

MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE D

THURSDAY, 4 FEBRUARY 2021

Councillors Present: Councillor Brian Bell in the Chair

Cllr Emma Plouviez

Officers in Attendance:

Subangini Sriramana, (Principal Licensing Officer),
Amanda Nauth (Lawyer) and Rabiya Khatun
(Governance Services Officer).

Also in Attendance: Patel & Sons

Priya Patel – Applicant's Legal Representative
Mr Patel- Applicant

David Tuitt - Licensing

PC Ryan } Metropolitan Police Services
PC Atkins }

1 Election of Chair

1.1 Councillor Bell was duly elected to chair the meeting.

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 Licensing Sub-Committee Hearing Procedure

4.1 The Chair outlined the Licensing Sub-Committee hearing procedure.

5 Variation Licence: Patel and Sons, 101 Great Eastern Street, EC2A 3JD

5.1 Subangini Sriramana, Principal Licensing Officer, introduced the report in respect of a variation application seeking to extend the hours for supply of alcohol for consumption off the premises. The premises was located within the Shoreditch Special Policy Area (SPA) and representations remained from the Police and Licensing.

5.2 Ms Sriramana stated that the name on the application 'Patel and Sons' should be amended to the premises licence holder Mr Shajinder Patel. Ms Patel, the

applicant's legal representative clarified that she had been instructed to submit the application under Patel and Sons. The Chair stated that this issue could be resolved if necessary, following the meeting.

5.3 Ms Patel, the applicant's legal representative made the following points in support of the application:

- She believed there had been no negative cumulative impact, concerns or incidents since the variation licence was granted on 24 November 2019. She argued that this demonstrated that the applicant was a responsible operator and had upheld the licensing objectives
- The applicant had proposed various measures to alleviate the impact of the proposals on the area
- The premises is situated on the boundary of and not in the heart of the Shoreditch SPA
- Some relevant authorities had not objected
- The applicant's business had made substantial losses due to the restrictions during the Coronavirus pandemic. The proposed hours being sought were reasonable and would allow the applicant to generate income to sustain the business and aid long-term recovery
- The applicant had tried to engage with the police to address their concerns but no agreement could be reached
- Five licensed premises nearby had closed or reduced their operation including The Quick Food & Wine, Food Express, The Horns, Trapeze Floripa and The Best Mangal. She argued that this could ease the saturation of licensed premises in the area and its associated problems
- The off licence was a different type of business from some other licensed premises in the area
- The applicant would be willing to accept an additional conditional if appropriate, that the purchase of alcohol or any other non-alcoholic items could be made through a hatch at the front of the premises. The hatch service would be provided from midnight onwards and the main entrance would be locked
- An SIA door supervisor would be employed during the proposed hours

5.4 The Chair indicated that there was no mention of an SIA security officer within the report. Ms Patel apologised for the omission of this from the papers submitted, but confirmed that the applicant would be willing to employ a SIA door supervisor. He had also proposed a time limited licence to alleviate the concerns of the responsible authorities.

5.5 PC Atkins, Police, objected to the application on the grounds of the prevention of crime and disorder, public safety and prevention of public nuisance and made the following points:

- The premises is located within the Shoreditch SPA
- Prior to lockdown the streets of Shoreditch were extremely busy during the evenings and early hours of the morning with a large footfall and thousands of people coming into the area to eat and drink at the pubs, clubs, etc., which had led to the area suffering from public nuisance, anti-social behaviour and crime and disorder.
- The current Covid-19 restrictions were temporary and footfall was expected to return to pre-lockdown levels once restrictions were lifted.
- After the first lockdown more people were consuming alcohol on the streets as premises re-opened with limited capacity due to social distancing restrictions

The increase in street drinking had led to an increase in incidents of anti-social behaviour and crime and disorder.

- The proposed later hours would encourage people to remain in the area after eating/drinking looking for an off licence to purchase and consume more alcohol, which would further exacerbate the public nuisance, crime and disorder and anti-social behaviour experienced in the area.
- The proposed use of a hatch did not alleviate concerns relating to more consumption of alcohol on the streets
- Some businesses were temporarily closed during the Covid restrictions
- The additional SIA staff did not address the problems associated with intoxicated people remaining in the area
- The hours on the current licence were sufficient for the character of the area and the premises already benefited from hours that exceeded those hours within the Council's licensing policy LP4.

5.6 In response to a question from the Chair, PC Atkins stated that the sale of food items in the shop did not alleviate their concerns as alcohol could be purchased without food in-store or through the hatch, and did not limit alcohol consumption on the streets.

5.7 Mr Tuitt, Licensing, in his representation against the application on the grounds of the prevention of crime and disorder and prevention of public nuisance made the following points:

- The premises is located within the Shoreditch SPA and this area had been identified as suffering from cumulative impact from the concentration of licensed premises
- The proposed off sales would likely encourage more street drinking as more cheap priced alcohol was made available until the early hours of the morning, which would exacerbate the problems of public nuisance, ASB and disorder experienced in the area
- Local revellers could purchase more alcohol from an off licence at a lower price than on-sales premises and more consumption would have an adverse impact on the Shoreditch SPA.
- Late night revellers often congregated at the intersection close to the premise
- The five premises that were currently closed had not surrendered their licences to Licensing.

