

DRAFT MINUTES OF THE MEETING OF LICENSING SUB COMMITTEE D

THURSDAY 9th SEPTEMBER 2021 AT 2PM

THIS MEETING WAS LIVE STREAMED AND CAN BE VIEWED AT:

Councillors Present: Cllr Brian Bell (Chair), Cllr Emma Plouviez
Cllr Susan Fajana-Thomas

Officers in Attendance: Peter Gray - Governance Services Officer
Amanda Nauth - Licensing and Corporate Lawyer
Suba Sriramana - Acting Principal Licensing Officer

Also in Attendance: The Fixagon, 130 Bridport Place
Joshua Nawras (Applicant)
Felix Mortimer(Applicant)
David Tuitt (Licensing Authority)
Other Persons
Richard Barnett
Fiona Gee
Craig Mills
Dennis Mok
Felix Philippen
Stephanie Wong
Casa Fofa, 158 Sandringham Road
Paula Albanese (Applicant)
David Tuitt (Licensing Authority)
Other Person
Thomas Iskratsch

1. Election of Chair

1.1 Councillor Brian Bell was duly elected as Chair of 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. Minutes of previous meetings

5.1 The minutes of the meeting on 8th July 2021 were agreed as a correct record subject to amending the spelling of Rolling Rock.

6. Application for a Premises Licence: The Fixagon, Mono Tower, 130 Bridport Place N5

6.1 Suba Srirmana introduced the application for a premises licence. Environment Enforcement had withdrawn their representations. Representations remained from the Licensing Authority and from a number of other persons.

6.2 The Chair referred to the error in the Police's correspondence and that the hours should be to 11pm - Friday and Saturday.

6.3 Joshua Nawras (applicant) made representations to the Sub-Committee in support of the application, highlighting the following:

- The Community Cafe was a creative hub with shared activity, serving vegan food. The premise was not a nightclub;
- The premise was supported by commercial operation, partly funded by alcohol;
- There would be no public nuisance arising;
- Tables would be taken in after 9pm;
- Premise staff were available to speak to residents.

6.3 Councillor Plouviez asked about the viability of the limited service of alcohol at the premises. Joshua Nawara referred to limited capacity at the premises with 60 patrons seated and 80 patrons standing and that the premises could not sustain a high capacity.

6.4 Councillor Fajana-Thomas asked for clarification in regard to live music at the premises. Joshua Nawara stated that there would not be amplified music at the venue. A keyboard player and a harp player would play at the premises.

- 6.5 David Tuitt made submissions to the Sub-Committee, highlighting the following:
- Concerns that the proposals could cause public nuisance given the proximity of a drinking establishment to a residential area with an extensive outdoor seating area;
 - It was unclear if there were hours attached to the planning permission.
- 6.6 Fiona Gee (Other Person) made submissions against the application, highlighting the following:
- Acoustics and noise issues in the building;
 - Concerns about patrons in an outside area with possible smoking;
 - The premises had been targeted for crime which would increase with the existence of a late night premises.
- 6.7 Richard Barnett made submissions against the application, highlighting the following:
- That the area was residential;
 - Concern around public nuisance;
 - Late drinking was not in keeping with a residential area.
- 6.8 Craig Mills made submissions against the application, highlighting the followings:
- The area was residential;
 - Concerns around noise pollution with balconies above the premises;
 - To be viable the venue would have to bulk sell alcohol.
- 6.9 Stephanie Wong made submissions against the application, highlighting the following:
- Confusion over timings at the premises;
 - The premises could be managed by alternative business owners in the future.
- 6.10 Dennis Mok made submissions against the application, highlighting the following:
- Concerns around the acoustics of the building and noise levels;
 - Groups of patrons outside the premises creating noise;
 - Negative effect on the quality of life of residents;
 - That the area was an unsafe environment;
 - Premises serving alcohol was not consistent with the character of the area;
 - A future different operator could manage the property in a different way.

