

MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE B

THURSDAY, 11TH OCTOBER, 2018

Councillors Present: Councillor Margaret Gordon in the Chair

Officers in Attendance: Cllr Sem Moema and Cllr Harvey Odze

Jerry Hill, Public Health

Amanda Nauth, Legal Services

Mike Smith, Licensing Service

Butta Singh, Legal Services

Gareth Sykes, Governance Services

Also in Attendance:

Tava Restaurant

David Dadds, Solicitor

Erol Uzum

Jan Uzum

Bootyard

Niall McCann, Solicitor

David Williams, Bootstrap Director

Steve Ryan, Chief Executive Officer, 40ft (on site
Brewing Co.)

Other person (objecting)

Julian Izzo

1 Election of Chair

1.1 Councillor Margaret Gordon was duly elected as 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 There were no declarations of interest.

4 Minutes of the Previous Meeting

4.1 The minutes of the 21st June 2018 meeting were agreed as an accurate record.

5 Licensing Sub-Committee Hearing Procedure

5.1 The attendees noted the Licensing Sub-Committee Hearing Procedure.

6 Application to vary the premises licence: Tava Restaurant, 17 Stoke Newington Road, N16 8BH

- 6.1 The principal licensing officer introduced the application to vary the premises licence for Tava Restaurant, 17 Stoke Newington Road, N16 8BH. The proposed variation was for an extension of the hours for the sale of alcohol and to remove the current condition 25 from the premises licence. Committee members noted that representations were received from the Planning Authority on the grounds of the prevention of public nuisance and LP1. Representations had also been received by the Police on the grounds of the prevention of crime and disorder, public safety, prevention of public nuisance and Special Policy Area (SPA). The Licensing Authority made representation on the grounds of the prevention of Crime and Disorder, Prevention of Public Nuisance and the SPA. The Health Authority meanwhile had made representation on the grounds of the prevention of crime and disorder, prevention of public nuisance and SPA.
- 6.2 The representative for the applicant began their submission by putting forward to the committee a number of amendments to the times for the licensable activities. These included, for example, the hours for late night refreshment, for Friday to Saturday, the closing time being reduced from 05:00hours to 01:30hours. The applicant also put forward a number of new conditions including the reduction of the capacity of patron and alcohol being served ancillary to a table meal served by a waiter/waitress.
- 6.3 The applicant's representative explained that his client was not running an alcohol-led premises. This was a unique application in that the business was moving away from the takeaway business to become a restaurant.
- 6.4 Committee members noted that the applicant had not discussed these recent changes to the application with the Police. The applicant replied that the adjustments to the conditions would not undermine Hackney Council's licensing objectives.
- 6.5 The committee heard representations from the Responsible Authorities. The police in their written submission had raised concerns about the impact of the application on the prevention of crime and disorder and the prevention of public nuisance. The premises was in the middle of the Dalston SPA and the proposed timings in the application exceed current policy. The police felt that the current authorised hours are late enough and any increase would have a negative impact on the surrounding area. In a tabled statement the police highlighted that the Hackney Council's statement of licensing policy section 3.9 stated that each application in the Dalston SPA needed to demonstrate that it would not add any cumulative impact to the area. The police were of the view that this application had not yet demonstrated this and that their concerns had not been allayed.

