

THE LONDON BOROUGH OF CAMDEN

At a hearing of **LICENSING PANEL C** held on **THURSDAY, 30TH NOVEMBER, 2023** at 7.00 pm in Remote meeting via Microsoft Teams. This meeting can be watched live at www.camden.gov.uk/webcast

MEMBERS OF THE PANEL PRESENT

Councillors Jonathan Simpson (Chair), Nina De Ayala Parker and Matthew Kirk

The minutes should be read in conjunction with the agenda for the hearing. They are subject to approval and signature at the next hearing of Licensing Panel C and any corrections approved at that hearing will be recorded in those minutes.

MINUTES

1. GUIDANCE ON REMOTE MEETINGS HELD UNDER THE LICENSING ACT 2003 AND ASSOCIATED REGULATIONS

RESOLVED –

THAT the guidance be agreed.

2. APOLOGIES

There were no apologies.

3. DECLARATIONS BY MEMBERS OF STATUTORY DISCLOSABLE PECUNIARY INTERESTS, COMPULSORY REGISTERABLE NON-PECUNIARY INTERESTS AND VOLUNTARY REGISTERABLE NON-PECUNIARY INTERESTS IN MATTERS ON THIS AGENDA

For reasons of transparency, Councillor Simpson declared that he had met one of the people involved in the Forge and Foundry application (Item 7) in a different capacity relating to an Inverness Street venue. He had not discussed the Forge and Foundry application with him.

4. ANNOUNCEMENTS (IF ANY)

Broadcasting of meeting

The Chair announced: "In addition to the rights by law that the public and press have to record this meeting, this meeting is being recorded and broadcast live by the Council to the Internet and can be viewed on our website for six months after the meeting. After that time, recordings are archived and can be made available upon request."

If you address the meeting, you are deemed to consent to having your contributions recorded and broadcast, including video when switched on, and to the use of those sound recordings and images for webcasting and/or training purposes.”

5. NOTIFICATION OF ANY ITEMS OF BUSINESS THAT THE CHAIR DECIDES TO TAKE AS URGENT

Kiss The Sky, 11-13 Camden High Street, London NW1 7JE

The meeting was notified that there would be an item of urgent business relating to Kiss The Sky, located at 11-13 Camden High Street, London NW1 7JE.

REASON FOR URGENCY

Following an application received from the Metropolitan Police responsible authority the Licensing Authority imposed Interim steps to suspend the premises licence on 21st November 2023. The Licence Holder was notified of this decision in writing on 27th November 2023. On the 28th November 2023 the Licence Holder made representations against the interim steps imposed.

The Licence Holder can make representations against the interim steps under Section 53B and the Licensing Authority must within 48 hours of receipt of these representations hold a hearing in order to consider them. Due to these short timescales this item has been put forward as urgent so as to comply with the Licensing Act 2003 and the regulations that accompany it.

6. MINUTES

Consideration was given to the minutes of the meeting held on 26th October 2023.

RESOLVED –

THAT the minutes of the meeting held on 26th October 2023 be approved and signed as a correct record.

7. FORGE & FOUNDRY/CAPONATA RESTAURANT 3-7 DELANCEY STREET, LONDON NW1 7NL

Consideration was given to a report of the Executive Director, Supporting Communities detailing an application to vary a premises licence under Section 34 of the Licensing Act 2003 and to the documents in the supplementary agenda.

The Licensing Officer introduced the report and explained that the premises was seeking to remove Condition 12 from its licence which was a table meal/restaurant condition which had been imposed at the 19 January 2023 Licensing Panel meeting when variations to its licence (PREM-LIC\3021) were agreed. The premises was located in Camden Town cumulative impact area, where there was a rebuttable

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presumption to refuse all new and variation applications. In response to questions, it was clarified that the premises currently operated under the old conditions of its licence, not the ones that had been attached to the licence at the 19 January variation hearing.

