

MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE E

THURSDAY 8 SEPTEMBER 2022

Councillors Present: **Councillor Gilbert Smyth in the Chair**
Cllr Susan Fajana-Thomas

Officers in Attendance:

Also in Attendance: 416-418 Union Walk
Environmental Protection George Wokorach
Police - PC Amanda Griggs
Licensing- David Tuitt
Light Bar
Gary Grant -The applicant's Legal Counsel:
Police- Kerrie Ryan
Black Rock Rooms
Applicant- Thomas Aske and Tristan Stephenson

1 Election of Chair

1.1 Cllr Smyth 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 at the meeting.

4 Minutes of the Previous Meeting

4.1 There were no previous minutes for consideration at the meeting.

5 Licensing Sub-Committee General Information & Hearing Procedure

5.1 The hearing procedure was noted by all present.

6 Premises Licence: 416-418 Union Walk, London, E2 8HP

6.1 The sub-committee heard from the Principal Licensing Officer and the applicant's agent. During the course of submissions and a discussion of the application, the sub-committee noted the following:

- The applicant was seeking the provision of late night refreshment, regulated entertainment and the sale of alcohol from Mondays to Sundays.
- Since the publication of the officer report, the Sub-Committee noted the additional information submitted and amendments to the application

including the reduction of the proposed hours in line with the Council's core hours.

- The applicant had invested over £500,000 to refurbish the venue and intended to operate a high quality premises employing 11 local people.
- To address the concerns raised, the applicant had submitted a robust operating schedule, and a range of procedures and policies including Noise Monitoring Plan, Dispersal Plan, plan to manage the smoking area, restricting the capacity in the external areas, and the external areas including the door to the rear would close at 22.00 hours.
- The applicant had engaged with the local residents during the consultation process and had received positive feedback from the building manager, developer and locals. There had been no representations from Other Persons to the application.
- The applicant and his agent had attempted mediation with the responsible authorities to address their concerns. There was no evidence submitted to support their concerns in relation to the public nuisance.
- The Environmental Protection's representative opposed the application on the grounds of public nuisance due to the close proximity of residents living to the premises. The external rear area was surrounded by three 15 to 16 floor residential blocks and it was approximately 10 to 15 metres away from the nearest residential block. These blocks created an enclosure that would enable noise to travel upwards creating a tunnelling effect causing a noise disturbance for residents living on the upper floors.
- In order to minimise the impact of public nuisance on local residents, he had recommended that the applicant install a temporary acoustic structure such as an acoustic lobby at the external rear area to minimise the noise breakout from inside and outside the premises, restrict the use of the outside rear area from 12.00 to 18.00 hours, designating the smoking area at the front outside area, replace the doors and windows at the rear with double glazing, and no amplifying devices to be used during live music events.
- The Police's representative indicated that the reduced hours had allayed their initial concerns in relation to crime and disorder. However, they had recently received complaints from local residents and were supporting the Environmental Protection's concerns in relation to noise nuisance and the impact on residents living in the area.
- The Licensing Authority's representative emphasised that the proposals including the noise outbreaks from the internal and external areas would lead to a rise in noise nuisance for residents due to the close proximity of the residential blocks, and without planning permission in particular transport and design assessments for the proposed activities it would be difficult to assess the level of noise. They had also received correspondence from the local residents expressing concerns about the public nuisance and the failure of the applicant to display the notices properly so that local residents could make their representations within the consultation period.
- The responsible authorities expressed concern that the proposal and operation of the premises including deliveries without planning permission would cause a significant rise in public nuisance and an assessment of the site needed to be undertaken.
- The applicant confirmed that the nearest residential block from the external rear area was approximately 15 to 20 metres.