- 6.6 The Licensing Authority in their representation like the police highlighted that the application was in the Dalston SPA and that the area had been identified as suffering from a negative cumulative impact of the concentration of licensed premises in area. Like the police the licensing authority highlighted the proposed additional hours as part of the application. The licensing authority, like the police, highlighted the application in relation to the Dalston and Shoreditch SPAs policy and how the applicant needed to demonstrate a quality and track record of management, good character and the extent of any variation sought and how they would not add to the cumulative impact. The licensing authority noted at the meeting the amendments to the existing conditions as well as the new conditions put forward by the applicant, but the licensing authority were still concerned about the additional hours and the sale of alcohol in the Dalston SPA.
- 6.7 The Public Health Authority in their representation raised concerns about the impact of the application on the prevention of crime and disorder and the prevention of public nuisance. Like the police and the licensing authority the public health authority highlighted the location of the application in the Dalston SPA and how under LP10 the applicant would need to demonstrate that their application would not add to the cumulative impact currently being experienced in the area. The public health authority highlighted that the area had already had sufficient premises to meet demand and additional outlets supplying alcohol would be detrimental to the local residents in terms of noise and disturbance, anti-social behaviour and crime. The area where the premises were was in an area located with high incidences of crime and violence including those that are alcohol related.
- 6.8 The other person in their representation raised concerns about the applicant's apparent poor track record of compliance. The other person took the view that the variation would cause nuisance particularly when customers leave the premises. The location of the premises was in the centre of the nuisance and crime in Dalston's SPA. It was felt that the proposal would add to the cumulative impact. The other person was also of the view that the premises was a 'notable polluter' causing acute and other incidents of nuisance from an apparent badly maintained extraction system. The other person had tabled a London Fire Brigade (LFB) Fire Safety Guidance Note: Catering Kitchen Extract Systems. In this paper there was a Kitchen grease extract systems table which included a suggested cleaning intervals schedule. The other person recommended that the applicant clean their extraction system every two months.
- 6.9 The applicant, responding to the other person's request re: the interval period for the cleaning of the extraction system, did not agree with it being undertaken every two months. The applicant felt that every six months was more than sufficient. The applicant added that they had

not received any representation from Hackney Council's Environmental Health regarding the smoke extraction system.

- 6.10 At the start of the discussion part of the hearing committee members drew attention to photos submitted by the other person (tabled at the meeting) which appeared to show alcohol being served outside the premises at tables. Committee members suggested that the applicant may wish to agree to additional condition where no alcohol was served outside.
- 6.11 The committee members queried with the applicant how, through their management of the premises, they would not contribute to the cumulative impact of the surrounding area. The applicant's representative replied that his client's had a proven track record, in line with LP10 and also the applicant had been willing to agree to a number of additional conditions and as well as several amendments to the existing conditions. The applicant's representative stressed that the application was now heavily revised. In response to question from the other person, the applicant replied that the premises was not running a takeaway service.
- 6.12 In response to a question from the other person regarding delivery drivers, the applicant replied that there was nothing to change in the conditions regarding the loitering of delivery drivers.

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 has been approved in accordance with the Council's licensing statement and the conditions outlined in paragraph 8.2 of the report with the following amendments to the application and current licence:

- The Operational Hours of the premises be 09:00 to 03:00 hours the day following from Monday to Sunday.
- The Opening Hours (to members of the public) be 09:00 to 00:30 hours on Sunday to Thursday and 09:00 to 02:00 hours the day following, on Friday to Saturday. The operational hours of the premises after these times would be for delivery only through online and telephone orders.

- The supply of alcohol (on-sales) hours be 09:00 to Midnight on Sunday to Thursday and 09:00 to 01:30 hours the day following, on Friday to Saturday
- Late Night Refreshment be from 23:00 to 03:00 hours the day following from Monday to Sunday (Outdoors) and until Midnight from Sunday to Thursday and until 01:30 hours the day following on Friday to Saturday (Indoors).
- Conditions 1, 2, 4 & 6 within paragraph 8.2 be deleted, to avoid any duplication or repetition, with the relevant existing conditions being amended as appropriate.
- Conditions 7 within paragraph 8.2 be amended to include 'With no deliveries taking place between 23:00 to 07:00 hours the day following'
- Condition 25, 'no alcohol to be consumed on the premises after midnight' and Condition 28, 'No new admittance to the premises after 04:00 day following' – be deleted.
- Condition 8, be amended to read 'CCTV systems installed to monitor entrances, exits and other parts of the premises, which shall be maintained and recordings kept for 31 days and be made available to the police on request.
- Condition 11, be amended to read 'Customers shall be requested to leave the premises quietly, with prominent, clear and legible notices being displayed at the exit requesting the public to respect the needs of nearby residents and to leave the premises and the area quietly.
- Condition 19, be amended to read 'Challenge 25 –age verification policy to be applied with information to be displayed on the premises to prevent the supply of alcohol to under-age drinkers, with photographic proof of ID like a passport to be requested from customers who seem underage.'
- Condition 26, be amend to read 'No more than 42 patrons on the premises at any one time'