- 6.11 Felix Philippen made submissions against the application, highlighting the following:
- Concerns around noise;
 - Whether the premises was soundproofed;
 - The outside tables should be removed at an earlier time;
 - At closing time, patrons should be directed to transport hubs;
 - The area was vibrant with other such premises present.
- 6.12 Councillor Emma Plouviez asked for clarification on the planning status in relation to the premises. Joshua Narwar confirmed that an application had been made for a change of use.
- 6.13 Councillor Fajana-Thomas stressed that 12 patrons could make a lot of noise and how this would be managed. She asked if tables could be taken in at an earlier time. Joshua Narwar confirmed that the premises had a noise policy. The doors of the premises would be closed and the premises was triple insulated. If there were issues with egress, amendments would need to be made. He confirmed that the tables could be taken in from 6pm.
- 6.14 The Chair recommended a condition on noise reduction. He stressed the need for the applicant to prove that crime and disorder would not arise from the proposals. Joshua Narwar confirmed that regular sound checks would be carried out. He confirmed that CCTV had been installed at the premises. All effort would be made to reduce crime in the area.
- 6.14 Councillor Plouviez asked if any tester events had been carried out. Joshua confirmed that the premises was operating for 8/9 weeks and that there had been no tester events or TENS at the premises. He confirmed that staff levels would be increased if alcohol was served.
- 6.15 Richard Barnett referred to the fact that there were a number of benches in the area where patrons could sit outside and drink. Joshua confirmed that there would not be any off-sales of alcohol. It would be made clear that it was inappropriate to drink on the benches. Felix Mortimer confirmed that the impact on the local area was monitored. He confirmed that there was a programme of events planned but that these were not large scale. Joshua agreed to have quarterly meetings with residents.
- 6.16 Craig Mills expressed concern that the venue was entirely glass and extended to the building's lobby area. Joshua confirmed that the glass was triple insulated.
- 6.17 In summing up, Joshua submitted that there had been an open conversation with residents in regard to the premises and the many residents supported the application.

6.18 David Tuitt made no closing submissions

6.19 Dennis Mok submitted in closing that there were problems around acoustics in the building in question.

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; and
- 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 hours for licensable activity are:

The opening hours of the premises:

Monday - Thursday	08:00 - 22:30
Friday - Saturday	08:00 - 23:00
Sunday	11:00 - 22:00

Supply of Alcohol (On Sales):

Monday - Sunday	11:00 - 21:00
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Plays:

Monday - Sunday	11:00 - 21:00
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Films:

Monday - Sunday	11:00 - 21:00
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Live Music:

Monday - Sunday	11:00 - 21:00
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Recorded Music:

Monday - Sunday 11:00 - 21:00

- Remove off sales of alcohol from the application
- Remove conditions 8-17 of the report from the licence because they are operational details not conditions

Additional conditions

- No off-sales of alcohol for consumption off the premises is permitted.
- The use of the external area shall cease by 1900 hours and all street furniture including tables and chairs shall be removed.
- There shall be no glass drinks or open containers taken from the premises at any time.
- Events with 80 patrons standing shall be pre-booked or ticketed.
- The licensee shall hold and publicise quarterly liaison meetings with local residents to address any concerns or complaints about the premises.
- The maximum number of persons permitted on the premises at any one time shall not exceed 80 (excluding staff) at any one time.
- There shall be no deliveries made to the premises between the hours of 18:00 and 08:00.
- There shall be a written dispersal policy, a copy of which shall be kept on the premises and made available to the police or other authorised officers upon request.
- The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of police or authorised officers throughout the preceding 31 day period. The CCTV system should be updated and maintained according to police recommendations.
- A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open

to the public. This staff member must be able to show a Police or authorised council officer recent data or footage when requested.

