



L I C E N S I N G S U B C O M M I T T E E D

Thursday 17 August 2023 at 2.00pm

Supplementary papers: Item 4 Minutes of previous meetings

Members of the Sub-Committee:

Councillor Yvonne Maxwell
Councillor Gilbert Smyth

Dawn Carter-McDonald
Interim Chief Executive
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Licensing Sub Committee D

Thursday 17 August 2023

Supplementary papers: Item 4 Minutes of previous meetings

4 Minutes of the Previous Meeting (Pages 3 - 21)

Sub-Committee to consider and approve the minutes of the following Licensing Sub-Committee meetings held on:

- 28 June 2023: and
- 13 July 2023

MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE B

WEDNESDAY 28 JUNE 2023

THE LIVESTREAM OF THE MEETING CAN BE VIEWED HERE:

<https://youtube.com/live/ZjnvGcz7mEI>

Councillors Present: Cllr Gilbert Smyth in the Chair
Cllr Midnight Ross and Cllr Joe Walker

Officers in Attendance: Amanda Nauth, Licensing Lawyer
Suba Sriramana, Principal Licensing Officer (acting)
Gareth Sykes, Governance Officer

Also in Attendance: Cllr Christopher Kennedy (Observing)
Cllr Yvonne Maxwell (Observing)

Item 6 Application for a Premises License: Heart of Hackney, 255 Mare Street, London, E8 3NS

Applicant

Shaun Murkett, Agent for the applicant
Aziz Ozdemir, applicant

Other persons

C1: Filipe Fonseca
C2: Melinda Thompson
C5: Ed Burgess
C8: Matteo Izzi

Item 7 Application for a variation to a Premises Licence: The Doner Store, 468 Kingsland Road, Hackney, London, E8 4AE

Applicant

Mahir Kilic, Agent for the applicant
Berke Ozer, Applicant

Responsible Authorities

Police: Police Constable Neal Hunwick
Licensing: Channing Reverie (Hackney Council)

1 Election of Chair

1.1 Cllr Gilbert Smyth was elected as the Committee Chair.

2 Apologies for Absence

2.1 There were no apologies for absence.

3 Declarations of Interest - Members to declare as appropriate

3.1 In the interest of openness and transparency, in relation to agenda item 6 Heart of Hackney. Cllr Smyth advised that he had used the Turkish restaurant next to the Heart of Hackney.

4 Minutes of the Previous Meeting

4.1 None.

5 Licensing Sub-Committee Hearing Procedure

5.1 The meeting participants noted the hearing procedure.

6 Application for a Premises License: Heart of Hackney, 255 Mare Street, London, E8 3NS

6.1 The Licensing Sub-Committee heard from Hackney Council's Principal Licensing Officer (Acting), the agent for the applicant, the applicant and various other persons speaking in objection. The application was for a premises licence to allow authorisation for the provision of regulated entertainment and sale of alcohol on Monday to Sunday. Prior to the meeting the Responsible Authorities (Environmental Enforcement, Environmental Protection and the Police had withdrawn their submissions after the applicant had accepted their conditions. The Licensing Authority had no representation for the application. The other persons had made representations on the grounds of the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.

6.2 During the course of the meeting there was a discussion where a number of points were raised including the following:

- In response to a query regarding the playing of music on the premises, the agent for the applicant replied that no music would be played in the garden. Members noted that the garden would be closed after 6:00pm;
- The Other persons welcomed the news that the applicant had agreed a number of conditions with the Police and the Council's Environmental Enforcement and Protection teams. However, some of the other persons disputed an ascertain that the site had always been a traditional family pub. They stressed that going forward the pub must be at the heart of the community;
- Replying to a question from one of the Sub-Committee members, the agent for the applicant responded that his client understood local residents' concerns about the garden and its proximity to their homes.

The applicant had been in discussion with the Police and a number of conditions had been agreed relating to both the exterior and interior;