And the following additional conditions:

- Alcohol shall not be sold, supplied, or consumed on the premises otherwise than to persons who are taking substantial table meals and that the consumption of alcohol by such persons is ancillary to taking such meals. The supply of alcohol shall be by waiter or waitress service only.
- There shall be no consumption of alcohol in the outside areas. As such, no glasses, cans, open bottles/containers is allowed outside the premises at any time.

- After 22:30 hours the use of the tables and chairs in the outside area will cease, with the use of the tables and chairs being rendered unusable by 23:00 hours.
- A minimum of one Security Industry Authority (SIA) regulated Door Supervisor will be employed at the front door of the premises from 22:00 until 02:00 hours on a Friday and Saturday only.
- After 23:00 hours, off-sales/outdoor Late Night Refreshment will be by deliveries, through online and telephone orders, only from the premises.
- The premises' catering kitchen extraction systems shall be professionally cleaned every six months, with records of such maintenance and cleansing being kept at the premises.

REASONS FOR THE DECISION

The application has been approved, subject to the above amendments and additional conditions, as members of the Licensing Sub-Committee, after listening carefully to the representations from the applicant, Responsible Authorities and other persons, were satisfied that the licensing objectives would not be undermined.

In granting the application within the Dalston SPA, the sub-committee believed that the amendments to the application including the reduction in hours that the premises would be open to the public, following which the premises would operate as a delivery service only through online and telephone orders, provided the sub-committee with the confidence that the revised operation and increase in alcohol hours would not unduly add to the negative impact that is currently being experienced. Therefore on balance, the sub-committee felt that the additional conditions imposed along with the revised operation would on the whole promote the licensing objectives.

7 Application for a Premises Licence: Bootyard, Car Park Rear 18 To 26, Ashwin Street, E8 3DL

- 7.1 The Principal Licensing Officer introduced the application for Bootyard, Car Park Rear 18 to 26, Ashwin Street, E8 3DL. Committee members noted that the application was for proposed licensable activity for plays, films, live music, recorded music, performance of dance and the supply of alcohol (on and off premises). Committee members noted a correction – the premises under consideration was just outside the Special Policy Area (SPA). The attendees also noted that there had been no representations submitted by Responsible Authorities. One representation had also been received on behalf of local residents on the grounds of the prevention of crime and disorder and prevention of public nuisance.
- 7.2 The legal representative for applicant began by explaining that this was an unusual application. The premises was a car park accessed through the Bootstrap buildings on Ashwin Street from Abbott Street. The Bootyard began as a pioneering project to turn a neglected car park into a new start up space for socially minded business' and community activities. The project has been

growing organically with Dusty Knuckle Bakery and 40ft Brewery as lead tenants for the space. The Bootyard has held a premises licence without issue for a two year period which ended in November 2017. Bootyard were now re-applying for a premises licence to enable our stakeholders tenants to continue to operate their business as usual, having used occasional Temporary Event Notices (TENs) in the intervening period for this purpose. Beer, wine and spirits will be served from the tap room bar from the brewery container and will be consumed along with food from the Dusty Knuckle bakery and restaurants containers in the main space.

