

MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE A

TUESDAY, 10TH SEPTEMBER, 2019

Councillors Present: Cllr James Peters (Substitute) in the Chair
Cllr Sharon Patrick and Cllr Gilbert Smyth

Officers in Attendance: Amanda Nauth, Licensing Lawyer
Butta Singh, Senior Licensing Lawyer
Mike Smith, Principal Licensing Officer
Gareth Sykes, Governance Services Officer

Also in Attendance: Brunswick and Columbia Wharf

Applicant

Harley Gay
Roland Smith

Responsible Authorities

David Tuitt, Licensing Team Leader

Other Persons

Tom Atkinson
Laura Lucas
Councillor Ajay Chauhan

1 Election of Chair

1.1 Councillor James Peters was duly elected as the chair of the Licensing Sub-Committee meeting.

2 Apologies for Absence

2.1 There were no apologies for absence reported for this meeting.

3 Declarations of Interest - Members to declare as appropriate

3.1 There were no declarations of interest for this meeting.

4 Minutes of the Previous Meeting

4.1 There were no minutes of a previous licensing sub-committee meeting for consideration at the meeting.

5 Licensing Sub Committee Hearing Procedure

5.1 The attendees noted the Licensing Sub-Committee Hearing Procedure as read out by the committee chair.

6 Application for a Premises Licence: Brunswick And Columbia Wharf, 53-55 Laburnum Street,E2 8BD

- 6.1 The Principal Licensing Officer introduced an application for a Premises Licence Brunswick And Columbia Wharf, 53-55 Laburnum Street,E2 8BD.The Sub-Committee members noted that the proposed licensable activity was for films and the supply of alcohol (On and Off Premises). Members noted that the application had been considered at a previous licensing sub-committee meeting in July 2019 but that meeting had been adjourned for the applicant to facilitate a meeting with the other persons/residents that have made representations against the application, in order to try and resolve the issues by providing better clarity as the proposed application and what is intended to take place at the premises, with a view to overcoming their objections, if possible. Members noted that three Temporary Event Notices (TENs) had been run between August 2018 and August 2019. There were also submissions from the Responsible Authorities, namely from Environmental Protection and Licensing. The former was making a representation on the grounds of the prevention of public nuisance. The Licensing Authority was making a representation on the grounds of the prevention of public nuisance, core hours and external areas and outdoor events. Other persons had also made representations on the grounds of the prevention of crime and disorder, public safety, prevention of public nuisance, the protection of children from harm, core hours and external areas and outdoor events.
- 6.2 The licensing sub-committee heard from the applicant who began by explaining that the premises that form the premises license application consists of the ground floor and roof of the North West Building which is an open plan brick warehouse built in the 1950's. The adjacent buildings are used for artists' studios. The ground floor space is 6m high with no intermediate floor or mezzanine to the roof. The rooftop space overlooks the canal. Alcohol and refreshments will be served in the internal ground floor space with a reduced service on the rooftop before events. Both the roof and internal space have a capacity of 200 people. It is intended that the spaces will house films and theatre, both with a capacity under 500 people, with the sale of alcohol limited to these events. The sale of alcohol will at all times be ancillary to cultural / artistic / creative/Community activity. The applicant did not intend to open the premises as a club or bar, but for the premises to host interesting events that can serve alcoholic drinks.
- 6.3 The applicant continued, explaining that Maich Swift Architects earlier in the year had won the Antepavilion architecture prize for the 'Potemkin Theatre' on the roof at the premises site. The applicant had applied for and received Arts Council England funding to help fund a series of cultural events over the late-Summer and early-Autumn. Events would take place in the warehouse and the theatre itself. Committee members noted that following the adjourned committee meeting in July the applicant had been in discussions with the Council's Environmental Protection and Licensing Officers and they had commissioned an acoustic consultant to provide a report and recommendations to mitigate the sound issues. A number of actions had been discussed including the installation of shrubbery to dampen noise on the roof, use of smaller speakers and activity past 22:00 hours requiring Bluetooth headphones to reduce amplified music pollution. The applicant explained to committee members at the meeting that, outside of theatre productions on the roof, the only other performances on the roof would be cinema showings which patrons would listen to via Bluetooth headphones. The applicant added, that in terms of the theatre layout it was not dissimilar to the Globe theatre with a back screen protection.
- 6.4 In response to a question from Councillor Patrick, the applicant explained that the nearest residential properties to the premises was on the North side. Despite the cinema screen and theatre backdrop being on the north side of the roof area it was designed in such that sound and light would project inwards onto the roof. The