- The applicant replied that he intended to install two metres tall hedging surrounding the external rear area, which would provide additional privacy and reduce noise disturbance for residents living in the blocks of flats and install decibel meters at the front, rear and internal tasting room to monitor noise levels.
- With regard to capacity, the applicant's agent stated that following a site visit from the Fire Service they expected a maximum 15 persons in the external front area, 30 persons in the external rear area, 10 persons in the designated smoking area and approximately 80 seated persons inside the premises. These figures were subject to a full Fire Risk Assessment, which had been delayed while the applicant was pursuing mediation with the responsible authorities.
- It was confirmed that music would be played at a background level until 23.00 hours and the notices about the application had been displayed and were visible around the building.
- The applicant's agent clarified that the owners had engaged with the local residents passing the premises and they had provided positive feedback; he had also spoken to the building manager and CEO of the residential block at the rear.
- The applicant indicated that he would be willing to build an acoustic structure as recommended following the meeting.
- With regard to the notices, the applicant confirmed that several notices had been displayed and were visible at the premises allowing residents to make representations during the consultation period.
- A planning consultant had been employed to assist with the planning application.
- It was anticipated that approximately 25 to 30 persons would use the external rear area.
- The applicant outlined the operation, emphasising that the Tap Room would be ancillary to the Brewery and would also be used to store pallets and the deliveries would be local and delivered by cargo bikes.
- The sub-committee noted that the issues raised by the responsible authorities had not been addressed satisfactorily by the applicant and that obtaining planning permission was necessary before the business opened.

RESOLVED:

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 to vary a premises licence has been refused in accordance with Licensing Policies LP1, LP2, LP3, LP4, LP6 and LP11 within the Council's Statement of Licensing Policy.

Reasons for the decision

The Licensing Sub-committee, having heard from the Responsible Authorities (Environmental Protection, the Metropolitan Police Service, and the Licensing Authority) believed that granting the application would result in the licensing objectives being undermined, and would have a negative impact on the area.

The Sub-committee took into consideration the representations of the Responsible Authorities who objected to this application due the impact it would have on local residents.

The Sub-committee heard submissions from the Environmental Protection Team that local residents are 15 metres from the outside area of the premises. The Sub-committee took into account that Environmental Protection had concerns that local residents would be disturbed and the Applicant needed to consider an outdoor acoustic structure. The Sub-committee heard that the Applicant needed to install sound monitoring equipment, and they noted submissions from Environmental Protection that the noise pollution will have an impact on the flats above and in close proximity to the premises. The Sub-committee took into account that the Police supported Environmental Protection's objection.

The Sub-committee heard that the Applicant did not make contact with the Police regarding their objections until 7 September. However, the Applicant reduced the hours which allayed some of the Police concerns. The Police had received complaints from local residents about this application.

The Sub-committee heard submissions from the Licensing Authority that they had also received correspondence from local residents who were unaware of the application.

The Licensing Authority made representations regarding noise nuisance, and the close proximity to local residents. The Sub-committee took into account that the noise outbreak internally and externally affected local residents, and that the noise issues were too great to overcome the noise nuisance. The Sub-committee heard from the Licensing Authority that no noise systems were in the premises to evaluate the level of noise.

The Sub-committee heard representations from the Licensing Authority that the premises had no Planning Permission which is a significant concern. The Sub-committee noted that the Applicant needed, amongst other things, transport and design assessments to obtain Planning Permission. The Sub-committee heard concerns from the Licensing Authority about the permitted use and activity of the premises with no Planning Permission in place, and there was no mitigation given by the Applicant for the issues arising.

The Sub-committee heard submissions from the Applicant's legal representative that the Tap room would be ancillary to the use of the Brewery, and the Applicant intends to use the space to store pallets. The Sub-committee noted the premises would be a small brewery that intends to brew beer two times per week and deliveries will be by cargo bike.

The Sub-committee also noted that the capacity of the premises is subject to a Fire Risk Assessment being carried out in due course.

The Sub-committee heard from the Applicant's legal representative that they tried to mediate on a number of occasions with the Responsible Authorities and no local residents objected during the consultation period. The Applicant made submissions that he spoke to the building manager where local residents live and when he spoke to people passing in the street the Applicant contended that he received nothing but positive feedback about the premises.