- 7.3 Committee members noted that the premises had a loyal following and there had been no reported problems or complaints. The applicant added that there was no impact on the licensing objectives; there was always 24 hour security for Friday and Saturday at least. There would be one Security Industry Authority (SIA) regulated member of staff on the Saturday. There would always be a door supervisor but the applicant added that was very little evidence of boisterous crowd. The applicant explained that compared to other neighbouring establishments in the area Bootyard's actually had shorter hours. The premises would also not rely on deliveries or Uber Eats for example. The applicant re-iterated that the premises was not in the SPA and this was not a new licence. Members were reminded that they did not play loud music and the sound was somewhat dampened the large shipping containers placed within the site.
- 7.4 In a response to question from Councillors, the applicant explained that the Bootyard was in actually in a container which was quite small. The application was for the outside space. The applicant re-iterated that loud noise coming from the site was not substantial because of the layout of the site. Members noted that there was 120 businesses on site with 35 desks being used. The applicant explained that any money made by Bootyard goes back into the premises. The business engages with different communities in the area e.g. the running of various Temporary Event Notices (TENs). The applicant felt that these events were very successfully run.
- 7.5 The committee heard from other person objecting to the application. There was concerns expresses that the hours applied for would lead to an increase in nuisance and crime in the locality. There was also concern that the offer and the serving of alcohol was not served ancillary to a table meal. The other person was of the view that the premises was to all intents and purposes in the SPA. The other person suggested that a more modest terminal hours would be either 8pm or 10pm. He queried that though there was a lack of live music the application still includes a music licence. There was also concerns expressed that there was no sound limitators included as part of the application. The other person was concerned that there would be an increase in crime and disorder because of the premises being located in an open space and there being alcohol.
- 7.6 The applicant responded that sometimes at the premises there was background music but it was not a music venue per se. Where the premises had played music there had not been any breaches or reports of complaints.

The applicant had adhered to the conditions. The applicant added that sound limitators were used and there was acoustic music played. The site was a gentile space and in theory the site would hold up to 150 people outside. The applicant also added that they would be content to put a limit on the capacity of people at the premises. On the dispersal of customers this was usually done half an hour before closing time and was a gradual dispersal. Any glasses used were washed on site and were re-usable. There was also six to eight bins on site in which waste could be deposited into. The applicant added that they were content to put in place a sound limitator condition.

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 time-limited application has been approved in accordance with the Council's licensing statement and the conditions outlined within paragraph 8.1 of the report, along with the following amendment and additional conditions;

- Live Music commence from 18:00 hours on Monday to Friday
- Additional conditions;
 1. The capacity of the premises shall be no more than 120 patrons at any one time
 2. All music systems shall be routed through a sound limiting device. The limiting device(s) should be set to ensure inaudibility in all nearby residential premises. The device shall be controlled by the licensee/management and kept in a locked, tamper-proof box. The sound limiting device must be recalibrated annually to ensure that the music is inaudible in nearby residential premises. A certificate of compliance should be submitted to the council's Environmental Health/Protection Team.
 3. There shall be a written dispersal policy for the premises, which is to be shared with the Responsible Authorities (i.e. the Licensing Service and Police), a copy of which shall be kept on the premises and made available to police and/or other authorised officer upon request.

REASONS FOR THE DECISION

The application has been approved, as members of the Licensing Sub-Committee, after listening carefully to the representations from the applicant and other person were satisfied that the licensing objectives would not be undermined.

In granting the application, the sub-committee believed that the conditions placed on the last time limited licence would be appropriate, given that there had been no complaints about the premises, although the additional conditions were placed on the licence on this occasion to reflect the change in the area. As such although the measures placed on the licence were deemed proportionate to ensure the licensing objectives were promoted the applicant was reminded that the area in which the premises was based had changed considerably since 2015, when the previous time-limited premises licence was granted, as such the applicant was encouraged to continue an ongoing dialogue and engagement with the surrounding local community.

8 Temporary Event Notices - Standing Item

8.1 There were no Temporary Event Notices (TENs) discussed at the meeting.

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

Signed

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Chair of Committee

Contact:

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