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MINUTES OF THE MEETING OF THE LICENSING SUB COMMITTEE D

THURSDAY 15TH OCTOBER, 2020

Councillors Present: Cllr Brian Bell (Chair) and
Cllr Emma Plouviez.

Officers in Attendance: Amanda Nauth, Legal Officer, Suba
Sriramana, Acting Principal Licensing
Officer and Natalie Williams, Governance
Services Officer

Also in Attendance: Mr Gareth Hughes - Applicant's Solicitor
Mr John Lovell - Applicant

Ms Corine Delage - Other Person
Mr Davy Nougarede - Other Person

- 1. Election of Chair**
Councillor Brian Bell was duly elected to Chair the meeting.
- 2. Apologies for Absence**
There were no apologies for absence.
- 3. Declarations of Interest**
There were no declarations of interest
- 4. Minutes of the Previous Meeting**
The minutes of the meeting held on 16th January 2020 were agreed as an accurate record.

5. Licensing Sub Committee Hearing Procedure

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

6. Application for a New Premises Licence: The Tramshed, 14 Garden Walk, Hackney, London, EC2A

Subangini Sriramana, Acting Principal Licensing Officer introduced the report in respect of an application for a shadow premises licence made by Lovell Investments Limited. It was noted that there was a slight amendment to be made to page 43 of the agenda pack and that Late Night Refreshment was Mon-Tues 2300-0000 and Weds-Sat 2300-0100. There was no Late Night Refreshment on Sunday. The Sub Committee also noted that the Licensing Authority had withdrawn their representation however representations still remained from seven 'Other Persons' who were local residents, two of which were present at the meeting. Additional Information circulated previously from the applicant and one local resident was also noted.

Mr Gareth Hughes, solicitor for the applicant made submissions speaking in favour of the application, highlighting that this was a shadow application. He highlighted the following:

- The applicant does not seek to extend the hours, licensable activity or capacity but mirror what is in existence.
- The applicant is the landlord.
- This was a protective measure which was deemed to be necessary due to the current climate of operators going out of business caused by the knock-on effects of the pandemic.
- The licence would only come into force in the event of the operator going into liquidation.

The Sub Committee heard from the applicant, John Lovell from John Lovell Investments, who informed the Sub Committee that he has owned the building for 12 years. He reported that his only interest was as owner of the building and the purpose of the licence was to make the building more marketable and easy to let in the event of the current operator defaulting or ceasing to operate. He gave assurances that he had no direct interest in trading within the hospitality industry. He cited his main objective as a landlord was to protect the licence in the current climate.

Ms Corine Delage, 'Other Person' (Appendix C6) made submissions in objection to the application, highlighting the following points:

- Her bedroom and living areas are above the premises.
- The primary concern relates to the escape of noise from the glass roof. It was noted that the premises is a listed building and the glass roof prevents some forms of noise insulation/soundproofing.
- It was acknowledged that the previous occupant was a responsible and considerate operator, who had a good relationship with neighbours, and ran the business solely as a restaurant
- There were however concerns about the new management who are experienced live music event organisers and that the business would be run as a live music venue.
- The long-term mental and physical impact of noise nuisance was emphasised.
- A request was made that certain stipulations be put on the licence including no Temporary Event Notices and no live or recorded music to be audible in the adjoining premises.

Mr Davy Nougarede, 'Other Person' (Appendix C4) made submissions in objection to the application, speaking also on behalf of three other residents who had submitted written representations as contained within the agenda pack. He highlighted the following points:

- His bedroom is directly adjacent to the premises, and they subsequently share a party wall, beams and brickwork.
- When the original licence was granted 10 years ago, the landscape of the Shoreditch area was significantly different. It was far less busy, built up and saturated with licenced premises.
- Members were requested to take in account the cumulative impact, given that there is a hotel opposite the premises with another being built a few metres away.
- The premises was described as being situated on a very narrow street, that attracts passing trade.
- The current licence permits 10 smokers outside at any one time, this is often not adhered to.
- There is a significant amount of anti-social behaviour in the area although it was noted that this could not be attributed specifically to Tramshed clientele.
- Members were requested to review the opening hours of the original application and add a condition specifying no loud music and live entertainment due to lack of appropriate sound-proofing.