The Sub-committee heard submissions from the Applicant's legal representative that the premises would offer a high quality experience to customers, the Applicant had made a substantial investment of half a million pounds into the premises and 11 local staff would be employed at the premises. The Applicant's representative also confirmed that work had been done on the process and procedures, and they submitted a number of policies for the premises. The Sub-committee noted that the Applicant provided a Noise Plan and Dispersal Plan.

The Sub-committee took into account that the proposed hours were less than core hours under Policy LP3, and they wanted to continue working with the Responsible Authorities. The Sub-committee noted that the Applicant worked with the Responsible Authorities during the consultation period, and the Applicant intended to play low level music.

The Sub-committee heard submissions from the Applicant that they had good engagement with local residents. The Applicant contended that they put up notices around the perimeter of the building and they said they spoke to passing residents and the building manager of the residential block.

The Sub-committee carefully considered the representations made by the Applicant, and the Applicant's legal representative, and they took into consideration the work they had done to improve the premises to prevent noise breakout alongside the representations of the Responsible Authorities (Environmental Protection and the Licensing Authority). The Applicant did not allay the concerns raised by the Licensing Authority and Environmental Protection who maintained their objections to the application.

The Sub-committee after hearing from the Applicant and their legal representative felt that the Applicant did not fully appreciate the potential impact such an operation would have on local residents living nearby. The Sub-committee was not convinced that the Applicant had carried out the required consultation for this application with local residents. This led to subsequent complaints being made to the Responsible Authorities because local residents were not given the opportunity to make representations, and have their objections considered in advance of the hearing. The Sub-committee felt this was an important factor given that the premises are situated in a large residential area that will have a negative impact on local residents, and could give rise to public nuisance and disturbance to families.

The Sub-committee took into account that the Applicant contended that there had been no written request by Environmental Protection to install noise equipment. The Sub-committee noted that in mitigation of the noise issues the Applicant made submissions that they intend to install double glazing on 2 metre tall windows and installation of hedges. The Sub-Committee felt it would have been good for the Applicant to have proposed solutions one month ago. The Sub-committee also noted the concerns in relation to Late Night Refreshment, and the fact that the premises had no kitchen

In accordance with Policy LP5 the Sub-committee took into account that the premises did not have Planning Permission, and there were no Planning records or pending planning application for the premises.

The Sub-committee cannot take into consideration financial circumstances as a reason to grant the application.

The Sub-committee took into consideration when refusing this application that each case is considered on its own merits. The Sub-committee believed that the licensing objectives would be undermined by granting this application, and as such believed it was appropriate to refuse the application in its entirety.

PLANNING INFORMATIVE

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 Premises Licence: 233 Shoreditch High Street, London, E1 6PJ

7.1 The sub-committee heard from the Principal Licensing Officer and the applicant's Legal Counsel. During the course of submissions and a discussion of the application, the sub-committee noted the following:

- The applicant's Legal Counsel advised that the applicant was seeking to increase capacity to 325 persons from 200, which was below the permitted capacity of 500 persons, reducing the closing hours to 02.00 hours from 03.00 hours, reducing the use of the outside area to 22.00 hours from 23.00 hours, last entry at midnight, and that advance corporate bookings would be taken for events on the first floor. The events had been included in the application as this enabled advance planning unlike TENs.
- The business would employ approximately 65 staff mainly local and the minimum hours being sought would enable the business to be profitable and successful.
- The applicant had received no complaints directly related to his premises.
- The Police's representative indicated that they had held several meetings with the applicant due to the number of incidents and crimes that had taken place close to the premises.
- The Licensing Service's representative stated that the applicant had not demonstrated that the proposals would not add to the cumulative impact within the Shoreditch Special Policy Area (SPA) and a rise in public nuisance.
- The sub committee proposed reducing the capacity to 250 persons. The applicant's Legal Counsel argued that the lower capacity would mean that the premises were operating at half capacity and that people inside the premises would not add to the cumulative impact.
- The applicant's Legal Counsel confirmed that the non- standard hours would be removed from the application.
- The applicant's Legal Counsel agreed to reduce the hours from Sunday to Wednesday to 00.30 from 01.30 hours but did not agree to reduce the capacity from 325 to 250 persons.