The Applicant's Representative, Andrew Woods, confirmed that he had no amendments to the Application.

The Licensing Authority Responsible Authority representative, Esther Jones, spoke to her representation and her key points were:

- The premises could not use the extra hours granted on its licence at the 19 January hearing at the moment as Condition 109 stated that the variations could not come into effect unless the Licence Holder could confirm in writing that all conditions had been complied with. No confirmation had yet been received.
- The premises was thus seeking to vary a licence that had was not currently in use in its current form.
- There had been complaints received regarding noise, the most recent in September 2023.
- The premises was located in a cumulative impact Special Policy Area.

Mr Woods asked questions of the Licensing Authority to clarify that there had been a discussion in June 2023 between the Authority and the Applicant to discuss noise complaints and that there had been no complaints since the September 2023 one.

The Police Responsible Authority representative, PC Chris Malone, made the following points in his submission:

- Removal of Condition 12 would turn the premises into an alcohol-led venue.
- The Police had objected to the granting of the variation to PREM-LIC\3021 at the 19 January meeting due to their concerns about crime and disorder in the Camden Town area.
- He was of the view the dispersal policy was 'too generic' and did not relate sufficiently to the area the premises was in.

Members and the Applicant's Representative asked questions about the Police visit to the premises on 17 June 2023. In response, PC Malone confirmed that they had not identified any matters of concern on that visit.

The Panel heard from four Interested Parties: Councillor Richard Cotton, Councillor Pat Callaghan, Kate Gemmell, and Alexandra Janocha. The points made in their submissions included:

- This application had more representations against it from local residents than most other applications did.
- Those signing the petition in support or sending letters in support were not local residents and so were not affected by public nuisance caused by the premises.

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- Delancey Street was a residential street and residents' quality of life was affected by the noise and disturbance caused by activities in and outside the premises.
- There had been incidents of drunken behaviour and crime and disorder on 11 June 2023 which had resulted in a number of complaints to Responsible Authorities.
- Events were often held during the working week, which was particularly disruptive to working residents.
- The premises had been granted a number of Temporary Event Notices and these had caused more nuisance late at night.
- Staff did not seem to be implementing the dispersal policy.
- The premises had stated in a previous hearing that it wanted to hold LGBTQ+ focused events but had not done so.
- Concern was voiced that, in documents submitted to Planning, the premises had stated its intended maximum capacity was 700 but in other documents it was 450.

A question was asked about the liaison between the premises and residents and Ms Janocha responded that she had wanted to meet with Steve Wilmott at the evening closing times when the greatest disruption was caused, so they could observe it jointly, but they had not yet been able to arrange such a meeting.

The Applicant's Representative, Mr Woods, spoke to his representation and called Steve Wilmott, the Manager of the premises, as a witness. Points made in their submission included:

- Condition 12 had been agreed to by mistake in the previous hearing. The premises licence in the "pre-19 January 2023" version they were currently using permitted the service of alcohol to people who were not consuming a meal, and they wished to continue with this when the variations agreed on 19 January 2023 came into force. The premises was a live music venue and not solely a restaurant. Mr Woods clarified that upstairs was a restaurant but downstairs was not.
- In terms of rebutting the presumption to refuse, Mr Woods expressed the view that the more than 60 additional conditions imposed when the 19 January variation was granted would uphold the licensing objectives. The removal of one of those conditions was not a variation that should be refused if the other conditions were remaining in place.
- The premises was awaiting planning permission before it could start to implement the new licence. Once the new licence was in use, then they would be liaising with LGBTQ+ promoters and others to put on LGBTQ+ oriented events as part of the mix of events at the premises.
- The capacity of the premises was 450 and they did not intend to hold rooftop parties.
- The photographs provided by Interested Parties were general street scene photographs and included people who had not been patrons of the premises and were loitering in the vicinity.