- Committee members noted that no loud speakers would be installed on site;
- Replying to a question from the Committee members, the agent for the applicant responded that Council Officers had submitted a noise report and that the maximum number of people in the garden would be limited to 20 persons. The agent for the applicant added he was not sure what else his client could do to be more accommodating in addressing local residents' concerns;
- In a response to a question from the other persons, the agent for the applicant replied that it would be too expensive to re-brand the pub. It was noted if the application was to be granted the pub would not open immediately;
- Replying to a question from the Sub-Committee about how the pub would be family-orientated, the agent for the applicant responded by citing examples such as a child's menu and arrangements had been made with the restaurant next door to sell pizzas;
- Responding to a question from the other persons, the agent for the applicant replied that while it was recognised that some neighbours were working from home it might not be practicable to close the garden earlier than 6:00pm to reduce the noise coming from that area. Some patrons with their children during the summer may wish to example sit in the garden before 6:00pm;
- Responding to a question from the other persons, the agent for the applicant replied that his client was trying to please everyone by initiating a number of positive changes and agreeing to several tight conditions;
- Responding to a comment from the Council's legal officer, the agent for the applicant replied that his client could look at holding regular meetings with local residents;
- Replying to a question from a Sub-Committee member on the garden and the number of smokers, the agent for the applicant responded that the garden was a non-smoking area. The smoking area at the front of the premises would accommodate six to eight people maximum. This area would be tightly conditioned. In light of this development condition 20 in the published application report would be amended accordingly to reflect this change. Members noted there would be no barbeques in the garden;
- Responding to a question from a Sub-Committee member about how the applicant would respond to concerns over anti-social behaviour, the agent for the applicant replied that the premises would be tightly conditioned, as agreed with the Police, and it was noted that a female Security Industry Authority (SIA) would also be employed;
- Replying to a question from a member of the Sub-Committee, the applicant confirmed that he did not have any connection to the previous owner. They said they would ensure that what had happened in the past would not happen again;
- In response to a question from a Committee member on what training staff would undertake in the pub, the applicant replied that the Designated Premises Supervisor (DPS) would run the day to day running of the premises. The staff that were employed would be experienced and well trained;

- Responding to concerns raised by the other persons about the freeholder. The premises previously had had a problematic history of which the freeholder had been associated. The Police suggested a condition wherein the freeholder would not be allowed on the premises. Members noted that the DPS would have a tight brief;
- Sub-Committee members noted that if the application was granted a dispersal policy would be produced in the first week of operation;
- Replying to a question from other persons about a potential conflict of interest between the freeholder and the owner of the premises, the agent for the applicant responded that there was no conflict of interest;
- Other persons expressed their disappointment that the DPS was not present at the Licensing Sub-Committee meeting;
- In his closing remarks, the agent for the applicant reiterated how his client had agreed to a number of stringent conditions with the Police and the Council's Environmental Health and Protection teams. The use of the garden would be limited to 20 people maximum and a review of the running of the premises would occur after three months. As previously mentioned, if the application was granted the premises would not open immediately as his client initiated a number of changes to the premises;
- In their closing remarks the other persons reiterated their concerns about the premises and the application. They were mindful of the site and its problematic history particularly in relation to the garden and its close proximity to their properties. They hoped that with a new owner the premises could be turned around and it was suggested that during the week the garden should only be open for a specific number of days;
- The Sub-Committee took into account that the local residents were pleased to hear that the garden hours would be restricted and that's on due to the noise;
- The Sub-Committee noted that the Police were content as well as all the Responsible Authorities were content with the conditions that were agreed by the applicant.

The decision

The Licensing sub-committee in considering this decision from the information presented to it within the report and at the hearing today has determined that having regard to the promotion of all the licensing objectives:

- The prevention of crime and disorder;
- Public safety;
- Prevention of public nuisance;
- The protection of children from harm;

The application for a premises licence has been approved in accordance with the Council's Statement of Licensing Policy and the conditions set out in paragraph 8.1 of the report, with the following amendments agreed with the Applicant :-

- Condition 19 shall be amended as follows:

“The garden area shall close and cease to be used from 18:00 each day. The tables and chairs in the outside area shall be rendered unusable after that time”.

- Condition 20 shall be amended as follows:

After 21:00 no more than 6 smokers will be permitted at the front of the premises at any one time.

And the following condition to be added to the premises licence :

- The applicant shall appoint an acoustic consultant registered with the IOA to conduct a music noise survey on the main premises ceiling and the flats immediately above the premises within three months of the opening of the premises with recommendations on suitable mitigation for any excessive music noise from the premises. The agreed acceptable music sound levels to be then set on the sound limiter and calibrated to the satisfaction of the Environmental Protection Team.
- The contact details of the duty manager and the Designated Premises Supervisor to be on display where it can be easily read from the exterior of the premises.
- Refuse/Recycling of bottles are permitted to be placed in the external receptacles or in areas outside the premises between 09:00 and 17:00 each day.
- No barbecues shall be permitted in the garden area.
- The Freehold owner, Mr Ali Abaci shall be excluded from the premises and shall not undertake any activities related to the management of the business. This shall include but shall not be limited to any directorship, shareholding, direct employment, employment as a contractor, advisor or supplier
- The maximum of 20 persons shall be permitted in the garden at any one time.
- No smokers shall be permitted in the garden area.
- The Premises Licence Holder shall submit a written Dispersal Policy to be approved by the Licensing Authority and the Police. The approved Dispersal Policy shall be implemented at the premises. All staff shall be briefed on this Dispersal Policy. A copy of the policy shall be kept on the premises and shall be produced to a Police officer or other authorised officer upon request.
- The Premises Licence Holder shall organise and publicise a meeting for local residents to discuss the operation of the premises and address any issues at least every 3 months. The frequency of meetings may be varied by agreement between the Premises Licence Holder and local residents.

