

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON THURSDAY, 16 JUNE 2016

**ROOM C1, TOWN HALL, MULBERRY PLACE, 5 CLOVE CRESCENT, LONDON,
E14 2BG**

Members Present:

Councillor Candida Ronald (Chair)
Councillor Suluk Ahmed
Councillor Shah Alam

Officers Present:

Mohshin Ali	–	(Senior Licensing Officer)
Vivienne Walker	–	(Senior Prosecution Lawyer)
Antonella Burgio	–	(Democratic Services)
Kate Boulter	–	(Senior Committee Officer, Democratic Services)

Applicants In Attendance:

Sonny Soper	Applicant, the Chesterfield
Graham Hopkins	Representing, Taste Wine Two
Mrs Linda Potter	Representing, Taste Wine Two
Mr Nathan Lowry	Applicant, Taste Wine Two

Objectors In Attendance:

Luke Elford	Representing objectors, the Chesterfield
Mr Leo Charalambides	Legal Representative for objectors, Taste Wine Two
Sue Hughes	Chair St Katherine's Dock Residents Association, objectors re: Taste Wine Two
Heather Corben	Objector, Taste Wine Two

Apologies

No Apologies for absence were received.

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

No declarations of disclosable pecuniary interests were made.

2. RULES OF PROCEDURE

The rules of procedure published at agenda item two were noted.

3. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the meeting held on 12 May 2016 were deferred.

4. ITEMS FOR CONSIDERATION

4.1 Licensing Act 2003 Application for a Premises Licence for The Chesterfield - 341-343 Roman Road, London, E3 5QR

At the Chair's invitation, the Licensing Officer introduced the report which concerned a new application for a premises licence for on and off sales of alcohol. The sub-committee was informed:

- that applicant had later amended his application to on sales of alcohol only.
- two residents had objected to the application and Mr L Elford acted in a personal capacity to represent them.
- the applicant had accepted the conditions requested by the residents except the request that alcohol should be served only to a person seated and taking a table meal there and for consumption by such a person as ancillary to their meal.

The Sub-Committee heard from the applicant that:

- the nature of the premises was a coffee shop with some casual dining such as cakes and bagels and it was not intended that the provision of alcohol sales should change the character of the premises.
- an application to sell alcohol with food had been made to enhance the offer to customers.
- the permission to provide late night refreshment had not been applied for.
- he had willingly considered the concerns and arguments made by the objectors and accepted conditions to relieve their concerns that the intended activity would create public nuisance. However he was unable to agree to the condition that request that alcohol should be served only to a person seated and taking a table meal there and for consumption by such a person as ancillary to their meal as the business did not have waiter service.

The Sub-Committee then heard from the objectors' representative whose concerns were that introduction of alcohol sales at the premises could cause public nuisance as:

- it was unclear whether the business was to be a coffee shop or a restaurant.
- it was unclear how the garden on the premises would be used.

- the sale of alcohol was unrestricted within the premises.
- the premises might operate as a bar rather than a coffee shop.
- the premises were previously operated as an estate agents and some noise nuisance had been created by its change of use to a coffee shop.

The application and issues raised were discussed and the following information noted by the sub-committee:

- the maximum capacity of the premises was 120 covers
- the footfall was variable depending on the time of day.
- customers were able to buy food to take away or to eat on the premises.
- counter service was provided to customers wishing to buy food.
- the menu consisted of wraps, sandwiches, bagels, salads, fruit juices and coffee. There was no printed menu offering starters/mains/desserts.
- alcohol to be served would be in the form of beer and a small selection of wines but. It was not intended that the premises would move towards
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The Licensing Objectives

In considering the application, members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the licensing objectives, the Home Office guidance and the Council's Statement of Licensing Policy.

Consideration

Each application must be considered on its own merits and the Chair stated that the Sub-Committee had carefully considered the written and verbal representations made by the applicant and their representative and those of the two residents who had objected to the application. The Sub-Committee noted that:

- the application concerned a new premises licence for The Chesterfield, a coffee shop wishing to offer on sales of alcohol to accompany consumption of food inside the premises;
- the application had been amended to background music only (not licensable) and not recorded music;
- the application related only to the interior of the premises and not the garden;
- the hours requested for Supply of Alcohol had been confirmed as from 0800 to 2130 seven days a week, with the premises closing at 2200;
- there had been two representations made by interested parties, namely residents in the locality, relating to the prevention of public nuisance.

Members heard from the owner Mr Soper that:

- the business currently operated as a coffee shop and providing alcohol would enhance the offering;
- the premises was a family-orientated business and there was CCTV throughout;
- the applicant had offered many conditions (listed in the application) intended to eliminate the potential for public nuisance;
- the only area upon which the applicant and objectors had been unable to agree was the wording of a condition relating to the sale of alcohol with food;
- the applicant was prepared to agree a condition restricting alcohol to be sold only with food but believed the objectors' request for a condition specifying a "table meal" was not appropriate for the type of business.