5.8 In response to questions from members, Mr Tuitt confirmed that the premises was within the borders of the Shoreditch SPA, and that the current Covid-19 restrictions were temporary.

5.9 In response to questions from members, Ms Patel indicated that the applicant would be willing to agree to a condition for alcohol to be sold with food to alleviate concerns. The applicant would attempt to implement measures to minimise nuisance from street drinking such as alcohol not being sold to an intoxicated person and three staff being employed at the premises during the evenings plus one SIA staff monitoring the front of the premises from 23.00 to 03.00 hours.

5.10 Ms Nauth emphasised that some licensed premises held historic licenses and other premises fell into a different licensing category.

5.11 It was noted that members would prefer customers to purchase their alcohol in the shop where they could also view the food items on offer rather than through a

hatch. The shop was currently open until 02.00 hours and thus the current off sales hours already exceeded those normally permitted within the Council's policy.

5.12 With regard to the proposal relating to hot food being sold with alcohol, this would require a separate application for a licence for late night refreshment which the applicant had not made.

5.13 The committee did not believe a time limited licence would resolve any of the problems identified. The proposals did not alleviate the concerns that people from other licensed premises would continue to remain in the area buying and consuming more alcohol from the off licence. The proposed conditions relating to the hatch and SIA staff would also be an operational challenge.

5.14 The sub-committee were also critical that some of the proposals raised by the applicant's legal representative at the hearing had not been raised with the Responsible Authorities in advance, to give them sufficient time to consider and respond to them.

5.15 Ms Patel summed up by emphasising her argument that the applicant was a responsible operator, and that these were exceptional times for businesses.

5.16 PC Atkins and Mr Tuitt summarised that they sympathised with businesses but remained of the view that the availability of cheaper priced alcohol later at night would further exacerbate problems in the area. They did not agree that any of the proposals from the applicant made the application acceptable.

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 and LP10 within the Council's Statement of Licensing Policy.

Reasons for the decision

The Licensing Sub-committee, having heard from the Responsible Authorities (the Licensing Authority and the Metropolitan Police Service) believed that granting the application would be likely to result in the licensing objectives being undermined, and would have a negative impact on the Shoreditch Special Policy Area (Shoreditch SPA).

The sub-committee took into consideration the representations of the Metropolitan Police Service who objected to this application due the impact it would have, which could lead to further unregulated drinking late at night and the associated anti-social behaviour. The police's representations were against any extensions of hours which

would mean that people would have more access to alcohol for longer hours late at night. They considered that selling alcohol through a hatch does not at all limit alcohol consumption on the street.

The sub-committee noted from the Licensing Authority's representations that they had particular concerns about revellers congregating at the intersection close to this premises and on the narrow pavement outside. The sub-committee also heard that local revellers could readily purchase alcohol in an off licence at a lower price than at a premises that has on-sales only. Therefore, the lower cost alcohol could exacerbate the effects of consumption in the area, and have an impact on the Shoreditch SPA.

The sub-committee carefully considered the representations made by the applicant's representative alongside those of the Metropolitan Police Service and the Licensing Authority. However the sub-committee were not convinced that the applicant's proposed additional conditions would be operational or sustainable.

The sub-committee noted that some of the proposals raised by the applicant's legal representative had not been raised with the Responsible Authorities in advance of the hearing, to give them sufficient time to consider and respond to them.

It was also noted that the applicant offered to sell alcohol with hot food. However, this would require a separate application for a licence for late night refreshment which had not been made or determined at the time.

The sub-committee further noted that the applicant's proposals did not allay the concerns raised by the Responsible Authorities. They concluded that he had not offered enforceable or sustainable conditions which justified them making an exception within the Shoreditch SPA.

The sub-committee took into consideration that there was no evidence that the premises which were temporarily closed in the area had surrendered their licences. The Responsible Authorities stated in their submissions that they were not aware of many, if any, licences having been permanently surrendered. The current Covid-19 restrictions were temporary measures which would be lifted at some point, and it was likely footfall would return to pre-lockdown levels in time.

The sub-committee also took into consideration that the premises has a licence with hours to sell alcohol from Monday to Sunday up to 00:00 hours which already exceed those stated in the Council's Statement of Licensing Policy LP4. The sub-committee would prefer customers to purchase their alcohol in the shop rather than through a hatch. They took into consideration concerns raised by the Responsible Authorities about people in the area who go out to restaurants to eat and drink, and then look for an off licence late at night to purchase more alcohol.

The sub-committee sympathised with the applicant's circumstances, and the impact on the premises of the current temporary Covid-19 restrictions during the pandemic. However, the applicant has not been able to demonstrate adequate exceptional circumstances, to justify the extension of hours, and the application being approved. Licensing sub-committees cannot consider the issue of financial "need" in determining any licence application.

The sub-committee felt that by not granting this variation application it would help prevent anti-social behaviour, resulting from more people coming into the area,

consuming alcohol, and staying in the area for longer. These would contribute to increasing public nuisance, and to crime and disorder, in the Shoreditch SPA.

The sub-committee took into consideration when refusing this application that each case is considered on its merits. The sub-committee believed that the licensing objectives could not be promoted by granting this variation application, and as such believed it was appropriate to refuse the application in its entirety.

6 Temporary Event Notices - Standing Item

6.1 There were no temporary event notices.

Duration of the meeting: 2.00pm

Contact:

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