Reasons for the decision

The Licensing Sub-committee approved the application for a premises licence with amended hours for use of the garden area, and additional conditions for on-sales of alcohol at the premises.

The Sub-committee took into account that the Applicant had agreed in advance to conditions with the Responsible Authorities (Metropolitan Police Service (“the Police”), Environmental Protection Team, and the Environmental Enforcement Team) who

subsequently withdrew their objections to the application. It was noted that the Licensing Authority raised no objections.

The Sub-committee also took into consideration objections raised by 10 Other Persons (local residents) to the application, in a residential area, on the grounds of the four licensing objectives, and the impact the premises will have on the local residents and families that live close to the premises.

The Sub-committee took into consideration the Planning Authority's representation that the Applicant needed to ensure they had the necessary Planning Permission in place to operate the premises.

The Sub-committee heard from local residents that there was a lack of resident consultation prior to the meeting which the local residents were concerned about and how the Applicant will work with local residents going forward.

The Sub-committee heard local residents expressed their concerns that the Applicant may not be able to address their concerns due to his lack of experience as a manager of a pub.

The Sub-committee heard from residents that lived in the area for a number of years who confirmed that the noise does get amplified in the beer garden and there were little shields from the noise to prevent the impact on local residents. The Sub-committee heard from a number of the neighbours that they respect peace and quiet, and they do not want to be disturbed with noise. The Sub-committee heard that the Applicant had agreed to no smokers in the garden and the smokers will be at the front of the premises.

The Sub-committee took into account representations from the local residents who have previously experienced use of the premises to be very noisy from 21:00 and in the middle of the night. The Sub-committee heard when the premises closed the local residents found that 90% of the noise issues and antisocial behaviour issues disappeared, and they felt that by reopening the premises all of these issues would reoccur.

The Sub-committee heard from local residents that the area was now more of a commercial and sports pub with long hours and it was not family orientated, the building amplified the noise and also traps smoke which were ongoing problems. The Sub-committee noted that local residents would welcome a traditional family pub as it would make the community more united and the local residents would have something to support and be proud of. However they are concerned about how the premises would operate in reality.

The Sub-committee heard from local residents that following the two incidents in the 10 year period, the concerns are that the premises will repeat how it operated previously and the reputation that followed it. The Sub-committee heard that the local residents felt that the Applicant does not appear to have presented a premise that will be new. It appears to be like the previous premises that promoted heavy drinking and attracting the wrong crowds which led to antisocial behaviour in the area. The Sub-committee noted that the local residents were concerned about the negative impact the premises would have on the residential area.

The Sub-committee heard representations from the Applicant's Agent that the premises is a traditional family pub. There will be no live music or dancing. The new operator has no involvement with the previous licence holder of the premises. The Applicant is the leaseholder and the previous licence holder is the freeholder of the premises. The Sub-committee heard that the Applicant had agreed conditions with the Responsible Authorities and the Police were happy with the site plans for the premises. The Sub-committee heard that there will be new CCTV, new security and the Police will be monitoring the operation of the premises and the performance of the Designated Premises Supervisor very closely.

The Sub-committee took into consideration that the Applicant had agreed to the garden being closed from 18:00 each day. The Sub-committee noted the Applicant had made plans to carry out improvements to the premises if the licence is granted such as a play area and other children's activities being provided to create a more family friendly premises. The Sub-committee heard that the Applicant was making plans about a family menu that they will be offering.

The Sub-committee heard from the Applicant that they have no involvement with the previous licence holder and that they will make sure they have good security inside and outside the premises. The Sub-committee noted that the Applicant had worked in a pub previously. However they have not managed a pub. The Sub-committee heard from the Applicant that they will ensure that there is no smoking on the premises. The Sub-committee noted that the Applicant was not planning to open the premises straight away, and that they intended to employ experienced staff first.

The Sub-committee heard from the Applicant's agent that there is a gym now under the premises, causing a great deal of plant noise and it was not noise coming from the actual premises. The Applicant's agent confirmed that the Police will monitor the Designated Premises Supervisor closely, and if they are not operating correctly the Police will refer the matter back to the Licensing Authority.