- The responsible authorities emphasised that the premises were located within the Shoreditch SPA and that the proposed hours in addition to the proposed increase in capacity would add to the negative cumulative impact in Shoreditch.

RESOLVED:

The decision

The Licensing Sub-Committee, in considering this decision from the information presented to them within the report and at the hearing and having regard to the promotion of 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 to in accordance with the Council's Statement of Licensing and the proposed conditions set out in paragraph 8.1 of the report, with the following amendments:

- The hours for licensable activities, shall be, as agreed:

Films

Sunday to Wednesday 09:00 - 00:00

Thursday to Saturday 09:00 - 01:30

Live Music

Sunday to Wednesday 09:00 - 00:00

Thursday to Saturday 09:00 - 01:30

Recorded Music

Sunday to Wednesday 09:00 - 00:00

Thursday to Saturday 09:00 - 01:30

Performance of Dance

Sunday to Wednesday 09:00 - 00:00

Thursday to Saturday 09:00 - 01:30

Anything of a similar description

(to Live music, Recorded Music, Performance of Dance)

Sunday to Wednesday 09:00 - 00:00

Thursday to Saturday 09:00 - 01:30

Late Night Refreshment

Sunday to Wednesday 23:00 - 00:00

Thursday to Saturday 23:00 - 01:30

Supply of Alcohol (on-sales)

Sunday to Wednesday 09:00 - 00:00

Thursday to Saturday 09:00 - 01:30

Opening hours of the premises

Sunday to Wednesday 07:00 - 00:30

Thursday to Saturday 07:00 - 02:00

Non-standard hours will be removed from the licence.

Amend Condition 35 as follows:

- “The total capacity of the premises shall be limited, to no more than 300 patrons, at any one time excluding staff “.

And additional condition

- Use of the outside area shall cease at 22:00

Reasons for the decision

The application for a premises licence has been approved, as members of the Licensing Subcommittee were satisfied that the licensing objectives would not be undermined in the Shoreditch Special Policy Area (“Shoreditch SPA”)

The Sub-committee took into consideration that the Responsible Authorities (the Licensing Authority and the Metropolitan Police Service (“the Police”) made representations on the grounds of crime and disorder and prevention of public nuisance. The Sub-committee noted no other Responsible Authorities made representations about the application, and no local residents objected to the application.

The Sub-committee took into consideration the representation made by the Licensing Authority and the Police on the grounds of the prevention of public nuisance in the Shoreditch SPA and therefore it is subject to Policy LP10.

The Sub-committee heard representations from the Applicant’s legal representative that because of the premises specific location, the Light Bar did not adversely impact on the Shoreditch SPA because customers did not tend to disperse into the more sensitive areas covered by the SPA but, instead, exited the other way towards Liverpool Street Station and so away from the Shoreditch SPA.

The Sub-committee after hearing from the Applicant and the Licensing Authority and the Police were satisfied that the premises would not add to the cumulative impact in the area, and would not undermine the licensing objectives in the Shoreditch SPA.

The Sub-committee took into account that the Applicant agreed to further restrictions on the first floor for corporate events.

The Sub-committee took into account that the Licensing Authority felt that the conditions and the reduced hours agreed by the Applicant alleviate their concerns about the premises; it was less likely to result in the licensing objectives being undermined.

The Sub-committee heard that the capacity will be reduced to 300 persons. The Applicant had demonstrated that they were an experienced operator with a proven track record, and they would be able to operate the premises responsibly.

Having taken all of the above factors into consideration the Sub-committee was satisfied that by granting this premises licence, the licensing objectives would not be undermined in the Shoreditch SPA.

