

MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE B

TUESDAY, 30TH JANUARY, 2018

Councillors Present: Cllr James Peters in the Chair

Cllr Emma Plouviez (Substitute) and
Cllr Ian Rathbone

Officers in Attendance: Emma Perry (Governance Services Officer),
Channing Riviere (Licensing Data Support Officer),
Butta Singh (Senior Lawyer, Licensing) and Mike
Smith (Principal Licensing Officer)

Also in Attendance: BSMT
Matthew Lauezzari, Agent
Lara Fiorentino, Applicant
Gregory Key, Proposed DPS
Julian Izzo, Other Person
Fabio Dagostino, Other Person

1 Election of Chair

1.1 Councillor Peters was duly elected as Chair.

2 Apologies for Absence

2.1 There were no apologies for absence.

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 **RESOLVED** – that the minutes of the previous meeting held on 26 September 2017 be AGREED as an accurate record.

5 Licensing Sub-Committee Hearing Procedure

5.1 The Chair set out the hearing procedure, as set out on page 5 of the agenda.

6 Premises Licence: BSMT, 5d Stoke Newington Road N16 8BH

6.1 Mike Smith, Principal Licensing Officer, introduced the application for a premises licence. Mike Smith advised that the Police had withdrawn their representation following an agreement that all licensable activities would cease at 23:30 hours and agreed conditions and Venue Management Policy. He

Tuesday, 30th January, 2018

- added that conditions 8 and 9 within paragraph 8.1 of the report be deleted, as they were repeated elsewhere.
- 6.2 Mike Smith advised that the Other Person had submitted some additional information, which was previously circulated to members.
 - 6.3 Matthew Lauezzari, Agent, introduced the application on behalf of the applicant. Mr Lauezzari stated that the application requested to licence the basement area, which since September 2015 had been operating as an art gallery. There was no intention to sell alcohol every day and alcohol sales would be ancillary to the operation of the premises as an art gallery.
 - 6.4 Mr Lauezzari stated that the applicant was an established artist and her partner had 20 years experience of working within the hospitality industry. A number of meetings had taken place between the various responsible authorities, including discussions with local residents. The Police had since withdrawn their representation.
 - 6.5 The premises had not received any complaints from other responsible authorities and the agent stated that the applicant was a responsible operator and was a good neighbour. It was confirmed that the outside area would not be used by any customers/visitors or patrons at any time.
 - 6.6 Channing Riviere, Principal Licensing Officer, set out the representation from the Licensing Service. Mr Riviere stated that the main concerns surrounding the venue were the location of the premises within the Dalston Special Policy Area (SPA) and the cumulative impact it would have on the surrounding area with a new licensed venue. He was also concerned about the legacy of the licence going forward, especially if the applicant was to move on.
 - 6.7 Mr Riviere suggested that the premises should have a closing time of 10.30pm, with alcohol sales finishing at 10pm. If the applicant wished to operate later they had the opportunity to apply for Temporary Event Notices (TENs). He referred to a previous application for an alcohol license submitted in 2014 which had been refused. The agent subsequently advised that this was a separate operator and was not connected to the applicant.
 - 6.8 Julian Izzo, Other Person, outlined his objection to the application. Mr Izzo referred to a recent planning application for the site, which was granted permission in February 2017. He was concerned regarding the scope for the premises and any future development.
 - 6.9 Mr Izzo suggested that the applicant did not have any experience of operating a licensed premises and questioned why the use of TENs was not considered as an alternative option, especially as only one TEN was used last year.
 - 6.10 Mr Izzo believed that the hours being applied for were too late and would generate noise nuisance and disturb neighbouring residents. He referred to some photos which had been previously circulated, which showed an instance in September 2015 where the outside area had been used and caused a lot of noise nuisance to neighbouring residents. There was also a drinking event that had taken place over 4 days in February 2016, which had also caused a noise nuisance. He wished to have a guarantee that this would not happen again and