The Sub-committee heard from the Applicant's Agent that they would be prepared to meet with the Responsible Authorities and local residents within one week of opening to try and work with them to resolve any issues.

The Sub-committee took into consideration the representations made by the Applicant, the Licensing Authority and the Other Persons (local residents), and the Sub-committee felt that with the additional conditions, and the Applicant's willingness to work with local residents to overcome any issues, that the Applicant will be able to operate responsibly. The Sub-committee was satisfied that the garden closing at 18:00 each day would prevent noise nuisance and any impact on local residents.

The Sub-committee takes antisocial behaviour seriously, and will not want the previous experiences to be repeated. The Sub-committee hopes that the necessary security will be in place to prevent any antisocial behaviour.

The Sub-committee felt that the premises needed rebranding in order to make progress in the future and move away from the past incidents. The Sub-committee took into consideration that the local residents did not have confidence that the new premises would operate well.

The Sub-committee felt the premises needed to demonstrate and reassure both the Responsible Authorities and local residents that this is a new start for this premises.

In addition, the Applicant needs to demonstrate that they have listened to the local residents, and they will try to resolve any issues at the premises to prevent noise nuisance, antisocial behaviour and any other impact on the local residents who live within close proximity to the premises and the garden.

The Sub-committee took into consideration the concerns raised by the local residents and satisfied themselves that the conditions applied will allay the fears of the local residents. The safeguards and quarterly meetings and other measures offered by the Applicant made the Sub-committee feel confident that the Applicant will take the concerns raised by local residents seriously.

The Sub-committee felt that the main issues were management and lack of experience of the Applicant to operate a premises such as this. The Sub-committee felt that the Applicant demonstrated that they were open, accommodating and prepared to comply with the conditions and amendments proposed in the meeting. The Sub-committee considered the nuisance experienced by local residents previously and they welcome the changes and the conditions that the Applicant has agreed to.

The Sub-committee took into account that the Environmental Protection Team suggested that there should be no more than 20 people at any time and that a noise report should be carried out to resolve any potential noise issues that will arise from use of the rear garden.

The Sub-committee took into account that the local residents did not want the recycling of bottles to be carried out late at night. The Sub-committee were pleased that the Applicant agreed to the bottles being recycled from 09:00 onwards during the day at more reasonable times to prevent a disturbance.

The Sub-committee heard from the local residents that they needed reassurance that noise checks were being carried out, and that a noise report would be done to address the noise impact on local residents.

The Sub-committee and local residents were disappointed that the DPS did not attend the hearing to listen to the concerns of local residents and the issues arising that they will be dealing with.

The Sub-committee were not convinced that the Freeholder will not have any involvement in the premises. The Sub-committee felt it was necessary to have a condition to prevent the Freeholder of the building who previously operated the premises, when the incidents occurred, and the premises licence was revoked, to be excluded from operating the premises.

The Sub-committee felt that the conditions in place would allow the Applicant to go some way to operating responsibly. The conditions will enable a review to be carried out to ensure problems from the past will not occur. The proposed safeguards in place gave the Sub-committee confidence that the premises will be under tighter controls.

Having taken all of the above factors into consideration, the Licensing Sub-committee was satisfied that the application could be approved without the licensing objectives being undermined.

Public Informative

1. The Premises Licence Holder is encouraged to work with and to engage in meaningful dialogue with the local residents to resolve any issues relating to noise or other nuisance from the premises, and for the Premises Licence holder to play their part in reducing any impacts of noise emanating from the premises, particularly during the evening and late at night.
2. The Premises Licence holder is encouraged to continue working with the Environmental Protection Team to reduce noise nuisance, and prevent any nuisance or negative impact in the area.
3. The Premises Licence Holder is advised as part of the rigorous monitoring and checking process that the recruitment of staff are to be well trained and to undertake the required training: Wave training, training for vulnerable persons and other training offered by the Council's Hackney Nights portal.
4. The Premises Licence Holder is reminded of the need to operate the premises according to any current licensing conditions on the premises licence, any planning permission requirements and consents relating to the use class, conditions and hours that the premises will operate under.
5. It also should be noted for the public record that the local Planning Authority should draw no inference or be bound by this decision with regard to any future planning Application which may be made.

Your right to appeal

If you are aggrieved by any term, condition or restriction attached to this decision, you have the right to appeal to the Thames Magistrates Court, 58 Bow Road, London E3 4DJ within 21 days of the date you receive this written decision.

