

DRAFT MINUTES OF THE MEETING OF LICENSING SUB COMMITTEE C

TUESDAY 17 NOVEMBER 2020 AT 2PM

THIS MEETING WAS LIVE STREAMED AND CAN BE VIEWED AT:

<https://youtu.be/R7gYStlWljQ>

Councillors Present: Plouviez, Smythe, Snell (Chair)

Officers in Attendance: Amanda Nauth - Licensing and Corporate Lawyer
Suba Sriramana - Acting Principal Licensing Officer
Clifford Hart - Senior Governance Services Officer

Responsible Authorities: David Tuitt - Business Regulation Team Leader
(Licensing Authority)

Also in Attendance: Mr Luke Elford - Applicant's Solicitor
Mr Dyllan - Applicant
Mr Seb Glover - Applicant

1. Election of Chair

1.1 Councillor Snell was duly elected to Chair the meeting.

2. Apologies for Absence

2.1 There were no apologies for absence.

3. Declarations of Interest

3.1 There were no declarations of interest.

4. Licensing Sub Committee Hearing Procedure

4.1 The hearing procedure as set out in the agenda pack was explained to all participants.

5. Application for a Premises Licence – Hackney’s Garden, 210 Ponsford Street, London E9 6JU

- 5.1 The Chair advised that the Police had reached agreement with the applicant in terms of their objections and the agreed conditions had been circulated for the sub-committee on 12 November.
- 5.2 Subangini Sriramana, Acting Principal Licensing Officer introduced the report.
- 5.3 In response to clarification from the Chair, it was advised that the agreed revised operation of the premises was:

Monday to Wednesday	08:00 – 22:00 hours
Thursday to Friday	08:00 - 23:00 hours
Saturday	10:00 – 23:00 hours
Sunday	10:00 – 22:00 hours

Supply of Alcohol (on and off the premises):

Monday to Wednesday	08:00 – 21:30 hours
Thursday to Friday	08:00 - 22:30 hours
Saturday	10:00 – 22:30 hours
Sunday	10:00 – 21:30 hours

- 5.4 Mr Luke Elford - the applicant’s solicitor made the following points in support of the application:
- There was one outstanding objection from the Licensing Authority from Mr Tuitt pertaining to Licensing Policy 6 in terms of external area usage after 22:00 hours.
 - That there were no other major issues following the Police withdrawing their original objections, and reference was made to letters of support from both local residents and businesses.
 - The site of the application was to be transformed from a former car wash to a pleasant venue, by an experienced operator, with a proven track record of success.
 - The proposed operation would be as categorised - an external bar with pop-up food offer, with the venue having an awning or canopy covering 80% of the site. The sub-committee was informed that this was the original covering when the car wash was in operation, and the premise was enclosed on three sides by building walls, one of which being the railtrack entering Hackney Central Station.
 - The only approval sought outside the licensing policy was for operation of the premises for 1 hour from 10-11pm Thursday through Saturday which could be monitored by both a noise limiter and dispersal policy. The additional hours were sought due to lack of objections to the proposals.

- Any negative issues raised by local businesses or residents could be reported through a dedicated telephone contact line.
- That the topography of the location was in a busy street with heavy traffic and bounded by a main railway line, therefore the noise issue from the operation would not exacerbate the existing noise levels or have a negative impact to anyone locally.

5.5 The sub-committee raised the following points which were responded to as indicated;

- Whether the awning material would assist in the issue of noise prevention. The applicant said that it was of corrugated iron and had been part of the original car wash operation, and that it would assist in noise containment but was not specifically for that.
- The actual core hours and operation. The applicant claimed that the proposed operation times were within the licensing policy LP6 stated core hours, except for the early hour operation on Sunday mornings.
- Whether there had been any testing of the noise levels, and the possible funnelling effect of noise under arches which did occur in other locations where similar venues operated. The applicants stated that over the summer period Temporary Events Notices (TENs) had been granted to events at the location with no objections raised during these events by any local residents, the Police, or LB Hackney Licensing and Environmental Health.
- The sub-committee queried whether specific noise testing had been carried out for the residential flats with open balconies in the near vicinity. It was observed that people often did not object to TENs as they were one off.
- The applicants stated that there had not been any specific noise testing but that there would be measures in place i.e. a noise limiter installed/
- Clarification was given as regards to control of noise referenced in the supplementary conditions circulated:;the licensee would be on the premises at all times and any amplified music would be subject to control via the noise limiter, and the only additional persons operating at the premises would be the proposed food suppliers.
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5.6 Mr David Tuitt, Licensing Authority representative, referred to his submissions, as set out in appendix B2. The primary concern and objection was on the grounds of possible noise nuisance given the external element of the proposed operation, and the reference in the original objection to condition LP6.