- Signs will be prominently displayed at all entrance and exit points reminding customers to leave quietly and respect local residents.
- An incident log shall be kept at the premises, and made available on request to an authorised officer of the council or the police, which will record the following:
 - a. All crimes reported.
 - b. All ejections of patrons
 - c. Any complaints received.
 - d. Any incidents of disorder.
 - e. Seizure of drugs or offensive weapons.
 - f. Any faults in the CCTV system.
 - g. Any refusal of the sale of alcohol.
 - h. Any visit by a relevant authority or emergency service.
- All instances of crime and disorder witnessed or reported to staff are to be reported by the Designated Premises Supervisor or responsible member of staff, to the police.
- 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.
- The premises shall at all times operate a Challenge 25 policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years without having first provided identification. Only a valid British driver's licence showing a photograph of the person, a valid passport or proof of age card showing the 'Pass' hologram are to be accepted as identification. Military ID Cards can also be accepted. Notices and/or posters advertising the Challenge 25 policy shall be placed in prominent positions at the premises.
- The use of the external area shall cease at 1900 hours save for a maximum of 5 smokers.
- External doors shall be kept closed at all times.
- There shall be food available at the venue at all times when alcohol is for sale.
- There shall be no DJ led events or club nights. All events at the venue shall be pre booked or ticketed events.

- The maximum capacity of the venue shall be 60 seated OR 80 standing.
- The licence holder shall maintain and advertise a dedicated telephone number of the Designated Premises Supervisor for use by any person who may wish to make a complaint.
- SIA door supervisors shall be employed on an operational risk assessment basis whenever licensable activity is taking place. All door supervisors shall enter their full details in the premises daily register at the commencement of their work. They shall record their full name, home address, and contact telephone number, their SIA registration number and the times they commence and conclude working. If the door supervisor is provided by an agency, the name, registered business address and contact telephone number will also be recorded. This register will be made available to police or other authorised officers upon request.

Reasons for the decision

The sub-committee noted that the Environmental Protection had withdrawn their representation following the applicant's agreement to reduce the start time for the Supply of Alcohol "on" the premises to 11:00.

The sub-committee took into account that the Responsible Authorities (the Metropolitan Police Service and the Licensing Authority) made representations against the application, The sub-committee also took into consideration that 30 representations had been received from and on behalf of Other Persons (local residents).

The sub-committee heard that the police maintained their objection on the grounds of crime and disorder and of public nuisance. The police made submissions that the premises is situated in a block with commercial and residential spaces and close to Shoreditch Park and Regents Canal.

The sub-committee heard that the Licensing Authority made representations also on the grounds of public nuisance because the premises could introduce a drinking establishment with an extensive external seating area directly beneath and opposite a residential block of properties.

The sub-committee heard submissions and considered the written representations of the Other Persons who did not object to a cafe. However they feared that the applicant intended to run an all day and late night drinking and music venue, serving alcohol inside and outside with live music. They felt this would result in a disturbance to the local residents who live in the two blocks of flats above the premises, and a public nuisance in the area.

The sub-committee heard representations from the applicant that they wanted to operate a cafe with a strong community focus and provision of work space. The primary use of the premises would always be as a cafe, and they intended to

schedule complementary events and classes which may involve live performances, recorded and live music and other licensable activities. It was noted that there would be no provision of alcohol without food also being available.

The sub-committee noted the applicant's written submissions that they had originally sought later opening times to enable phased dispersal of events so that customers do not all leave simultaneously. They were prepared to now reduce these and accept additional conditions. The applicant had submitted letters of support from arts organisations, and wanted the opportunity to show that they were capable of operating the premises responsibly.

The applicant acknowledged that some of the information about their previous operation in Haringey had been confusing and may have led to some of the objections.

The sub-committee, after hearing from the applicant, the Responsible Authorities, and the Other Persons, was satisfied that the premises would not unduly impact the area if the hours for licensable activity were reduced and robust additional conditions applied. Specific conditions on the use of the outside area would help overcome any negative impact on local residents above and close to the premises. The sub-committee felt that the applicant agreeing to remove off-sales of alcohol from their application would help prevent public nuisance in the area.

The sub-committee took into consideration that the applicant was willing to work with the police and local residents to ensure they did not hold events that would be a public nuisance or unduly impact on local residents. Conditions would require ongoing liaison and the facilitation of complaints.

The sub-committee felt that by granting this licence with the reduced hours and substantial conditions, the licensing objectives would be upheld. The applicant would also be given an opportunity to prove that they are a responsible operator who can promote the licensing objectives.

