

Licensing Sub-Committee A – 8 October 2020 at 7pm

Remote meeting

Present,

Councillors : Councillors Sharon Patrick  
Councillor Gilbert Smyth

Officers: Ms Amanda Nauth - Legal Adviser - LB Hackney  
Ms Subangini Suramana - Acting Principal Licensing Officer - LB Hackney  
Mr David Tuitt - Licensing Authority - LB Hackney  
Miss Jessica Feeney- Governance Services Officer - LB Hackney

Representatives:

**Violet, 47 Wilton Way**

**Applicant:**

- Ms Claire Ptak – Owner/Operator of Violet Cakes
- Ms Imogen Harvey - Manager and PA to Ms Ptak
- Mr Richard Bunch – Crime and Disorder Consultant
- Me – Marcus Lavell – Legal representative for the Applicant

**Responsible Authority:**

Licensing - David Tuitt

**Other Persons:**

Sheila Suso-Runge - C1

Leona Clarke (Wilton Estate TRA) - C2

Zoe O'connor - C3

Debbie(Deborah) Mitchener - C4 (3rd Petition)

**Lion & Lamb, 46 Fanshaw Street**

**Applicant:**

Kathryn Havelock

Mr Tom Hunter (Applicant's husband)

**Responsible Authority:**

Licensing - David Tuitt

**Licensee:**

Sarah Clover - Agent

Mr Andrew King - Licensee **"Provided additional information"**

**Other Persons:**

None

**1. ELECTION OF CHAIR FOR THE DURATION OF THE PROCEEDINGS**

Councillor Smyth was duly elected Chair of the proceedings, following her nomination by Councillor Patrick.

**COUNCILLOR SYMTH IN THE CHAIR**

**2. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**NOTED**

**3. DECLARATIONS OF INTERESTS**

There were none.

**4. Minutes of previous meetings**

Nil.

**5. Licensing procedure**

The Chair advised all those present of the procedure to be followed at the meeting.

**NOTED**

**6. Application to vary a Premises Licence – Violet, 47 Wilton Way, E8 3ED**

Violet Cakes Limited has made an application for a premises licence under the Licensing Act 2003, to authorise the supply of alcohol for consumption on and off the premises. The Environmental Health Authority and Police

withdrew their representation with the agreed conditions as set out in para 8.1 within the main report.

The Chair referred the meeting to the objections to the application (including a petition) opposing the application received from and on behalf of local residents and 2 letters received in support. (Appendices C1-C6) .

The applicant's legal representative Mr Marcus Lavall introduced himself, and advised the meeting that the application was as stated in the circulated report and for alcohol consumption on and off the premises licence with times of operation as outlined. Mr Lavall then went on to make a number points and the following were a main summary of those:

- The applicant prior to the hearing provided supporting a document - "Violet Cake Hearing Bundle".
- The Application is for the ground floor shown on the map, guests must be seated at all times when supplying alcohol for consumption on the premises.
- Twenty people can sit at the top floor through winter months and in the summer months people can sit at lawfully set chairs outside the premises, the area outside can seat 20 people without covid restrictions and 12/15 with the covid restrictions.
- Condition 30 has now been agreed with the police and they have now withdrawn their representation.
- Conditions 31 to 36 were proposed by environmental enforcement, these proposed conditions have been accepted by the applicant.

The Chair thanked Mr Lavall for his summary. The Chair advised that as the objections from the responsible authorities from the Police and Environment Authority had been withdrawn however an objection still was present from the Licensing Authority. The responsible authority for licensing raised the following points:

- The proposed activities will have a negative impact on the promotion of the licensing objectives, in particular, the prevention of public nuisance due to the nature and character of the surrounding area.
- The premises is a detached building located within a primarily residential street. To the west of the premises is a recessed area which appears to be private land. And to the east there is a relatively wide paved area with two fixed public Benches.
- Residents have expressed concern about the premises extending out into these external surrounding areas. These

concerns appear to be supported by images taken from pages 12 and 13 of the applicant's own material which appears to show the space to the east of the application site being used for external seating. However, it is not clear who provided the seating in these areas nor is the date the photo was taken.