Tuesday, 10th September, 2019

- applicant added that on the east side of the building it was approximately 40 to 50 metres from Kent Wharf. Members noted that east of the terrace was commercial property.
- 6.5 In response to a question from Councillor Peters, the applicant replied that after 22:00hours no patrons would be allowed up to the roof area with alcohol. There would also be no bar open in the roof area. Also, noise issues would be mitigated by the use of the Bluetooth headphones by patrons when watching the films.
- 6.6 In response to a question from Councillor Smyth, the applicant replied that picture on page 98 of the meeting papers was of gig taking place on the ground floor. The councillor was concerned that it appeared to be a lot of people in that space.
- 6.7 In response to a question from Councillor Smyth, the applicant replied that they would provide 100 Bluetooth headphones at a cost of £100k. The applicant added that they had run two screenings so far via TENs.
- 6.8 In response to a question from Councillor Smyth, the applicant replied that originally that they had been all set to be up and running in July but because of the adjournment at the licensing committee that same month their opening had been delayed. This was an ongoing project but it was envisaged that the outdoor cinema would bring about 50% of the venue's revenue.
- 6.9 In response to a question from Councillor Smyth, the applicant replied that under condition 21 they had in place of number of fire safety measures of the highest standard. There were clearly signposted fire exits. There was two main fire exits as well as an external enclosed spiral stairwell. The applicant added that the building had two large hangar doors so it was unlikely, in the event of an evacuation, that there would be a bottleneck of patrons exiting the building.
- 6.10 In response to a question from Councillor Peters, the applicant replied that in relation to the TENs that had taken place they acknowledged that there had been some criticisms over the last one that had been held in August 2019. The applicant explained that during that event, held on the 2nd August, because of the heat, they had opened the doors to cool the pizza ovens being used at the time and this had resulted in the noise levels rising to a high level.
- 6.11 The licensing sub-committee noted that the applicant would adhere to conditions 48 to 53, derived from discussions and agreement with the council's Environmental Enforcement team, as outlined on page 12 of the report.
- 6.12 The licensing sub-committee heard from the licensing authority who in their representation explained that there were numerous residential premises in close proximity to the application site. The applicant's attention was drawn to LP3 (Core Hours) which sets out Monday to Thursday 08:00 to 23:00, Friday and Saturday 08:00 to 00:00 and Sunday 10:00 to 22:30 as the hours where licensable activity was generally authorised. The licensing authority was concerned that the proposed use of the 200 capacity roof terrace up to 23:00 weekdays and 01:00 on Fridays and Saturdays would have a detrimental impact on the promotion of the licensing objectives, in particular, the prevention of public nuisance by exposing residents to a source of noise nuisance which was not currently the norm in the area. The proposed activity could also lead to increased vehicular and pedestrian traffic during times when the area was likely to be quiet. Clarification on the planning status for use as a Theatre/Gallery/Cinema/Performance Space would be useful in this regard as well as detail on any use of the "External Courtyard" shown on the drawing. The Licensing Service previously investigated complaints from residents when the premises operated as "Hoxton Docks". The licensing authority were concerned that complaints could become more frequent.