- that the outside would not be used as part of the operation. He added that there was a constant use of A boards outside the premises, which was not permitted on the pavement.
- 6.11 Mr Izzo raised concern regarding the front of the premises, as he believed it was not suitable for patrons to use this area. Mr Izzo referred to the photos he had previously circulated, which showed that the entrance to the premises was located directly opposite a zebra crossing. He also referred to the number of smokers that were permitted outside the premises, as they often spoke over the traffic noise and caused a noise nuisance to neighbouring residents. He also suggested that a maximum capacity of 30 people would be more suitable for the venue.
- 6.12 Mr Izzo believed that the premises should stick to a 5pm close and referred to an issue surrounding refuse collection at the premises. Mr Izzo referred to the previous application for the premises and suggested that the following conditions be used from that application:-
- Conditions 9-14 to be taken from the previous application
 - Adapt condition 15 to restrict public access
 - Conditions 19-27 to be taken from the refused application
- 6.13 Fabio Dagostino, Other Person, also outlined his representation in objection to the application. Mr Dagostino agreed that the hours of operation should be reduced and believed that the suggestion of a 10.30pm close would be a good compromise. He requested some clarification regarding the use of the outside areas, both at the front and rear of the premises.
- 6.14 The Chair referred to the agenda and stated that there were two further representations from Other Persons, which were taken into consideration by members of the Sub-Committee.
- 6.15 During the discussion stage, the Agent stated that in response to the licensing representation, this was not a new premises and had been in operation for the past two years. The premises generally closed around 7pm, with some later hours on certain days, in line with their permitted operating hours. Therefore he did not believe that the premises would add to the cumulative impact in the area.
- 6.16 Lara Fiorentino, Applicant, gave an overview of the operation of the premises. Ms Fiorentino stated that the art world usually operated between Thursday – Saturday between 6 – 10.30pm and she wished to sustain the scope for this venue. In the past she had operated one TEN until 11pm for a live drawing event. She was passionate about creating an art platform in the area and stated that she was aware of the concerns raised by residents. Ms Fiorentino stated that no one would come into the space without their name previously being put on a list and confirmed that the rear outside space would not be used, as there was no access to this space. The event referred to by Mr Izzo in 2015 had been a one off and permission had been given by the freeholder. She indicated that she would be willing for a condition to be added to prevent this space being used. Ms Fiorentino advised that there would only be on sales of alcohol at the premises and stressed that it would not be an alcohol led venue.

Tuesday, 30th January, 2018

- 6.17 Discussion took place regarding LP14 – Dalston Special Policy Area and the Agent reiterated that the premises had been operating for the past two years, with alcohol given away to guests on occasion, as they did not have an alcohol licence. Environmental Health had not submitted a representation, neither had the Planning Service. It was confirmed that the planning application for the site, previously referred to, had not been submitted by the applicant and was separate to the application being considered. With regard to the A boards, it was explained that these were always located hard against the venue and that the pavement was wide outside the premises. He added that Gregory Key, proposed Designated Premises Supervisor (DPS) had extensive experience within the sector.
- 6.18 The Agent advised that there would not be a fixed bar at the premises and believed that a maximum capacity of 60 people was fine for the type of venue. The Applicant was also willing for a condition to be added restricting the number of smokers outside the front of the premises.
- 6.19 In response to further concerns raised by the Other Persons, the Applicant reiterated that they wished to have more flexibility and facilitate a sustainable space, as often it was difficult to structure when particular artists were available.
- 6.20 The Applicant indicated that they would be willing to surrender the existing licence, if the application was granted. They were also willing for a condition to be added for a licensee, DPS or a member of staff to always be present at the venue whenever alcohol is being served or sold.
- 6.21 Further discussion took place surrounding the proposed hours and the Licensing Officer stated that the premises was not currently licensed and therefore was not adding to the cumulative impact in the area, however it was felt that if licensed, it would add to the cumulative impact. Mr Izzo believed that the proposed hours were too late, given the current operating hours, and was minded to propose a close of 7pm.
- 6.22 Further discussion took place regarding the potential use of TENs and the Agent stated that although TENs often gave operators the opportunity to demonstrate good management, they were not obliged to use them. He added that the Police were confident enough to withdraw their representation and Environmental Health officers had not raised any concerns.
- 6.23 In summing up, Channing Riviere believed that the licence could be granted as long as restrictions on the operating hours were applied. He suggested that a closing time of 10.30pm, with a terminal hour of 10pm for the sale of alcohol was more appropriate for the location.
- 6.24 Mr Izzo was concerned about the impact granting the licence would have on the surrounding area and suggested that a closing time of 7pm was more reasonable, given the location of the premises. Mr Izzo suggested that the conditions had been poorly thought through and the additional conditions he suggested were more applicable. He added that neighbouring residents had real concerns regarding the congregation of people outside the premises and outside their front doors.