7 Application for a variation to a Premises Licence: The Doner Store, 468 Kingsland Road, Hackney, London, E8 4AE

- 7.1 The Licensing Sub-Committee heard from Hackney Council's Principal Licensing Officer (Acting), the agent for the applicant and the Responsible Authorities (the Police and Licensing). The application was to vary a premises licence to extend late night refreshment until 02:30 am on Thursday to Saturday. The premises was in the Dalston Special Policy Area (SPA) area. The Police had made a representation on the grounds of the prevention of crime and disorder and the prevention of public nuisance whilst the Licensing Authority had made representation on the grounds of prevention of public nuisance.
- 7.2 During the course of the discussion the agent for the applicant raised a query regarding the current status of the Dalston SPA. It was understood that a review of the Statement of Licensing Policy and Cumulative Impact Assessment was currently underway which included a re-assessment of the status of the SPAs. The agent for the applicant explained that they had submitted an application on the basis that the SPA was not currently active. Committee members in discussion took the view that it was unclear as to the current status of the SPA

and that clarification should be sought from the Licensing Service. It was understood that the Licensing Policy would be considered at the July 2023 Council meeting.

- 7.3 In light of the uncertainty over the current status of the SPA in relation to the review of the licensing policy and its impact on the application Sub-Committee members agreed to adjourn the hearing. The application would be resubmitted for consideration and decision at a future Licensing Sub-Committee meeting.

8 Temporary Event Notices - Standing Item

- 8.1 None.

END OF THE MEETING

Duration of the meeting: 7.00pm - 9.06pm

Cllr Gilbert Smyth
Chair of the Licensing Sub-Committee

Contact:
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MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE B

THURSDAY 13 JULY 2023

THE LIVESTREAM OF THE MEETING CAN BE VIEWED HERE:

<HTTPS://YOUTUBE.COM/LIVE/U0FC1ZCPSc>

- Councillors Present:** Cllr Gilbert Smyth in the Chair
Cllr Zoe Garbett and Cllr Richard Lufkin
- Apologies:** Cllr Yvonne Maxwell and Cllr Susan Fajana-Thomas
- Officers in Attendance:** Amanda Nauth, Licensing Lawyer
Suba Sriramana, Principal Licensing Officer (acting)
Gareth Sykes, Governance Officer
- Also in Attendance:** Item 7. Review of a Premises Licence: Simmons (Formerly The Viaduct), 83 Rivington Street, London, EC2A 3AY
- Applicant
- On behalf of the applicant:
- Leo Charlambides, Barrister
PC Sian Giles, Metropolitan Police Service
PC Leon McCallister, Metropolitan Police Service
- On behalf of the Premises Licence holder:
- Gary Grant, Barrister
Niall McCann, Solicitor, Consultant
David Gair, Shield Associates
Nick Campbell, Founder and Chief Executive Officer, Simmons
- Responsible Authorities
- Channing Riverie, Licensing Authority
- Other persons
- D2 - Gary Groeheim
D3 - Louise Garrett
D4 - Corine Delage
D7 - Jonathan Moberly
D10 - Davy Nougarede
D12 - Andrew Kanter

On behalf of the Eden Gardens Entertainment Ltd
(former operator of the 'The Viaduct')

Marcus Lavell, Barrister

1 Election of Chair

1.1 Cllr Gilbert Smyth was duly elected as the Sub-Committee Chair.

2 Apologies for Absence

2.1 Apologies for absence were received from Cllr Susan Fajana-Thomas and Cllr Yvonne Maxwell.

3 Declarations of Interest - Members to declare as appropriate

3.1 There were no declarations of interest.

4 Minutes of the Previous Meeting

4.1 There were no minutes for consideration and approval at the meeting.

5 Licensing Sub-Committee Hearing Procedure

5.1 The meeting participants noted the hearing procedure for the meeting (hearing procedure type C).

6 Application for a Premises Licence: Abney Chapel, Abney Park, 215 Stoke Newington High Street, London, N16 0LH

6.1 Agenda item 6, Abney Chapel, was withdrawn from the meeting agenda and would be re-scheduled for a future Licensing Sub-Committee meeting.

7 Review of a Premises Licence: Simmons (Formerly The Viaduct), 83 Rivington Street, London, EC2A 3AY

7.1 The Licensing Sub-Committee heard from Hackney Council's Principal Licensing Officer (Acting), the legal representative on behalf of the applicant (the Police), responsible authorities (Licensing), the legal representative for the premises licence holder, other persons (in objection) and the legal representative for the former operator of the premises, the Viaduct. The application was for the review of a premises licence for the Simmons, 83 Rivington Street, London, EC2A 3AY on the basis of the prevention of crime and disorder and public safety. The Licensing Authority had made representations on the grounds of the prevention of public nuisance while the other persons had made representations on the grounds of the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.