- Subsequent enquiries were made with colleagues in the Shop Fronts Team. They have confirmed that a previous shop front licence authorised use of a space measuring 8.5 metres via 0.7 metres to be used for external furniture. These dimensions appear to correlate with the narrow space running along the area immediately outside the front of the premises.
- It should be noted that off-sales of alcohol could be utilised to extend the premises into the open spaces either side of the building. This could lead to very noticeable noise nuisance from patron activity. It is on this basis that I feel off- sales should be removed from the application.

The Chair thanked the licensing authority for their representation. The Sub-Committee would now hear from the other persons. The following concerns were raised:

- At 10pm there is a possibility that customers can leave Violet, then use the estate to drink, also if the premises is full off sales can be provided and customers will congregate in the estate. There is currently a lot of litter in the gardens and this will have a greater impact.
- Noise from the premises is making residents restless, they feel that their quality of life has been affected from the noise projecting from Violet Cafe. Residents advised that a lot of noise equated from deliveries, which were at all times of the day and night also groups of people who gather and que outside the cafe. Having longer opening hours will make this almost 24/7. Residents explained that they have to close their windows during the summer months. It was felt that there was no sound insulation for the premises
- The Cafe was taking over an area that was supposed to be a conservation area, residents can not access the benches, there are many children running around unoccupied.
- Anti social behaviour concerns - people who have sat outside the Violet Cafe have been robbed.
- Residents in the block facing Violets on Wilton Estate are mainly over 50 and have raised issues around urination into gardens, against doors and storage cupboards from patrons of the Spurstowe pub on the corner of Wilton Way and

Greenwood Road. They and others fear that this activity will increase with another venue open till late and selling alcohol.

- Within a half-mile radius there are 6 pubs, 12 restaurants and 10 places selling alcohol. Residents on the estate feel this is more than enough to cater to the local people and feel that by changing a well established cafe into a licensed place adds nothing that is not already there.

The Chair thanked the residents for their statements of objections. The Applicant was given the opportunity to respond to the objectors, the following points were made:

- The applicants felt that Violet had a good relationship with the objectors
- The applicant highlighted that as a company the team were very concerned about littering and keeping the surrounding areas tidy, the team regularly picks up any packaging or litter that has been left out whether it be from our customers or not.
- The issue raised regarding the robbery happened 10 years ago, a laptop was stolen out of a customer's hand, Violet now discourages people from using or leaving laptops outside the premises.
- The applicant understood the issue raised by residents in relation to the queuing outside the premises, Covid means that there is a limited number of people allowed in the premises at one time, therefore there is an increased number of people queuing outside the shop, staff are trying to be as efficient as possible so that customers can be served sooner. The Chairs outside the premises have been moved so that the walk way is better for people that are queuing.

The Sub-Committee then undertook a discussion regarding off sales, the applicant explained that they wished for off sales so that customers could go sit upstairs if the downstairs was ever too full to sit down. The residents were concerned about off sales but only when the alcohol was taken off the premises. The Councillors questioned if the off sales could be conditioned so that customers could purchase a drink and sit upstairs or on the outside chairs, but not purchase an alcoholic drink and take it outside and sit in the gardens.

The Applicant welcomed the objectors concerns and the suggestion from the councillors. The applicant stated that to reduce the risk of street drinking off sales would only be made to those sitting at lawfully placed tables, the staff would serve alcohol to those who were going to leave the

premises then sit in the surrounding areas outside the premises. The applicant still wished to do a delivery service.

The Chair asked all parties to make their summing up statements.

The Chair thanked all parties for their attendance.