Members also considered arguments from Mr Elford on behalf of residents:

- there was a lack of clarity as to the intended use of the premises which had variously been described as a restaurant and coffee shop;
- if the business was going to operate as a restaurant, there was an expectation that customers would be having meals there;
- residents were concerned that the business would operate as a bar and wished a condition to be imposed only permitting alcohol to be served with a meal.

Members were sympathetic to the serious concerns of residents and noted that:

- the hours applied for were within the framework hours in the Council's Licensing Policy that related to hours of trading;
- the applicant had agreed conditions that could mitigate;
- the business was a coffee shop offering light food such as sandwiches and cakes and it would not be in keeping with the nature of the business to impose a condition requiring sale of alcohol to be restricted to supply with a "table meal".

They therefore considered that it would be inappropriate to refuse to grant a licence or impose a condition requiring sale of alcohol to be restricted to supply with a "table meal". Members noted that the applicant had offered conditions that would control any potential disruption to residents' lives. The Sub-Committee considered that the grant of the licence *together* with the conditions would meet the licensing objectives in regard to public nuisance.

Decision

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the application for a New Premises Licence for The Chesterfield, 341-343 Roman Road, London, E3 5QR **be granted** with conditions

Sale of alcohol (on sales only)

Monday to Sunday from 08:00 hours to 21:30 hours

The opening hours of the premises

Monday to Sunday from 08:00 hours to 22:00 hours

Conditions

1. Loudspeakers shall not be located in the garden area.
2. Windows and doors to the garden area shall be kept closed after 19:00 hours.
3. The garden area shall not be used after 19:00 hours and all tables and chairs shall be rendered unusable by 19:00 hours.
4. The supply of alcohol at the premises shall be by waiter or waitress service only.
5. The telephone number of the premises shall be freely available to the public and a manager present throughout trading hours to be contacted by local residents if required.
6. The supply of alcohol at the premises shall only be ancillary to food purchased and consumed at the premises.

4.2 Licensing Act 2003 Application for a Premises Licence for (Taste Wine 2) Unit D1 & D2, Ivory House, East Smithfield, London E1W 1AT

At the Chair's invitation, the Licensing Officer introduced the report which concerned a new application for a premises licence for on and off sales of alcohol. The sub-committee was informed the application was for:

- off sales of wine and
- on sales of wine and some speciality beer accompanied by charcuterie inside the premises and 10 covers on the terrace outside the premises
- the hours requested for licensable activity were:
 - mon-sat 11:00 – 23:30 plus 30 minutes drink up time
 - sun 12:00 – 23:30 plus 30 minutes drink up time
- 46 representations against the application had been made by residents.

Mr Hopkins, on behalf of the applicant, made representations in favour of the application and Mr Brace of the St Katherine's Dock management company, with agreement, gave evidence in support of the application. Mr Hopkins presented the following arguments:

- the premises was to operate as a wine shop offering fine wines to takeaway and to drink on the premises accompanied by fine charcuterie
- the offer was not large scale, permission for 32 indoor covers and 10 outdoor covers was sought

- use of the external terrace would cease at 21:00 hrs and no drinks or bottles would be permitted outside the premises after this time also
- no more than four smokers were to be allowed outside of the premises after 23:00hrs. Additionally a smoking area located 30 metres away from the premises had been created by St Katherine's Dock management company which patrons were able to use
- there was to be no regulated entertainment or provision of late night refreshment under the Licensing Act 2003
- a range of conditions had been offered by the applicant (as set out in the application) to ensure that the objective of 'prevention of public nuisance' was not offended against
- the objections raised were historical issues related to premises already operating in the area and were a matter for residents and the management company to address

The applicant made a submission, informing the Sub-Committee that:

- he had three other premises of a similar nature and these had operated without incident
- the average spend was expected to be £35 per head
- the aim of the offer was to establish a presence in the community and create a pleasant ambiance intended to attract returning custom

Mr Brace was invited to comment and informed the Sub-Committee that:

- he had been appointed to his post earlier in the year and historic issues relating to previous underfunding had been addressed by the management company
- residents' concerns would be addressed proactively

Barrister, Mr Charalambides, and Ms Hughes made representations against the application on behalf of Friends of St Katherine's Dock Association and Ms Corben also made a representation to the Sub-Committee. They argued:

- residents were not aware that Mr Brace had agreed to speak in support of the application and were concerned that since he was a contractor of Blackstone, the landlord was not acting in the interests of residents as one would expect
- the precise nature of the offer Mr Lowry intended to provide was unclear. Residents suspected that he intended to run the premises, in the main, as a wine bar since quantities intended for on sales were not clearly indicated, the expected price per head was modest and there was no clarity on whether alcohol was intended to be taken with food, the premises were small and it was not clear whether capacity was linked to the number of covers. Indeed a mystery shopper exercise carried out by some members of Friends of St Katherine's Dock Association supported residents' suspicions
- additional off sales facilities were not needed as the area was already well served by outlets offering off sales of alcohol during the times that the premises intended to trade
- notwithstanding that historic issues existed with some licensed premises trading, the area, in recent years, had also seen an increase in premises open to the public during the evening and this had

deteriorated residents' enjoyment of the area and brought increasing nuisance which was damaging quality of life

- residents' numerous complaints to the landlord had not resulted in resolutions and they were tiring of ineffective response
- over 20 residents were present at the hearing which demonstrated their strength of feeling on the matter
- the designated smoking area provide with agreement of the management company was located much further away from the premises than the applicant had indicated. Its location, near an exit gate to the St Katherine's Dock was so distant that it was unlikely that patrons of the premises were likely to use it and would result in noise nuisance from smokers and enforcement issues for the management company
- residents were disappointed to learn that their complaints referred through the management company had not been referred onward to the Police and therefore there was no Police record of the nuisance that residents had experienced. Residents further noted that the management company had been reticent to make records of complaints available to residents on request

The application and issues raised were discussed and the following information noted by the sub-committee:

- the applicant intended to operate a small venture
- he had sought to engage with the local community, albeit unsuccessfully
- he had offered many conditions to mitigate possible public nuisance
- many objectors had attended the meeting, an indication of the extent of their concern around the application
- that families and working persons living in the vicinity had previously enjoyed a quieter environment but that the area had become saturated with licensed premises which made it a focal point for large groups of people and was changing the character of the locality

Mr Hopkins on behalf of the applicant and the objectors each made their closing statements following which the Sub-Committee retired to consider its decision.

The Licensing Objectives

In considering the application, members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the licensing objectives, the Home Office guidance and the Council's Statement of Licensing Policy.

Consideration

Each application must be considered on its own merits and the Chair stated that the Sub-Committee had carefully considered all the evidence before them and had heard representations made by the applicant and his representative; and those of residents which were provided by two of the residents and their

barrister on behalf of all who had objected to the application. Members noted:

- that the application concerned a new premises licence for Taste Wine 2, a wine shop offering off sales of alcohol (wine) and on sales of alcohol accompanied by charcuterie inside the premises and 10 covers on the terrace outside the premises.
- that there had been 46 representations made by interested parties, namely residents in the locality, relating to the licensing objectives of prevention of public nuisance, prevention of crime and disorder and public safety.

Members heard from agent Mr Hopkins that the applicant:

- intended to operate a small venture aimed at those wishing to sample and purchase fine wines.
- had sought to engage with the local community, albeit unsuccessfully, prior to the hearing.
- was working collaboratively with the private security firm at in the locality to mitigate the potential of public nuisance from customers at the premises in terms of noise and smoking .
- had offered many conditions (listed in the application) intended to eliminate the potential for public nuisance and crime and disorder from the premises.

Members also considered arguments from Mr Charalambides, Ms Hughes and Ms Corben on behalf of residents:

- that families and working persons had lived in the locality for many years and had previously enjoyed a quieter environment.
- that the proliferation of licensed premises in the locality had caused intolerable cumulative impacts on residents arising from the inconsiderate and antisocial behaviours of premises' customers and staff.
- that residents did not wish the detriment they already experience to be exacerbated by the addition of another licensed premises.
- that the area has become saturated with licensed premises which has made it a focal point for large groups of people together, changing the character of the locality and creating issues of public nuisance, crime and disorder; and (due to the proximity of deep water) of public safety.

Members were sympathetic to the serious concerns of residents and considered them in the context of the application that:

- the hours applied for were within the framework hours in the Council's Licensing Policy that related to hours of trading.
- the applicant intended to operate a small scale business and had offered a large range of conditions that could mitigate the nuisance that might arise
- the anecdotal evidence of public nuisance and antisocial behaviour that was provided related to other businesses already trading in the locality and could not be readily directed to the premises/business which the applicant wished to initiate.

Members therefore considered that it would be inappropriate to refuse to grant a licence. However, noting the extensive conditions offered by the applicant and the concessions discussed at the meeting by the parties, Members came to a view that, should the licence operate within a comprehensive range of conditions, any potential antisocial behaviour and disruption to residents' lives could be controlled. Members considered the numerous conditions offered and the unique nature of the residential properties above the premises and determined that the grant of the licence *together* with the conditions will meet the licensing objectives in regard to public nuisance.

Members were not persuaded by the representations made in respect of the designated smoking area.