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- Mr Woods acknowledged that there were incidents of concern on 11 June 2023, but that this should be seen as a one-off problem and was not typical of the premises.
- The Environmental Health Responsible Authority had not made a representation. They were the Responsible Authority who would have submitted a representation regarding the application if noise nuisance had been a significant matter.
- Patrons of the premises did not go into Delancey Passage, and so the anti-social behaviour there was not related to the premises.
- Mr Wilmott had distributed flyers to encourage residents to come to a meeting to discuss their concerns regarding the premises but only one person had attended.

Questions were asked of the Applicant and the following points were made in the discussion:

- With regard to women's safety, the premises adhered to "Ask Angela". They were also involved in other measures such as "Good Night Out" and Mr Wilmott said that he would like to make drink-spiking detection kits available.
- The aim of the dispersal policy was to encourage people to move to Camden High Street. When people were dispersed, Mr Wilmott took pictures of the road to illustrate this.
- They had undertaken outreach to LGBTQ+ promoters but had not arranged any events as the new licence and requisite planning permission was not yet in place.
- The Fire Risk Assessment for the premises stated that the capacity was 450.

Closing remarks were made all parties.

Deliberation and Reasons

The Panel noted that there was some ambiguity or confusion about what the capacity of the venue was, and agreed that, if the variation was granted, to condition that the capacity be 450. The Chair stated that he was minded to condition that there be residents meetings on a quarterly basis, at least initially, to ensure there was liaison between the premises and the local community.

One Member stated that he had voted against granting the variation in January 2023 and did not wish to remove the table meal condition imposed then for good reason, as the premises was located close to residential premises. The other two Members disagreed and were of the opinion that granting the variation subject to the conditions proposed would be appropriate and would uphold the licensing objectives and not add to cumulative impact in the area.

The Panel therefore agreed by two votes to one to grant the variation.

RESOLVED –

- (i) THAT Condition 12 be removed from PREM-LIC\3021;
- (ii) THAT the following conditions be added to the licence:
 - That the capacity of the venue be a maximum of 450
 - That meetings with local residents be arranged by the premises, initially on a quarterly basis.

8. PAPA JOHNS, 51A CAMDEN HIGH STREET, LONDON, NW1 7JH

Consideration was given to a report of the Executive Director, Supporting Communities detailing an application to vary a premises licence under Section 34 of the Licensing Act 2003.

Given that the meeting had to finish at 10.30pm in accordance with standing orders, the Chair asked Members and the Parties present whether they wished to postpone this item to a future meeting or to consider it in the time remaining. The Applicant stated that they wished the item to be considered this evening and had no objection to the reduced hearing time because the issue was very narrow and members had read the papers. The Panel agreed this request.

As Members had read the written report prior to the meeting, they waived the Licensing Officer's verbal presentation in the interest of time.

The Licensing Authority Responsible Authority representative stated that they were making a representation as the premises was located in the Camden Town cumulative impact area and there was a presumption to refuse all variations to an existing licence in the area.

The Interested Party, Kate Gemmell, made the following points in her submission:

- Later hours for late night refreshment would mean more people would be in the area later at night, and this would add to congestion and public nuisance in the area.
- The presence of more delivery drivers during the period 2am to 3am when food would only be available via delivery could cause problems due to noise nuisance and because there were no toilet facilities for them.

The Applicant's Representative, Walaiti Rathore, made the following points in his submission:

- The application was for late night refreshment, not for alcohol or for music. This was therefore a "lower risk" activity than others.
- Having food service outlets closing at different times encouraged staggered departures from the area and avoided congestion caused by large numbers of people leaving at one time.
- There had been no complaints relating to the premises which already operated beyond the council's framework hours.

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- They had engaged with the Responsible Authorities and Interested Party when making the application.
- The Applicant was a reputable firm which had about 160 outlets nationwide.

Members asked how deliveries would be made from the premises to customers, and were informed that Papa John's used a third-party delivery firm.

Closing remarks were made by all Parties.