Following private deliberation it was:

## **RESOLVED**

### **The decision of 8<sup>th</sup> October 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 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:

Sunday to Thursday	08:00 - 21:00 hours
Friday to Saturday	08:00 - 22:00 hours

Supply of Alcohol (on and off the premises):

Sunday to Thursday	08:00 - 20:30 hour
Friday to Saturday	08:00 - 21:30 hours

- The sale and supply of alcohol for consumption on the premises shall be limited to the ground floor of the premises.
- The sale and supply of alcohol shall cease 30 minutes before the premises closes each day.
- Non-standard hours have been removed from the Application.

- No vertical drinking is permitted on the premises.
- The following condition shall be amended and read as follows:
 

“Substantial food and non-intoxicating beverages, including drinking water, shall be available on the ground floor of the premises where alcohol is sold or supplied for consumption on the premises”.
- Sales of alcohol for consumption off the premises are limited to the following:
  - i) sales for home delivery in sealed and wrapped containers, and
  - ii) direct off-sales only to customers in the café consuming alcohol with substantial food who may wish to purchase alcohol to take home in sealed and wrapped containers after they have eaten their food.
- No open containers are permitted to be removed from the premises.
- There shall be no supply of alcohol to customers outside of the premises until such time that:
  - a) an accurate plan has been submitted to and accepted and approved by the Licensing Authority; and
  - b) the premises licence holder has obtained a tables and chairs licence from the Highways Authority

Any furniture used under the tables and chairs licence must be placed outside in accordance with such plans and consent.

- The following condition shall be amended and read as follows:
 

“The sale and supply of alcohol for consumption in the designated external seating area, as shown on the plan, shall be made only with a sale of food, and provided only to seated customers”.
- The following condition shall be amended and read as follows:
 

“A challenge 25 proof of age scheme shall be operated at the premise where the only acceptable forms of identification are recognised photographic identification cards such as a driving licence, passport or proof of age card with the PASS hologram”.

And the following additional conditions:

- The Licensee shall ensure that all staff are fully trained and made aware of the legal requirement of businesses to comply with their responsibility as regards the disposal of waste produced from the business premises. The procedure for handling and preparing for disposal of the waste shall be in writing and displayed in a prominent place where it can be referred to at all times by staff.

- The Licensee shall ensure that any contract for general and recyclable waste disposal shall be appropriate in size to the amount of waste produced by the business. The Licensee shall maintain an adequate supply of waste receptacles provided by his registered waste carrier (refuse sacks or commercial waste bins) in order to ensure all refuse emanating from the business is always presented for collection by his waste carrier and shall not use any plain black or unidentifiable refuse sacks or any other unidentifiable or unmarked waste receptacles.
- In order to minimise the amount of time any waste remains on the public highway in readiness for collection, the Licensee will ensure the timeframe within which it may expect its waste carrier to collect is adhered to.
- The Licensee shall instruct members of staff to make regular checks of the area immediately outside the premises and remove any litter, bottles and glasses emanating from the premises. A final check should be made at close of business.
- The Licensee shall provide a safe receptacle for cigarette ends to be placed outside for the use of customers, such receptacle being carefully placed so as not to cause an obstruction or trip.
- The current trade waste agreement/duty of care waste transfer document shall be conspicuously displayed and maintained in the window of the premises where it can be conveniently seen and read by persons standing in Violet. This should remain unobstructed at all times and should clearly identify:-
  - the name of the registered waste carrier the date of
  - commencement of trade waste contract
  - the date of expiry of trade waste contract
  - the days and times of collection
  - the type of waste including the European Waste Code

### **Reasons for the decision**

The 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 the Environmental Enforcement, the Metropolitan Police had agreed conditions with the applicant in advance of the hearing. The Licensing Authority and the Other Persons maintained their objections to the application. The Other Persons objected due to concerns about noise, the hours for the sale of alcohol, and issues affecting the local residents in the surrounding residential area. It was also noted that there were letters of support for the application.

The Licensing Authority maintained their representations because although they felt the hours were modest they were also concerned about the extent of the external



area being used beyond the boundary. The extent of the use of the external area of the premises was also a concern raised by local residents which the sub-committee took into consideration.