- 6.25 The Agent emphasised that there was no particular evidence to prove that the photos showing people congregating outside the venue were linked to the premises. Appropriate weight should be given to the fact that the Police had withdrawn their representation, especially given that the premises was located within the Dalston SPA. No concerns had been raised by Environmental Health. He added that the applicant had been operating the premises for the past 2 ½ years and had not received any complaints. He asked that members consider the hours being proposed, given the good track record of the applicant, which would allow more flexibility to plan future events.

RESOLVED that:-

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 has been approved in accordance with the Council's licensing statement and the proposed conditions set out in paragraph 8.1 of the report, with the following amendments:

- Opening hours of the premises:

Mon – Sun 12:00 – 22:30

- Hours for licensable activities:

Supply of Alcohol Mon – Sun 12:00 – 22:00

- Conditions 8 and 9 to be deleted.
- Condition 11 be amended to read 'After 10pm there shall be no more than 4 patrons and/or smokers outside the venue at any one time'.
- Condition 12 be amended to read 'The maximum capacity of the premises at any one time will be 50 excluding staff'.
- Condition 27 be amended to read 'The primary use of these premises shall be as a gallery, displaying and selling artwork. Alcohol shall only be sold to guests attending a ticketed organised event at the premises that is ancillary to its use as a gallery, and which event is operated by or on behalf of the applicant, Lara Florentino'.

and the following additional conditions:

- The licensee, DPS or a member of staff will always be present at the venue whenever alcohol is being served or sold.
- The outside area to the rear of the premises is not to be used by any customers/visitors or patrons at any time.
- Deliveries will only take place on any day between 07:00 and 20:00 hours
- The Licensee's premises are situated in an area within which refuse may only be left on the public highway at certain times (time bands). If the

Tuesday, 30th January, 2018

Licensee's waste carrier cannot or does not comply by collecting the refuse within an hour after the close of any time band imposed by the waste authority, the Licensee must remove the refuse from the public highway and/or keep it within the premises until such time as his/her waste carrier arrives to collect the refuse'

Reasons for the decision

The application has been approved, with the above amendments and additional conditions, as the Licensing Sub-Committee was satisfied that the licensing objectives would not be undermined.

The Licensing Sub-Committee considered that, given the location of the premises and the acute problems suffered in this particular area of the Dalston SPA, as described in the representations from the responsible authority and other persons, the reduced operating and licensable hours, as detailed within the decision, are both proportionate and appropriate. The applicants were reminded of the opportunity to use Temporary Event Notices (TENs) to operate later hours, if required, and that the hours granted would allow the licensee to effectively demonstrate her ability to manage the premises with alcohol sales now being included as a regular feature, which was not the case before, without undermining the licensing objectives.

Public informative

The applicant is reminded of the need to operate the premises according to any current planning permission relating to its user class, conditions and hours.

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.

The licensee was reminded of the need to comply with the rules forbidding the use of "A-boards" on pavements because of the hindrance such A-boards cause to pedestrians, particularly visually-impaired pedestrians.

7 Premises Licence: Basement, 79-81 Paul Street EC2A 4NQ

7.1 The application was deferred at the request of the applicant.

8 Temporary Event Notices - Standing Item

8.1 There were no Temporary Event Notices to consider.

Duration of the meeting: 19:00 – 21:35

Signed

.....

Chair of Committee

Tuesday, 30th January, 2018

Contact:

Governance Services Officer:

Tel 020 8356 8407