation application in 2019 which concerned the warehouse and as a result, the applicant was unaware of the variation application and was unable to submit any representations opposing the application. The applicant further stated that the 2019 application was not valid and that the subsequent grant of the licence breached planning consent.

The applicant advised that a noise abatement notice had been issued in 2019 and since this time, it had been breached on at least 11 occasions. The construction and the use of the warehouse was such that it caused a public nuisance. A Planning Enforcement Notice had been served in November 2019 and since that time, the applicant had received two threats and on one occasion had been assaulted by someone from the premises. The applicant therefore sought a revocation of the premises licence in respect of the warehouse at 59 Lant Street.

When asked by the sub-committee, the applicant advised that due to construction of the warehouse, everything in the warehouse could be heard, even down to hearing bottles of wine being opened. In 30 years prior to the grant of the licence in respect of the warehouse, there were no complaints, particularly in respect of noise.

The officer representing licensing as a responsible authority informed the sub-committee that her representation related to the promotion of the prevention of crime

and disorder and the prevention of public nuisance licensing objectives and has regard to the Southwark statement of licensing policy 2021-2026. She advised that the licensing team had received complaints from the applicant regarding this premises and noise issues, breaches of licence conditions and unlicensed activities taking place.

The officer stated that the premises had been visited and warnings letters sent to the licensee regarding a breach of condition 307 (the accommodation limit of 32 patrons) and on 22 November 2019 an officer witnessed a breach of condition 340 (written dispersal policy) and condition 4AB (training in the sale of alcohol to prevent underage sales and the operation of a challenge 25 scheme).

The licensing sub-committee then heard from the Metropolitan Police Service who advised that extensive searches had been undertaken but the crime recording systems did not produce any further crime reports than those referred to by the applicant in both his review application and those mentioned in his verbal submissions. The officer stated that he would welcome specific best practice conditions being added to the licence which would ordinarily be included on a premises licence.

An officer from the environmental protection team (EPT) informed the licensing sub-committee that the first complaint received by the licensing team was on 1 October 2019 and the first complaint to the noise team was on 11 October 2019, both of which alleged public nuisance created as a result of carrying out licensable activities at 61 Lant Street.

They advised that a noise team officer attended the applicant's property on 8 November 2019 and witnessed a statutory noise nuisance from activities associated with the 61 Lant Street premises, which was described as follows:

“The level of the music witnessed would affect the quiet enjoyment or use of the complainant's property” and the music “felt as if the song was being played from within the complainant's property”.

As a result, a section 80 Environmental Protection Act 1990 statutory noise nuisance abatement notice, was served on 11 November 2019. No further statutory noise nuisance had been witnessed by the noise team since this time.

The EPT officer went on to advise the sub-committee that planning permission for a “temporary change of use to premises at the front of no 59, to hold public wine tastings (Use Class A4) for a three year period, subject to hours of operation conditions and other conditions” was currently the subject of appeal and that an Enforcement Notice had been issued in November 2020, which is also subject to an appeal by the premises. Currently, the premises has no planning permission in place for the use of the premises as a drinking establishment.

The legal advisor enquired of the EPT officer, that whilst a statutory noise nuisance had been witnessed and a Section 80 noise abatement notice issued, whether the noise witnessed could amount to a public nuisance. The officer confirmed that numerous residents lived in close proximity to the premises and there was a concern that public nuisance could be caused to numerous residents in close proximity to 59 Lant Street if the premises licence were permitted to continue operate as currently granted. The

officer supported the review application and sought a suspension of the licence until the substantial insulation works could be undertaken.

The licensing sub-committee noted that the planning team had submitted comments detailing enforcement action against the premises. The comments did not relate to any of the licensing objectives and were submitted for the committee's information only.

The representative for the premises informed the sub-committee that the premises was well established for over 30 years and that 61 Lant Street had been closed as any kind of bar since December 2019, when the enforcement notice had been issued. Once the planning and insulation issues had been resolved, it was the premises intention to continue the tasting events. Many of the events were private parties where a fee was paid for a wine critic to attend and the provision of wine was free.

They further added that the representatives from licensing as a responsible authority and the Metropolitan Police Service had both submitted neutral representations and were essentially requesting the addition of 'best practice conditions'. Whilst it was accepted that an enforcement notice was in place, there had been no enforcement action taken in respect of the notice.

The premises stated that there was an argument as to whether the noise complained of did amount to a public nuisance. Regardless of this, the premises sought an amicable resolution to issues. There was discussion of the sub-committee removing the activity of amplified music, which the premises were agreeable to, but it was felt that this would not resolve the noise insulation problem. The premises had instructed an acoustic expert and had drafted a condition, which the EPT officer was unable to agree, as it required access to the applicant's residence.

During the discussion stage of the sub-committee meeting, the applicant said that they would agree access. The premises also accepted that Southwark had declared a climate emergency and agreed to refrain from using single use plastics and adhering to The Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020.

The licensing sub-committee then heard from local residents, parties seven, thirteen, and fifteen who supported the premises. The local residents all stated that they were surprised that the review application related to noise, when none of them had been disturbed. One of the local residents (party 13) lived directly above 61 Lant Street. These residents spoke passionately about the premises, stating it brought a sense of community to Lant Street and that at all times the premises had been very quiet and no music or loud sounds had been witnessed by them.

The licensing sub-committee noted the further 14 written representations submitted by local residents in support of the premises.

The licensing sub-committee were concerned whether the noise complained of did amount to a public nuisance, given that there was only one complainant who never complained of general "warehouse noise" prior to the 2019 variation application. However, given the significant number of local residents in the vicinity of the premises, the sub-committee were of the opinion there was the 'potential' to cause public nuisance as explained by EPT.

The suggestion by EPT to suspend the premises licence until the insulation works had been completed was not an option to licensing sub-committee as under section 52(4)(d), a suspension may only be imposed for a maximum of three months.

Concerning the specifics of the proposed insulation, the sub-committee were mindful, that these were a matter for planning, which is a separate regime to licensing. The premises planning status is currently being resolved via the appeal process.

The condition concerning the insulation works was offered by the premises. With the applicant's agreement to allow access it is hoped that the parties are able to move forward more harmoniously. Whilst the planning committee is not bound this decision, this committee sees the condition concerning the insulation works as advancing paragraph 101 of Southwark's statement of licensing Policy 2021-2026 that: "This Authority will look to ensure proper integration with the planning regime".

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

#### **4. Appeal Rights**

This decision is open to appeal by either:

- a) The applicant for the review
- b) The premises licence holder
- c) Any other person who made relevant representations in relation to the application

Such appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court for the area within the period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

This decision does not have effect until either

- a) The end of the period for appealing against this decision; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

Issued by the Constitutional Team on behalf of the Director of Law and Governance

Dated 4 March 2021