7.2 The Sub-Committee noted that the premises Simmons was formerly known as The Viaduct and before that Cargo. The premises licence was reviewed

following the receipt of an application by the Police dated 29 October 2021. The holder of the licence appealed to Magistrates against the decision to revoke the licence made by the Licensing Sub-Committee on 14 December 2021. Following negotiation, which included revised and additional conditions and reduced hours, the appeal was settled and agreed through a Consent Order.

- 7.3 There was a brief discussion between the legal representative for the premises licence holder and the legal representative for the former operator of the premises as to who would own the premises if the licence was revoked. The former party claimed that if the Sub-Committee was minded to revoke the licence it would revert back to the former owner while the latter party disputed this and insisted that Simmons was now the owner of the premises.
- 7.4 During the course of the meeting there was a discussion where a number of points were raised including the following:
- In response to a question about the Arch on site, the premises licence holder replied that it would operate as a restaurant, in which the sale of alcohol would not be sold, supplied, or consumed on site unless it was ancillary to a table meal. The founder and Chief Executive Officer (CEO) of Simmons rejected a suggestion about making the sale and consumption of alcohol ancillary to a table meal applicable across the entire premises;
 - Reply to a question about how local residents would contact the premises to address any concerns around noise and disruption, the founder and CEO of Simmons replied that he was keen to build a good relationship with neighbours and that, for example, the Designated Premises Supervisor's (DPS) contact details would be made available. They added that they would not be able to undertake this however, until they were informed of the outcome of the Licensing Sub-Committee;
 - The founder and CEO of Simmons agreed to hold meetings with local residents;
 - Some of the other persons were of the view that the premises had not made an effort to engage with local residents while others welcomed the opportunity to meet the founder and CEO of Simmons;
 - In response to a question from the Sub-Committee Chair, the founder and CEO of Simmons was content to meet two meetings year with local residents;
 - In response to a question about why the Police originally agreed to the transfer in March 2023, the legal representative for the applicant, the Police, replied that there were concerns at the time about the premises but the threshold had not been met for the Police to reject the transfer;
 - The legal representative for the premises licence holder explained that if the application was not revoked the premises would be subject a number of conditions;
 - In response to a question about the Shoreditch Bar Group (SBG) evidence, supplied by Viaduct, specifically its Safer Venue Guide, the legal representative for the former operator explained that in hindsight when the serious incident had occurred in February 2023 more Security Industry Association (SIA) staff should have been on duty at the premises after the previous serious incident had occurred in 2022;
 - Replying to a question from a committee member about the two serious incidents in 2022 and 2023, the Licensing Authority responded that it was up to the Committee members to decide to on how much weight to

give to those two incidents, which had occurred under the previous operator, when making their final decision on the application before them at the meeting;

- In response to a question from the Council's Licensing Lawyer, the legal representative for the applicant explained that the response from the premises licence holder at the time of the breach was in their view was insufficient;
- The legal representative for the former operator of the premises responded that following the second incident at the premises they had engaged with the Police and there had been ongoing talks. However, the Police had then called for a review and the former operator of the premises agreed to a transfer of the licence;
- In response to a question from the Sub-Committee Chair, the legal representative for the applicant replied that when they had applied for a review they had taken into the impact of the breach in relation to the 'character of the area', as set out in the Licensing Act;
- In response to a question from the Sub-Committee Chair, the other persons despite hearing from the premises licence holder remained concerned about anti-social behaviour and noise disturbance in the immediate area;
- The legal representative for the premises licence holder stated that the cumulative impact should not be used by the Sub-Committee to revoke a premises licence.
- Responding to a question about Simmons taking over the premises, the Police made representations that they did not have an issue with Simmons taking over the premises. However, they did take into consideration the history of the premises such as the review that took place in 2021 when the premises operated as a nightclub prior to the revocation of the premises licence;
- The Sub-Committee heard that at the time of the Consent Order, local residents were not considered and were very upset by the appeal being settled in August 2022;
- The Police stated that the serious incident could have been avoided if the former licensee complied with their conditions and felt a transfer is inappropriate in this case while a review is still pending;
- The local residents in their representations spoke about the life changing difficulties including disturbed sleep late at night and the anti-social behaviour they had experienced. The crime rate around the venue had been contributing heavily towards anti-social behaviour;
- The Sub-Committee also heard that on the 11 December 2022 a serious incident took place at the premises and at the end of March 2023, the premises closed down fully;
- In response to a question from the Sub-Committee, local residents replied that the Boundary Estate comprised 800 homes and half of the tenants were council tenants. It was to the east side of the venue. The estate was impacted upon by the Shoreditch night time economy. People visiting the area used the estate for parking;
- The Sub-Committee took into consideration that the extent of these issues is symptomatic of the way in which the premises are managed by the previous licence holder;
- The Sub-Committee members highlighted that when they were making their decision they would take into consideration how the new licence holder was intending to operate the premises.