The applicant's representative, stated in their representations, that the applicant has been a responsible business operator for 10 years, who lives in, and is familiar with the local area. It was noted that the applicant does not intend to run the business as a drinking establishment. The purpose of the application is to allow customers the choice to purchase a glass of wine or champagne to accompany lunch or tea or cake. They will only serve seated customers. The applicant demonstrated that they have policies in place such as a Challenge 25 policy, a dispersal policy, street management, a smoking policy, and they have agreed to conditions to ensure there is no litter around the premises. The applicant has also put in place the Coronavirus requirements to ensure social distancing and public safety for customers on the premises. The recent queues that have formed outside the premises, the applicant stated, was due to the reopening of the premises after 6 months, and the social distancing requirements. The applicant confirmed that she has no control over the time the bakery supply deliveries are made to the premises, and stated that she would be prepared to work with local residents to address their concerns.

The sub-committee carefully considered all the representations presented to them from the Other Persons, the Licensing Authority, the applicant and the applicant's representative. The sub-committee took into consideration that it is a food led premises. It was noted that the longer hours were sought as the applicant intends to try evening trade, and occasional holiday promotion events. It was taken into consideration that customers will only be permitted to purchase alcohol with food while seated at the premises, and there would be no vertical drinking. The sub-committee accepted that it was a challenging time for local businesses.

The sub-committee decided that on balance they were satisfied that the concerns raised by local residents were addressed by the above conditions, which the applicant must comply with, and would go some way towards mitigating any impact the premises would have on the area.

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.

### **Public Informative**

The applicant is reminded of the need to operate the premises according to any current licensing conditions on the premises licence, conditions on the tables and chairs licence and any planning permissions relating to its use class, conditions and hours. In addition to operating the premises in accordance with the Coronavirus Regulations.

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.

The applicant is 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 or anti-social behaviour.

The applicant is encouraged to make enquiries to establish the exact boundary of land within their ownership.

**7. Application for a Review of a Premises Licence – Lion & Lamb, 46 Fanshaw Street, Hackney, London, N1 6LG**

The Chair opened the meeting and invited the Principal Licensing Officer to introduce the report. Kathryn Havelock, as an individual under the Licensing Act 2003, have applied for the review of the premises licences granted for the premises known as Lion & Lamb on the grounds of prevention of public nuisance. Representations supporting the review have been received from Environmental Health Authority (Environmental Protection) (see Appendix E1), Licensing (see Appendix E2) and from one local resident (see Appendix F). Additional documents had been received by the licensee and circulated to the committee prior to the meeting.

The Applicant was invited by the chair to present their case in support of their application for calling a Review. The following points were raised:

- The venue is in a domestic housing area, the premises operates from a license that is not suited to the premises new purpose as a nightclub business, and is also consistently breaching the terms of that licence.
- The Venue has advertised its potential further ambition to develop the scope of its business into other areas, for instance, adding a music recording studio to the premises, which could result in noise nuisance 7 days a week daytime through to the late evening.
- The applicants proposed that changes in circumstances and purpose of this venue would rightfully require changes to the existing licence.
- The applicant provided members with detailed explanations of the timeline of events where there had been impacting noise nuisance.

The Chair invited the responsible authorities who had made representations to the meeting to make their statement. Representations had been received from the Environmental Health Authority and the Licensing Authority.

The Licensing Authority made a representation in relation to this application on the grounds of the prevention of public nuisance. The Principal Licensing Officer explained that the applicant had provided a detailed submission alleging that the nature of the premises had changed from that of a public house to a nightclub. Evidence that supports this can be found on the website

'Resident Advisor' where the premises are listed as a "nightclub". The applicant suggests that the operation of the premises as a nightclub within close proximity to residential premises has a negative impact on the promotion of the public nuisance objectives. Also complaints had been received by the Licensing Service in the past.

The Licensing Authority declared that recent liaison with the licensee led to a revised dispersal policy being supplied to Licensing Officers on 16 May 2019. The licensing department was aware that colleagues in Environmental Protection had also received complaints. This may suggest that the premises may have been operated not in accordance with Condition (10). The Licensing Authority felt that the application is warranted and that an assessment by the Licensing Sub-Committee is justified.