5.7 Mr Tuitt further commented that:

- A site visit had been conducted on 7 October with the Metropolitan Police representatives. The premises location was close to other venues and street noise, as advised by the applicant in their submission.
- The mitigation of the awning/canopy gave some level of noise reduction.
- That the TENs operations during the summer period had not given rise to any complaints, but that proposed permanent fixture could give rise to concerns of local residents.
- that the process of setting the noise limiter would be based on assessing and limiting the impact on certain points in the vicinity.
- He was unable to give an explanation to the Police withdrawal of objections and the Police agreement to the noise limiter. In clarification of condition 13 and reference to 'plant and machinery' it should be read as for that purpose and no other.

5.8 Following all submissions, the Chair led a discussion of the application. It was confirmed that the health and safety risk assessment was yet to be carried out. It was envisaged that there would be a maximum 150 person total capacity. The applicant was not supportive of an imposed restriction of less than 150 people in the venue until this assessment had been undertaken. The food providers would be invited to use the venue, but the applicant would have full control of service at all times.

5.9 The sub-committee was informed that the entrance and exit would be on Ponsford Street and of double door width. The border of the venue had railings which would be boarded on the inside. The designated emergency exit would be via the door shown on the plan into the adjacent venue, or via the front entrance.

5.10 The applicant confirmed that the proposed venue did not link to the adjacent venue (though both were owned by the applicants). Both entities were separate in operation, and any proposal to link them would require considerable variation. The applicant commented that this was not intended nor was the proposed venue in that sense to be a beer garden for the adjacent venue.

5.11 The applicant confirmed that they were prepared to accept a condition around implementing a dispersal policy, should the application be granted.

5.12 In his closing statement, Mr Luke Elford advised that

- the concerns expressed were appreciated given that the terms of the application were somewhat outside the usual scope of the Council's Licensing policies;and
- that the application was from a known operator, and with modified conditions agreed already, it demonstrated it was a credible venture. The applicant would be happy to consider any further modifications to address outstanding concerns.

5.12 In his closing statement the Licensing Authority representative - Mr Tuitt commented that:

- he noted the concerns expressed by the sub-committee in relation to the noise levels of music, and overall effects of the venue. The mitigations put forward by the applicant would somewhat meet those concerns in terms of agreed conditions;
- the issues of seating and capacity would be subject to a final health and safety risk assessment; and
- the planning consents required for the venue would cover matters pertaining to building requirements aesthetics, transport, and dispersal issues.

5.13 Mr Elford thanked the Sub-Committee for its consideration.

The Chair thanked all parties for their attendance.

The formal meeting concluded at 15:03hrs

5.14 **RESOLVED:**

Application for a Premises Licence – Hackneys Garden Limited, 210 Ponsford Street, London, E8 3SD – APPROVAL

The decision of 17th November 2020

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 proposed conditions as set out in paragraph 8.1 of the report, with the following amendments:

The opening hours and the hours for licensable activity are:

Opening Hours:

Monday to Wednesday	08:00 – 22:00 hours
Thursday to Friday	08:00 - 23:00 hours
Saturday	10:00 – 23:00 hours
Sunday	10:00 – 22:00 hours

Non-standard hours:

Until 00:00 on every Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

Supply of Alcohol (on and off the premises):

Monday to Wednesday	08:00 – 21:30 hours
Thursday to Friday	08:00 - 22:30 hours
Saturday	10:00 – 22:30 hours
Sunday	10:00 – 21:30 hours

Non-standard hours:

Until 00:00 on every Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

- Late Night Refreshment was withdrawn from the application.
- The capacity of the premises to be reassessed on the understanding that it will be no more than 150 persons at any one time.
- Condition 14 shall be deleted due to the amended hours.