- 6.13 In response to a question from Councillor Peters, the licensing authority replied that Environmental Health officers would require a copy of the aforementioned acoustic report.
- 6.14 In response to a question from Councillor Smyth, the applicant replied that the measures that they employ on the roof to mitigate any sound issues and disturbing local residents had been widely published. The applicant had run a series of public consultations inviting local residents to come and meet them at the premises to discuss what they were doing. Committee members noted that the second consultation event had been poorly attended by local residents.
- 6.15 The chair of the committee invited other persons to speak in objection to the application. As previously mentioned, local residents had voiced concerns about the application on the grounds of the prevention of crime and disorder, public safety, prevention of public nuisance, the protection of children from harm, core hours and external areas and outdoor events. The other persons had heard what the applicant had said at the meeting so far and were reassured by what some had been said but there were still some concerns that remained but it was understood that certain matters could not be determined until the applicant had the premises licence up and running. Another other person highlighted that they did not hear any excessive noise coming out of the main building except when the doors were briefly opening and closing as patrons entered and left the building. Another other person relayed to the applicant and the licensing sub-committee members her husband's written objections to the application. He had recommended that there was no alcohol sales after 23:00hours. The applicant re-iterated the point raised earlier in the meeting that no one carrying an alcoholic drink would be allowed up to the roof area after 22:00 hours.
- 6.16 A brief conversation then took place between the committee members and the applicant about how best their staff at the venue would manage patrons entering and exiting the roof terrace with alcoholic drink containers. The applicant re-iterated that there would be no drink containers taken up to the roof terrace.
- 6.17 Local residents continued with their objections by raising concerns that this application maybe a prelude to a larger licence sometime in the future. Another local resident highlighted the roof terrace's close proximity to his child's bedroom in a residential property adjacent to the venue.
- 6.18 Councillor Peters raised concerns about the 150 people being on the roof terrace and in response one of the local residents explained that sound emanating from the venue on the canal side would act as a 'noise box' leading to sounds travelling. The local resident added that it was important to have protections in place for the children.
- 6.19 In response to a question from Councillor Peters, the applicant replied that the objections raised in page 77 of the meeting papers related to an incident of squatting that was not related to the venue.
- 6.20 In response to a question from Councillor Smyth, the applicant replied that besides the main venue and the roof terrace there was also contained within the site artist studios and a gallery. Committee members noted that it was an evolving event space. The applicant stressed the importance of this historic cultural site at a time when other artist studios were being lost in the borough. The company behind the application, Shiva Limited, was a property development company engaged in the preservation and restoration of London's historic environment. It hosts and cultivates independent artist led events. The applicant added by re-iterating the background for Potemkin Theatre installation on site and how on receiving Arts Council funding they were hoping to run a series of cultural during the autumn. The applicant added, on the issue of noise, they

- had invested a lot of money in implementing measures to prevent any unwanted noise breakout.
- 6.21 In response to a question from Councillor Peters, the applicant replied that they would not confine themselves by reducing their capacity to 300.
- 6.22 The committee members noted that the applicant had invested considerably in their dispersal policy to ensure that patrons did not loiter outside the premises after events. The applicant reassured the committee members and local residents that they would operate a staggered dispersal policy.
- 6.23 In response to a question from Councillor Smyth, the other person replied that the worst incident had been some time ago and involved some loud music playing for a long time. There had also been in the past some instances where there had been some loud noises as a result of patrons waiting for and being picked up by local taxi services.
- 6.24 The committee heard from a local ward councillor who expressed his concern about public nuisance – the site was in a quiet residential area. He was also keen to get reassurances that the children would be protected from noise from patrons and from the performances taking place on site. There was also concerns about the prevention of crime and disorder and public safety as a result of any Anti-Social Behaviour (ASB) that may occur because of large numbers of intoxicated individuals. Councillor Peters replied that the committee were reassured that issue of noise would be mitigated by the measures that the applicant had put in place. It was suggested, to reassure those concerns over the prevention of public nuisance, protection of children, the prevention of crime and disorder and public safety that the licensing sub-committee might want to look at some sort of probationary period for the applicant. The applicant replied members that their application was already for a probationary period. The applicant added that if any local residents had any concerns or issues over the site and what was taking place there his personal contact details were available for local residents to get in touch with him directly. Committee members were also reminded that the applicant had also arranged two consultation sessions with local residents to discuss their concerns.
- 6.25 Councillor Peters reminded the applicant the need to operate the premises according to any current planning permission relating to its use class, conditions and hours.
- 6.26 In its closing remarks the responsible authority re-iterated their concerns about the capacity for the site (500 in total).
- 6.27 The committee members and the applicant briefly discussed the acoustic report that the latter had commissioned. It was only draft form, its author was currently ill, and the applicant explained that the report had been compiled before the switchover to Bluetooth headphones. The applicant was of the view that some of the findings in the report were no longer applicable. Councillor Peters insisted that the council's Environmental Protection team should see that acoustic report. There was further discussion about whether the work outlined in the report would need to go ahead. The applicant and committee eventually agreed that to an additional condition where no licensable activities would take place on the roof top until the acoustic report has been submitted to and approved by the Environmental Protection Team along with any necessary works recommended within the report having been completed. This condition would need to be subject to and considered alongside an amended condition 48, which stated that any showings taking place on the rooftop cinema must make use of Bluetooth headphones or similar equivalent to minimise noise pollution for local residents.