- 7.5 In their closing remarks the premises licence holder explained how they had put a lot of effort into building up their businesses over the years and they had a proven track record of running a professional business. In response to a question from the Sub-Committee Chair, they replied that they would not be able to run the premises at 83 Rivington Street as half a bar and half a restaurant.
- 7.6 In their closing remarks several of the other persons replied that they had nothing further to add. Some other persons recommended that the licence be revoked while, another would welcome fresh discussions between local residents and the premises licence holder.
- 7.7 The legal representative for the applicant for the premises licence holder in their closing remarks emphasised the proven track history of his client; they ran 26 venues in London two of which were in the Shoreditch area. These venues had not received any complaints and his client had successfully worked with the Licensing Authority, Environmental Health and the Police. As previously explained, Simmons owned the premises but if the Sub-Committee were minded to revoke the licence then ownership of the premises would revert back to the previous operator Viaduct. They added that the concerns raised by local residents during the meeting were to do with wider issues relating to the Special Policy Area (SPA). They also highlighted that if the Sub-Committee were minded not to revoke the licence then prior to Simmons opening they would meet with local residents to address their concerns.
- 7.8 In their closing remarks the legal representative for the applicant, the Police, disputed the claims made by the premises licence holder, highlighting that they would only undertake changes if the licence was not revoked. The legal representative for the applicant was of the view that this demonstrated that the premises licence holder was not bearing in mind the concerns of local residents. They also felt that the democratic accountability was being undermined by attempting to get the licence granted through a review rather than the premises licence holder submitting a brand new premises licence application for scrutiny and decision. They recommended that the licence be revoked.

The decision

The Licensing Sub-committee, in considering this decision from the information presented to them within the report and at the hearing today and having regard to the promotion of the licensing objectives:

- the prevention of crime and disorder;
- public safety;
- prevention of public nuisance; and
- the protection of children from harm,

that the premises licence for Simmons (Formerly The Viaduct), 83 Rivington Street, London, EC2A 3AY be revoked.

The Reasons for the decision:

The Licensing Sub-Committee carefully considered the application for a review of the premises licence from the Metropolitan Police Service (“the Police”) and their legal representative supported by the Licensing Authority, and 13 Other Persons (local residents). They also carefully considered the representations from the current licence holder’s representative, the current licence holder, the previous licence holder’s legal representative and the supporting evidence presented by them. The Sub-Committee decided that revocation of the premises licence was an appropriate and necessary course of action, given the repeated failures to comply with the terms and conditions of the premises licence.

The Sub-Committee also considered the other options available to them, as detailed in the report. They were satisfied that none of these would adequately address the likelihood of public nuisance reoccurring. They felt that revocation of the licence was necessary to prevent the licensing objectives being undermined in the future.

The Sub-Committee considered the evidence that led to the review being called by the Police. They also took into consideration all the evidence presented from all the parties including the local residents.

The premises "Simmons" was formerly known as “The Viaduct” and before that "Cargo". The premises licence was reviewed following the receipt of an application by the Police dated 29th October 2021. The licence holder appealed against the decision to revoke the licence made by the Licensing Sub-Committee on the 14th December 2021. Following negotiations, which included revised and additional conditions and reduced hours, the appeal was settled and agreed by a Consent Order dated 9 August 2022. The previous licence holder breached the conditions of the premises licence within seven months of the consent order being granted.

The premises has been in possession of a premises licence since 24th November 2006. The licence was transferred to Simmons Waterloo Limited on 24th March 2023.

The Sub-committee took into consideration that there were 13 Other Persons (local residents) who supported the application due to the impact that the premises had on local residents. The Sub-committee also took into account that the Licensing Authority also made representations in respect of public nuisance and anti-social behaviour.

The Police made representations that they were seeking revocation of the premises licence due to serious concerns about the licensing objectives being undermined following a serious incident in February 2023 at the premises.

On Saturday 11th February 2023 at about 2300 hours an assault took place inside the premises between customers which resulted in a man sustaining serious injuries. The Police were informed of this incident on 13th February.