The Environmental Health Authority felt that the proposal could lead to a negative impact on the promotion of the licensing objectives, in particular, the prevention of public nuisance. The Environmental Protection Team in the past received noise complaints about loud music that emanated from the premises, however they had not received a complaint from the applicants. The Committee was informed that a noise abatement notice was served in March 2018. Since the Environmental Agency had many meetings with the applicant to work on sound levels and sound proofing the building, the Environmental Health Authority were pleased with the level with sound so did not revisit again.

The Chair thanked the responsible authorities for their representation, the Chair then invited the Others Persons whose representation was set out in Appendix F of the report. The Objector stated that the Lion and Lamb pub had built a roof terrace with no planning permission, and that the roof terrace caused a lot of disturbance to the community. The terrace directly overlooks several flats in the Fairchild House block as well as the neighbouring Burr House.

The Chair invited the Premises Licence Holder to the Committee to respond to the issues raised. The Agent Sarah Colver, acting on behalf of the Premises Licence Holder made the following points:

- The applicant was not aware of any complaints coming in from the applicants, as they have previously indicated in their log of events.
- It was felt that the application for a review was misconceived.
- The Solicitor made reference to agenda item 8 where a written submission from the applicant was detailed.
- There allegedly had been a history of conflict between Mr King and Mr Hunter.

- The application had been produced from historical issues but these have now been resolved by the Environmental Health Officer - the sound insulation and output has been measured by the Environmental Health Officer. It was felt that there was no current issue to warrant the review application at a Licensing Sub Committee.
- The applicant's request of removal of a recording studio is disproportionate as it is separate from the premises licence.
- Two representatives have written in to support the premises and these residents live closer to the nightclub than the applicants, members were advised that these residents had not had any issues with the premises since living at their premises.

The Premises Licence Holder shared that he spent a lot of time and money ensuring the soundproofing of the premises was correct so that there was no noise nuisance for local residents. The committee were advised that the Premises Licence Holder had not received any complaints regarding sound from the premises.

The Sub Committee was then opened up for discussion the following points were discussed:

- Sarah Clover felt that the committee needed to consider whether there was a noise nuisance issue currently from the premises effecting a number of local residents nearby, rather than referring back to historic records.
- The Committee discussed the issue raised by the applicant of people congregating outside the premises, queuing and a full beer garden The Premises Licence Holder said that a maximum of 30 people could be on the terrace, there would only be congregating where the premises was at its full capacity and there is a queue.
- The applicants were concerned about the nightclub events held at the premises, they also verified that the photos within the agenda matched up with the log of complaints kept by the applicants.

Councillor Patrick questioned why the applicants had not called out the noise team when they had issues in previous months/years, the applicants declared that they did not get much of a response from the noise team, the applicants explained that they were logging as they went along to then review the situation and decide what plan of action to take.

Councilor Smyth asked the premises licence holder to share a date with the applicant of when they were open following the new soundproofing installations. The Premises licence holder named a number of dates where

events had taken place following the soundproofing insulation. The applicants confirmed that they were satisfied with the level of sound on the stated dates.

Councillor Patrick suggested an adjournment of the meeting for when the premises opens back up again. Sarah Clover did not welcome the request for an adjournment as the views of the applicants were not representing the public's interest which would be a valid reason for adjournment. It was agreed that the meeting would not be adjourned.

The Principal Licensing Officer made reference to condition 10 (Music being kept at a low level and not audible in residents premises), and stated that the Environmental Health Officer had made reference to noise being audible in the applicants premises. The Licence also predated smoking legislation, if this licence was granted today we would consider a limit on the number of people smoking at the premises.

The Chair asked all those present to make their final comments.

The Chair thanked all parties for their attendance.

The formal meeting concluded at 22:50hrs

Following private deliberation it was:

## **RESOLVED**

### **The decision of 8<sup>th</sup> October 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:**