Tuesday, 10th September, 2019

- 6.28 In response to concerns from committee members over the capacity for the roof terrace, the applicant replied that though the capacity for the roof terrace was 150 in reality for the cinema showings so far the numbers had been between 30 and 80 patrons.
- 6.29 Summing up the applicant gave a brief overview of the history of the venue and types of events they were running and would hope to run in the future. They concluded that there was an appetite in the area for this kind of venue and events.
- 6.30 The local residents summed up by re-iterating their concerns over noise disturbances and they suggested to the applicant that they may wish to consider running pre-booked events.

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 licensing statement and the proposed conditions set-out in paragraph 8.1 of the report, with the following amendments:-

- Off-Sales have been removed from the application
- Condition 34 to be amended to read: 'The sale of alcohol at the premises shall at all times be ancillary to the provision of Regulated Entertainment and shall only be to members of the public holding a ticket or pass (whether this be a physical ticket, hand-stamp, wristband, or admitted on a 'sign in' basis) for a performance or exhibition. With no tickets being sold at the door'
- Condition 37 to be amended to read: 'Patrons shall not be permitted to temporarily leave and then re-enter the premises to smoke, as the designated smoking area is within the premises'
- Condition 38 is deleted.
- Condition 48 to be amended to read: 'Any showings taking place on the rooftop cinema must make use of Bluetooth headphones or a similar equivalent to minimise noise pollution for local residents'

And the following additional conditions, as agreed with the applicant:

- No regulated entertainment shall take place at the premises (except for the showing of films on the roof, in accordance to the relevant condition, with regards to the use of Bluetooth (or equivalent) headphones) until the acoustic report has been submitted to and approved by the Environmental Protection Team along with any necessary works recommended within the report having been completed to their satisfaction.

Tuesday, 10th September, 2019

- No glass receptacles or alcohol containers whether open or sealed are permitted to be taken from the ground floor to the first floor (roof terrace) of the premises after 22:00 hours.
- A written dispersal policy shall be submitted to and be approved by the Licensing Service and the Environmental Protection Team. The written copy of the dispersal policy, shall be kept on the premises and be made available to police or other authorised officer upon request.
- The total capacity of the premises shall be limited to no more than 500 patrons at any one time, with the maximum of 150 patrons on the first floor (roof terrace) at any one time.
- It is the responsibility of the Premises Licence Holder and/or its management to organise and hold quarterly meetings with the local residents, which is to take place at the premises, with the Council's Licensing Service also being invited to these meetings.

Reasons for the decision

The application has been approved as the Licensing Sub-Committee were satisfied that the licensing objectives would not be undermined.

The Licensing Sub-Committee took into consideration that the Metropolitan Police Service had withdrawn their objections in advance of the hearing as the Applicant had agreed conditions with them, as set-out in the report.

The Licensing Sub-Committee also noted that the Applicant was no longer seeking 'off sales' of alcohol in respect of their licence and had agreed to reduce the alcohol sales until after 16:30 pm on weekdays, in addition to agreeing that they would no longer have amplified sound on the rooftop area (located on the first floor) of the premises and any events of such a nature will be held inside the premises only.

In making their decision the sub-committee felt the Applicant's experience of running cultural and community events and that the premises will predominantly be showing films on the roof terrace was a positive factor. The Applicant's willingness to engage with the local residents by holding meetings with them was also welcomed and whilst it had allayed many of the concerns that some of the residents initially had, other residents continued to be supportive, as they felt it would enhance the area.

Therefore, the Sub-Committee in approving the application were satisfied that the appropriate measures were in place to ensure that they were not going to cause a nuisance to the local residents and their children, over the period of this time limited licence. The Applicant had also demonstrated they were prepared to work with the Responsible Authorities and the local residents, as a responsible operator, to deal with any future concerns that may arise.

Having taken all of these factors into consideration, the Licensing Sub-Committee were satisfied that the licensing objectives would be continually promoted with the granting of this application.

Planning 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.

7 Temporary Event Notices - Standing Item

7.1 There were no Temporary Event Notices (TENs) for consideration at the meeting.

Duration of the meeting: 19:00 - 21:45 hours

Signed

.....

Chair of Committee, Councillor James Peters

Contact:

Gareth Sykes

Governance Services Officer:

Tel 020 8356 1567