The Police investigation found on 11th February that only one SIA was on duty to deal with the incident and this was a breach of condition 12 of the premises licence on SIA requirements.

The Police made representations that they were disappointed to have had to apply for another review, and they had no confidence in the previous premises licence holder. It appeared to the Police that the licence had been transferred to Simmons, who were

not fully aware of the implications of the premises, what had occurred or the impact on local residents.

The Police contended that they felt it was necessary for there to be public scrutiny and it was not proportionate or appropriate for this premises licence just to be transferred to a new operator. They felt the review was necessary to prevent the operation of the premises and for any new operator to undergo the full new application process under section 17 of the Licensing Act 2003.

The Sub-committee heard that at the time the incident took place in February 2023, the premises did not have the correct number of staff on duty, they did not take sufficient care and diligence in ensuring the safety of members of the public and their customers.

The Sub-Committee heard from the Licensing Authority that it was difficult to assess how Simmons will operate the site given the size and history of this premises. The Sub-Committee took into consideration that the Police would need to have a detailed assessment from Simmons to see what they are proposing in terms of operation of the premises.

The Police did not object to Simmons taking over the premises licence. The Police had a good relationship with Simmons at their other premises in Hackney. However, it was felt that this transfer was used to circumvent the issues relating to the review. It is not considered appropriate in the circumstances with the history of these premises to transfer the licence while the premises licence is being reviewed.

The Sub-committee felt these breaches of the licence, and the incident that took place on 11th February were completely unacceptable, and they had concerns that the former licence holder had no control over what occurred at the premises.

The Sub-committee felt the new operator should have gone through a new application process in order to be granted a licence for this premises. The Sub-committee felt it was very important to consult with the local residents and the Responsible Authorities, in accordance with a new application process for any premises licence before obtaining the licence rather than by way of a transfer during a review process. The Sub-committee were concerned that large crowds going to the premises would be considered high risk.

The Sub-Committee were disappointed that the current licence holder did not engage with local residents to overcome and address their concerns about the premises before the transfer took place. The Sub-Committee felt that the current licence holder did not consider how noise nuisance anti-social behaviour affected local residents.

Following the serious incident in February 2023, and the current licence holder, not engaging with local residents, and by not considering any change to the offering at the premises or offer any compromise, it was very difficult for the Sub-committee to understand how the new licence holder would be able to operate the premises responsibly, and to ensure that no further incidents take place in the future.

The Sub-committee felt the current licence holder, Simmons did not seem to be open to operating the premises any differently from the previous licence holder or to their other premises in the borough of Hackney which was to have a large turnover of customers at alcohol led premises.

The Sub-Committee were not satisfied that the current licence holder would make the necessary changes to improve the operation of the premises so that it would not have a negative impact on the area and the local residents that live near to the premises.

The Sub-committee felt that primarily the concern is that this premises does attract antisocial behaviour and it does need to be controlled very tightly. The Sub-Committee noted that the new licence holder has a good track record with their other 2 premises in the borough, which had no incidents.

The Sub-committee felt there was not sufficient investigation and due diligence carried out in advance by Simmons before trying to take over the operation of the premises, and that is one of the reasons that the Sub-committee felt it was not appropriate for Simmons, the new operator to take over the premises by way of a transfer.

The Sub-committee took into consideration that if the premises licence is revoked this would result in the premises being referred back to the former premises licence holder in accordance with the terms of their contract. However, the Sub-committee felt that taking into consideration the seriousness of the situation and the impact on local residents that it was necessary to deal with this premises licence by way of a new application to the Licensing Authority.

The Sub-committee and local residents felt that a brand new licence application for this premises would give them a better opportunity to properly scrutinise such an application.

The Sub-committee when making their decision took into consideration the evidence presented by all the parties. The evidence relating to the recent serious incident in February 2023, together with the breaches of the conditions attached to the premises licence, the Sub-Committee was not satisfied, given the serious issues raised in relation to crime and disorder, public safety and public nuisance and the previous operation of the premises, that the current licence holder, could prevent the licensing objectives being undermined.

Your right to appeal

If you are aggrieved by any term, condition or restriction attached to this decision, you have the right to appeal to Thames Magistrates at Thames Magistrates Court, 58 Bow Road, London E3 4DJ within 21 days from the date you receive the written decision.

8 Temporary Event Notices - Standing Item

8.1 None.

END OF THE MEETING

Duration of the meeting: 7.00pm - 10.33pm

Cllr Gilbert Smyth
Chair of the Licensing Sub-Committee

Contact:

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