Decision

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the application for a New Premises Licence for Taste Wine 2, Units D1 & D2, Ivory House, East Smithfield, London E1W 1AT **be granted** with conditions

Sale by retail of alcohol (on and off sales)

Monday to Wednesday from 11:00 hours to 21:00 hours

Thursday to Saturday from 11:00 hours to 23:00 hours

Sunday from 12:00 hours to 21:00 hours

The opening hours of the premises

Monday to Wednesday from 11:00 hours to 21:30 hours

Thursday to Saturday 11:00 hours to 23:30 hours

Sunday from 12:00 hours to 21:30 hours

Conditions

1. No more than the stated seated capacity of 32 seats inside the premises and 10 outside on the terrace area at the front of the premises may be served at any one time
2. The terrace shall not be used after 21:00 hours Sunday to Saturday and all tables and chairs shall be rendered unusable by patrons by 21:00 hours;

3. There shall be no smoking on the terrace area during the hours of operation after 21:00 hours Sunday to Saturday;
4. There shall only be seated smoking on the terrace during the permitted hours and otherwise no smoking in the vicinity of the premises. Suitable containers will be provided for smokers use at tables only;
5. There will be no disposals of refuse and bottles and glasses or deliveries received between 20:00 hours and 08:00 hours Sunday to Saturday;
6. no deliveries will be received or glass bottles and refuse removed between the hours of 20:00 hours and 08:00 hours Sunday to Sunday;
7. That the supply of alcohol for consumption at the premises shall be by waiter or waitress service only;.
8. A member of staff must be present to usher people away at closing time. A written dispersal policy will be prepared which staff will be trained to comply with including a requirement that between the terminal hour and close of the premises, staff will direct customers to nearby public transport, taxi ranks or call a taxi for customers upon request;
9. There must be regular cleansing outside the premises during the day and at close of business. The shop-front will be kept tidy at all times;
10. A contact telephone number to be prominently displayed at all times indicating where customers and residents may contact the manager with any concerns. Details of complaints and the action taken will be recorded in the incident book which should be made available to the Police or Authorised Council Officers;
11. There must be a member of staff at the door at closing time to ensure that customers are ushered away quietly;
12. CCTV covering the interior and exterior of the premises will be installed and will be kept operational at all times the premises are open to the public. It shall be capable of taking a head and shoulders shot of persons present entering the premises, be capable of storing images from minimum of 31 days and a member of staff trained and capable of downloading images shall be on duty at all times the premises are open to the public. Images shall be provided to the Police or Authorised Council Officers on request;
13. No drinks or glassware will be permitted to be taken outside the shop except to the terrace (when in use) at any time. Only sealed containers of alcohol may be removed from the shop/ terrace;

14. All sales of alcohol for consumption off the premises shall be in sealed containers only, except for sales to customers seated at the outside tables and chairs located immediately outside the shop;
15. (VW suggests “No unaccompanied child will be permitted on the premises at any time”)
16. Front of house / waiting staff will be trained on induction and be given refresher training at six monthly intervals for their role in the operation of Challenge 25 Scheme. Training will include identifying persons under 25 making a challenge, acceptable proof of age and checking it, making and documenting refusals, avoiding conflict and responsible alcohol retailing;
17. Challenge 25 Scheme will be operated as the proof of age policy. Only a photographic driving licence, valid passport, HM forces photographic ID card or a proof of age card bearing the holders’ photograph and pass hologram / logo will be accepted as proof of age;
18. An incident book shall be kept at the premises, and made available to the Police or authorised Council Officers which will record:
 - a. crimes reported,
 - b. lost property,
 - c. all ejections of customers,
 - d. any complaints received,
 - e. any incidents of disorder,
 - f. any seizure of drugs or offensive weapons,
 - g. any faults in the CCTV,
 - h. any refusal in the sale of alcohol,
 - i. any visit by a Responsible Authority or Emergency Service,
19. Notices will be prominently displayed at entry and exit doors and point of sales advising customers:
 - a. that CCTV and Challenge 25 are in operation,
 - b. of the provision of the Licensing Act 2003 regarding underage and proxy sales,
 - c. of the trading and opening times of the premises,
 - d. that no open containers of alcohol may be taken off the premises including the terrace when in use at any time,
 - e. to respect the residents in the vicinity and to leave the premises quietly and not to loiter outside the premises,
 - f. not to loiter outside, and to be seated at the outside tables and chairs and to keep noise to a minimum,
20. A fire risk assessment and emergency plan will be prepared and regularly reviewed, staff will receive appropriate fire and safety training;

21. Management and staff will regularly monitor the outside of the premises including customers conduct by CCTV and physically;
22. Background level music will be played only inside the shop. No music will be played outside the premises;
23. All refusals of service will be recorded in the Incident Book (in a Refusals section) and will be made available to the Police or Authorised Council Officers upon request.

5. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT

Nil items.

The meeting ended at 9.20 p.m.

Chair, Councillor Candida Ronald
Licensing Sub Committee