Premises Licence: Black Rock Rooms, Basement, 9 Christopher Street, London, EC2A 2BS

8.1 The sub-committee heard from the Principal Licensing Officer and the applicant. During the course of submissions and a discussion of the application, the sub-committee noted the following:

- The applicant stated that the premises licence had been granted 28 years ago and they had been operating a specialist whiskey bar since 2016 without any complaints or issues. The pandemic had resulted in them not trading for almost two years and significantly impacting on their business.
- The applicant confirmed that they offered hot and cold food with alcoholic drinks and played background music. Tasting sessions would be offered to corporate clients and they would be permitted to take away the whiskey 200ml or less bottles that they had blended during the session.
- The Other Persons emphasised that Shoreditch had been suffering from the cumulative impact resulting from the rise in licensed premises in the area and also expressed concern about the late closing hours and the potential rise in off sales, which would have a negative impact on the special policy area.
- The Other Persons confirmed that she had not been directly affected by this particular premises.
- The applicant replied that he owned a long lease; this was a small premises and business, which was service led; the hours had been reduced to midnight on Wednesdays; the notices had been displayed for patrons to disperse quietly; and a tasting session would be held once a week mainly on Saturdays at 15.00 hours
- Discussion ensued in respect of Conditions 35 and 37. The sub-committee noted that a dispersal policy was not necessary for this small premises with a capacity of no more than 26 patrons with approximately 15 patrons expected daily. The Licensing and Corporate Lawyer indicated that she would liaise with the applicant in relation to Condition 35 and whether it was necessary to revise the condition to include promotional drinking during special events.
- The applicant clarified that the majority of the whiskey drinks would be sold with appetisers and a few bottles would be sold for off premises consumption after master classes.

- The sub-committee also noted the written representations from the Other Persons.

RESOLVED:

The decision

The Licensing Sub-Committee, in considering this decision from the information presented to them within the report and at the hearing and having regard to the promotion of 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 and the proposed conditions set out in paragraph 8.1 of the report.

Reasons for the decision

The application for a premises licence has been approved, as members of the Licensing Sub-committee were satisfied that the licensing objectives would not be undermined.

The Sub-committee took into consideration that the Responsible Authorities (the Environmental Protection Team, the Environmental Enforcement Team and the Metropolitan Police Service ("the Police")) agreed conditions with the Applicant in advance of the hearing and subsequently withdrew their representations. The Sub-committee noted no other Responsible Authorities made representations about the application.

The Sub-committee took into consideration the representation made by 5 Other Persons (local residents). The Sub-committee took into account that the local residents had concerns about the late hours applied for until 02:00, which they considered very late and would cause a disturbance. The Sub-committee noted that the local residents had not experienced anything like that previously, however, together with all the premises open after midnight the local residents had concerns about how the premises would operate in the future and with off-sales.

The Sub-committee noted that this was a mirror licence where recorded music would be played at ambient levels on a digital system, there would be no live music played.

The Sub-committee took into account that a dispersal policy was not necessary for this small premises with a maximum capacity of 26 persons and an average of 15 patrons on the premises daily. The Applicant clarified that the majority of whiskey was sold with small plates or appetisers and a small number of bottles were sold for off premises consumption after the master classes.

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The Sub-committee after hearing from the Applicant and the local residents were satisfied that it was a small premises that would not add to the cumulative impact in the area, and would not undermine the licensing objectives. The Sub-committee took into consideration that the premises were not in a special policy area, SIA door security was provided Thursday, Friday and Saturday, and the premises had a good track record.

Having taken all of the above factors into consideration the Sub-committee was satisfied that by granting this premises licence, the licensing objectives would not be undermined.

Public Informative

The Premises Licence holder is encouraged to continue working with the local residents to deal with any issues arising relating to noise nuisance.

9 Temporary Event Notices - Standing Item

9.1 There were no temporary event notices.

Duration of the meeting: 2.00pm