And the following additional conditions

- All licensable activity will cease 30 minutes before the premises closes each day
- Mobile food units and vehicles are not permitted on the premises
- A Dispersal Policy shall be submitted to and deemed acceptable by the Licensing Authority.
- No open containers shall be taken off the premises.
- A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service. The operational panel of the noise limiter shall be secured by key or password and access shall only be to persons authorised by the Premises Licence Holder. The noise limiter shall not be altered without prior agreement of the Environmental Health Service. No additional sound generating equipment shall be used at the Premises without it being routed through the sound limiting device.
- There shall be a written dispersal policy at the premises. This policy shall be kept on the premises and produced to a police officer or other authorised officer upon request.
- All staff shall receive training on the legislation relating to the sales of alcohol to underage persons and drunken persons and shall have

refresher training every 12 months. There shall be written records of such training which will be kept on the premises and produced to a police officer or other authorised officer upon request.

Reasons for the decision

The amended application has been approved, with the above amendments, as the Licensing sub-committee was satisfied that the licensing objectives would not be undermined.

The sub-committee took into consideration that Environmental Enforcement ~~the~~, and the Metropolitan Police Service had withdrawn their representations, and agreed conditions with the applicant. They also considered letters of support from local residents and interested parties. It was noted that the closest neighbours to the premises are in support of the application. The Licensing Authority maintained their objection to the application due to conflict with policy LP6 for outside areas, and concerns about measures to control noise that may affect local residents.

The Metropolitan Police Service felt that the reduction in times for licensable activity and additional conditions will allay their concerns around dispersal towards transport hubs and disturbing local residents late at night.

The Licensing Authority have not received any complaints about the premises. They accepted the reduced hours on the amended application. The Licensing Authority confirmed that this will be a permanent open space fixture along Morning Lane and Ponsford Street which could result in noise nuisance, and a negative impact on local residents. The Applicant suggested a noise limiter condition to help overcome any noise nuisance, and they offered to invite the Environmental Protection officer to set the noise limiter. The Applicant confirmed that an application for Planning Permission will be made in due course.

The sub-committee took into consideration that the premises is made up of an eighty percent (80%) covered canopy towards the front of the premises in two parts. It was noted that over the Summer period the applicant applied for a number of Temporary Event Notices. There were no complaints received from local residents or the Responsible Authorities following these events.

The applicant's legal representative confirmed that a comprehensive list of conditions had been submitted, and the applicant had put in place control measures and modifications to help operate the premises responsibly. The applicant confirmed they have had a general fire risk assessment which confirmed a capacity of 150 in total. They intended to invite a food operator to prepare and serve hot food on the premises. The food operator will not have a food truck, and it will not be a food market. The food offering will change each season. Smokers will be permitted to smoke at the front of the premises. The applicant intended to place temporary bench seating along the front of the premises. It was noted that an area will be left clear to allow patrons to come into the premises. The applicant intends to open the premises in 2021.

The sub-committee having carefully considered all the representations decided to grant the premises licence as some of their concerns were addressed. Each application is considered on its own merits. They took into consideration that alcohol would be sold ancillary to a meal which was reassuring about how the premises will be controlled and operated.

The sub-committee felt that the noise limiter gave some reassurance that the noise level will be controlled, and will limit any negative impact on the area.

The sub-committee felt that by reducing the hours on Saturday and Sunday to commence from 10:00 hours on those days, which would help to limit the hours of consumption of alcohol that will take place on weekends. The sub-committee had concerns about controlling the noise or any nuisance from 08:00 hours on Saturday and Sunday in view of the fact that entertainment is no longer regulated on premises with capacity under 500 people between 8.00am and 11.00pm if they are licensed to sell alcohol. They also took into consideration the impact of noise on local residents.

The sub-committee were satisfied that the reduced hours together with the additional conditions would mitigate any negative impact that the premises would have on the area. It was accepted that it was a difficult time for local businesses.

Having taken all of the above factors into consideration the Licensing sub-committee was satisfied, when granting the application, that the licensing objectives would be promoted.

Planning Informative

The applicant is reminded of the need to operate the premises according to any current planning permission relating to its use 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.

6. Temporary Event Notices

6.1 There were no Temporary Event Notices to consider.

End of Meeting

Duration of Meeting: 2pm - 3.05pm

Chairperson: Cllr Snell

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