Deliberation and Reasons

Members noted that there was a danger of noise nuisance from delivery drivers travelling to and from the premises. As electric bikes would cause less noise than motorbikes, it was agreed that a condition be imposed to state that there would be no deliveries by motorised vehicles (other than electric vehicles) after 11pm.

The Panel agreed that, subject to the imposition of this condition, the variation application be granted. They were of the view that granting the application subject to the offered conditions and the electric bike condition would uphold the licensing objectives and not add to cumulative impact in the area.

RESOLVED –

(i) THAT the licence variation be granted as follows:

a) Late night refreshment

23:00-03:00 Monday to Sunday

Non-Standard timings

If applicable, an additional hour to the standard and non-standard times on the day when British summertime commences.

From the standard start timing on 31st December to the standard start time on the 1st of January.

b) Changes to the opening hours

00:00-00:00 Monday to Sunday

(ii) THAT the following conditions be added to the licence:

1. The premises shall close to the public after 02:00 and will then operate solely as a delivery service until 03:00.
2. The premises will operate in accordance with all relevant legislation.

3. Arrangements for the storage and disposal of refuse will not cause a nuisance.

Conditions agreed with the Licensing Responsible Authority

1. The premises to sign up for the “Ask for Angela” scheme and that this should be done before they begin operations.
2. That suitable and sufficient refuse receptacles be provided such that all waste and refuse produced by the business in the course of its operation, is collected, properly stored and disposed of.

Condition imposed by Licensing Panel C on 30th November 2023:

No deliveries by motorised vehicles (other than electric vehicles) after 11pm.

9. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT

Kiss The Sky, 11-13 Camden High Street, London, NW1 7JE

REASON FOR URGENCY

Following an application received from the Metropolitan Police Responsible Authority the Licensing Authority imposed Interim Steps to suspend the premises licence on 21st November 2023. The Licence Holder was notified of this decision in writing on 27th November 2023. On the 28th November 2023 the Licence Holder has made representations against the interim steps imposed.

The Licence Holder can make representations against the interim steps under Section 53B and the Licensing Authority must within 48 hours of receipt of these representations hold a hearing in order to consider them. Due to these short timescales this item has been put forward as urgent so as to comply with the Licensing Act 2003 and the regulations that accompany it.

In light of the fact that this matter relates to the prevention, investigation and prosecution of crime, the Police requested that this matter be heard in private. The Panel agreed to this request and passed the following resolution:

RESOLVED –

THAT the press and public be excluded from the proceedings of the Licensing Panel on 30th November 2023 during consideration of the respective item on the agenda on the grounds that it is likely, in view of the nature of the business to be transacted, that were members of the public to be present, there would be disclosure of exempt

information as defined in Schedule 12A to the Local Government Act 1972 (as amended) and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Specifically -

Publicity in respect of item 5 would be likely to lead to the disclosure of information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime by virtue of Category 7 of Schedule 12A of the Local Government Act 1972 (as amended).

Part II

Consideration was given to a report of the Executive Director, Supporting Communities relating to a Licence Holder's representation to interim steps taken by the Licensing Authority in relation to a summary review of a premises licence under Section 53A of the Licensing Act 2003.

Deliberation and Reasons

Having heard submissions from both parties, Members were of the view that it was appropriate to continue the suspension of the premises licence until the full review hearing. This was necessary to uphold the licensing objective of the prevention of serious crime or disorder.

Part I

Members returned to public session and announced that they had agreed to continue with the suspension of the licence.

RESOLVED –

THAT the premises licence for Kiss The Sky continued to be suspended pending a full review hearing. This was an appropriate step to take in order to uphold the licensing objective of the prevention of serious crime or disorder.

10. LOCAL GOVERNMENT ACT 1972 - ACCESS TO INFORMATION

Having applied Committee Procedure Rule 19(a), the hearing ended at 10.30pm

CHAIR

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MINUTES END