Public Informative

1. The licence holder is encouraged to engage in meaningful dialogue with the local residents to resolve any issues relating to the premises, and for the licence holder to play their part in reducing any impacts of noise emanating from the premises, particularly during the evening and late at night.
2. The licence holder is strongly encouraged to use sustainable cutlery, plates, cups, food containers, and recyclable disposable materials to avoid using single-use disposable items to protect the local area, to prevent litter, and to protect the environment.

7. Application to vary a Premises Licence: Casa Fofa, Basement and Ground Floor, 158 Sandringham Road, London, E8 2HS

7.1 Suba Srirmana introduced the application to vary a premises licence as follows:

- To extend hours for supply of alcohol in the garden area;
- To extend hours for late night refreshment in the garden area;
- To remove the current condition 24 which states “Any outside space shall not be used after 22:00”

7.2 Paula Albanese (Applicant) made submissions in support of the application, highlighting the following:

- The restaurant had a 7 course menu with sitting times of 3 ½ hours so the restaurant needed to stay open past 10pm;
- The price of the menu was high and attracted a certain type of clientele;
- Extending the licence would allow the premise to welcome more clients;
- Customers were not allowed in the restaurant past 8pm with decreased revenue

7.3 Councillor Plouviez asked whether the restaurant continued to offer takeaway food and asked for clarification on the capacity of the premises. Paula Albanese responded that the maximum capacity inside the premises was 40 with capacity outside between 10 and 12. Takeaway food was no longer available.

7.4 Councillor Fajana-Thomas expressed concern that the restaurant garden faced a residential area.

7.5 David Tuitt made submissions in objection to the application, highlighting that:

- The proposals would have a negative impact on the promotion of licensing objectives;
- That the applicant had been asked to put comprehensive control measures in place to ensure the promotion of licensing objectives. Non-Compliance had led to a complaint against the premises. The applicant needed to demonstrate that control measures were in place.

7.6 Councillor Fajana-Thomas expressed concern that the requirements of the Licensing Authority had been ignored with excessive noise emanating from the restaurant which was located in a residential area. The Chair referred to the photos that had been submitted, demonstrating that there had been people in the garden area at a late hour. The Sub-Committee stated it was not confident at this time that comprehensive measures were in place to ensure the promotion of licensing objectives .

7.7 In summing up Paula Albanese apologised for the breach of the Licensing Authority's requirements and that improvements would be made in the coming months.

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

Reasons for the decision

The sub-committee heard from the Licensing Authority that they were objecting to the use of the outdoor area which should be restricted in accordance with Policy LP6. The extension of hours will cause noise nuisance and have a negative impact on local residents.

The sub-committee took into consideration three objections received from local residents confirming their objections to the late night hours and the impact of noise on families if the premises operated to later hours every day. The sub-committee agreed these could give rise to nuisance in the area, and anti-social behaviour affecting those residential properties situated close to the premises. The premises backs onto several local residents.

The sub-committee also took into consideration the applicant's representations. However, these did not go far enough to mitigate the negative impact late at night. The applicant has not been able to demonstrate adequate exceptional circumstances, to justify the proposed hours, and the application being approved.

The sub-committee felt that by not granting this application it would help prevent public nuisance in the area. The sub-committee took into account the recent breaches of conditions at the premises in August 2021, evidenced by numerous photographs. The sub-committee felt that the licence holder had not provided comprehensive control measures given the previous complaints about the premises.

The sub-committee noted that the structure which the licence holder had built did not appear to have made an adequate difference to the impact of noise. The council's policy states that premises in close proximity to local residents should not use the external areas after 22:00 to prevent noise nuisance.

The sub-committee determines each application on its merits. The sub-committee believed that the licensing objectives could not be promoted by granting this application, and as such believed it was appropriate to refuse the application in its entirety.

Public Informative

The Licence holder is advised to submit a revised floor plan of the licenced area to reflect the current and actual layout of the premises in accordance with the conditions of the premises licence

7. Temporary Event Notices

7.1 There were no Temporary Event Notices.

End of Meeting.

Duration of Meeting: 2-5pm

Chairperson: Councillor Brian Bell

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