Following all submissions, a discussion of the application ensued, during which the following points were raised:

- The Chair informed the local residents that the Sub Committee did not have the authority to limit or restrict the application or use of Temporary Event Notices which is a separate regime.
- Mr Gareth Hughes, the applicant's solicitor confirmed that he represented the applicant at the time of the first application 10 years ago.
- Mr Lovell, applicant confirmed that the previous occupant's business, ceased trading in March 2020. The premises is currently let on a 12 month agreement. The current occupant has other businesses but plans to operate the premises as a food and business establishment.
- The 'Other Persons' (local residents) raised concerns that there would be a significant music element to the business and spoke of recent occasions when music was being played loudly.
- The applicant agreed to remind the occupant of the licensing conditions, constraints and objectives.
- Local residents were informed that condition 12 on the current license (which was to be replicated if granted) specified a no noise nuisance element to the application would require input from Environmental Health, who would have the authority to serve notices. The Sub Committee explained that to date, there was no evidence of regular noise nuisance to warrant a sound limiter or additional condition.
- The Sub Committee expressed concerns that it was bad practice to have more than one licence for a premises. However, it was aware that there is case law on this which allowed it. In the situation of a review, both licences would need to be reviewed.
- It was explained the current licence would be the main licence that would apply to the new occupant. The shadow licence would only be applicable should the premises become vacant.
- The Sub Committee, whilst acknowledging the concerns of the local residents, explained that there were limits on what could be done as there would need to be substantial grounds and evidence on which to refuse or amend the licence.

In their closing submissions, the 'Other Persons' (local residents) retained their objections. There were no other closing submissions.

RESOLVED: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 conditions set out in paragraph 8.1 of the report, with the following amendments:-

Late Night Refreshment:

Monday to Wednesday 23:00 – 00:00 hours

Thursday to Saturday 23:00 – 01:00 hours

And the following addition condition:

- The sale and supply of alcohol will cease 30 minutes before the premises closes each day.
- The shadow licence will only take effect if the premises licence number LBH-PRE-T-1202 is surrendered, forfeited or has lapsed.

Reasons for the decision

The application for the premises licence has been approved, as members of the Licensing sub-committee were satisfied that the licensing objectives would not be undermined within the Shoreditch Special Policy Area (SPA).

The sub-committee took into consideration that the most of the Responsible Authorities including the Metropolitan Police Service made no representations and that the Licensing Authority had withdrawn their representations in advance of the hearing. The sub-committee took into consideration that the Environmental Protection service had withdrawn their representations, and agreed conditions with the applicant.

The Other Persons still maintained their objection to the application due to noise and anti-social behaviour issues affecting the local residents. The premises are situated in a partially residential area.

The sub-committee also took into consideration the representations made by the Other Persons, and their concerns about the impact on local residents. The premises are located in the Shoreditch SPA and therefore it is subject to policy LP10.

The applicant's representative made representations that the application was for a "shadow" premises licence on the same terms as the existing premises. The proposed licensable activities, hours and conditions are identical to the existing premises licence. The applicant has been the freehold owner of the premises for a number of years and believed that he had been a responsible owner who wanted to preserve the licence on the premises.

The sub-committee accepted that the application for a shadow licence would not result in additional licensable activities, extend hours or remove conditions which might add to cumulative impact in the Shoreditch SPA.

It was accepted and acknowledged that there was a need to protect the premise licence given the current climate, and challenging times for the hospitality business.

It was noted that there was no application to play live music on the premises, and that only background music was played. Without a licence to play live music the operator would not be permitted to play live music. Condition 12 would remain on the license - "There shall be no noise nuisance, as determined by the Council's Noise Pollution Team, to any premises location where residents reside when this premises is used for licensable activities."

The ancillary to food condition would be maintained.

Having taken all of the above factors into consideration the sub-committee were satisfied that the licensing objectives would continue to be promoted within the Shoreditch SPA, by granting this application.

Public Informative

The applicant and the operator are both reminded of the need to operate the premises according to any current licensing conditions on the premises licence, and any planning permissions relating to its use class, conditions and hours.

The applicant and the operator are both encouraged to engage in meaningful dialog with the local residents regarding issues relating to the premises, and to play their part in reducing any impacts such as noise and anti-social behaviour.

