

## **LONDON BOROUGH OF LEWISHAM**

MINUTES of the meeting of the LICENSING COMMITTEE, which was open to the press and public held on WEDNESDAY 4 DECEMBER 2019 in Room 4 Civic Suite, Catford Road, Catford SE6 4RU at 7.15pm.

### **Present**

Councillor Stamirowski (Chair) Councillor Elliott (Vice Chair) Councillors Anwar, and Hordijenko.

Apologies for absence were received from Councillors Campbell, Howard, Powell and Wise

### **Also Present**

Lisa Spall - Crime, Enforcement and Regulation Manager  
Jay Kidd-Morton – Lawyer

**Sugahill 250 Kirkdale SE26 4NL**

### **Applicants**

Mr and Mrs Archbold –Applicants  
Mr Chipping – representing the applicants  
2 supporters.

### **Representation**

Councillor Copley – Ward Councillor representing local residents.  
Alfene Rhodes – Crime Enforcement and Regulation Officer.

**Interludee 12 Leegate SE12 8SS**

### **Applicants**

James Golding and Cornell – business partners

### **Representation**

Richard Lockett - Crime Enforcement and Regulation Officer

## **1. Minutes**

RESOLVED that the minutes of the meeting of the Licensing Committee held on 14 November 2019 be confirmed and signed.

## **2. Declarations of Interests**

None.

### **3. Sugahill 250 Kirkdale SE26 4NL**

- 3.1 The Chair welcomed all parties to the meeting and introductions were made. She then invited Ms Spall to introduce the application.

#### **Licensing Officer**

- 3.2 Ms Spall said that officers had received representations with regard to an application for the variation of the premises licence for Sugahill 250 Kirkdale SE26 4NL. She outlined the current licence status and the particulars of the application applied for.
- 3.3 Ms Spall said that one representation had been received from a responsible authority, the Crime Enforcement and Regulation service, on the grounds of public nuisance. A representation had been received from Councillor Copley also on the grounds of public nuisance. He was in attendance and would be speaking on behalf of local residents who did not feel comfortable speaking at this meeting. In addition, three further representations had been received from local residents living in close proximity to the premises on the grounds of public nuisance. Ms Spall then outlined the options open to members when making their decision.

#### **Applicant**

- 3.4 Mr Chipping stated that he would be speaking on behalf of the applicants. This was accepted by the Chair.

#### **Representation**

- 3.5 Ms Rhodes said that she was making her representation on the grounds of public nuisance and noise. There is an abatement notice in place, served on the 16 August 2019. This notice was breached on the 17 August 2019 and officers had been to the premises and witnessed nuisance on four occasions. On two occasions, the noise was deemed to be a statutory nuisance.
- 3.6 Ms Rhodes said that officers had been receiving complaints since September 2017. These complaints were also sent to the local Police who are aware of the situation. When complaints were received initially, it was difficult to witness the noise but communication was maintained with the café and the complainants. The café agreed to keep the music to a reasonable level and the situation was calm for a while. However, complaints had been received regularly since January this year and a breach letter was served on 19 August 2019. She outlined the options open to officers if a statutory nuisance is witnessed again.
- 3.7 Ms Rhodes said that she has had conversations with local residents who were very concerned about reporting the public nuisance for fear of reprisals. She had been informed that the local ward councillor had been working with local residents. In March 2019, Ms Rhodes said that she carried out a full licensing visit at the premises with a previous Lewisham police officer P.C Nick Gerry. The CCTV was not accessible, several signs were not displayed. If the application is granted and

the licensable hours were extended, Ms Rhodes said that the lateness of the hours would cause more problems for local residents.

- 3.8 Councillor Anwar asked why the applicant did not want to join the Safer Lewisham Business Partnership (LBBAC). Ms Rhodes did not know, but the Crime, Enforcement and Regulation team (CER) did not have any objections to the removal of this condition.

### **Applicant**

- 3.9 Mr Chipping said that he is a patron of the premises. He asked what day 17 August 2019 was. Ms Rhodes said that it was a Saturday. Mrs Archbold said that the original letter referred to 19 August 2019 which is a Monday and the premises is closed that day. The Chair asked for clarification. Ms Rhodes said that the abatement notice was issued on 16 August 2019 and a breach witnessed on 17 August 2019 and a letter sent to the applicant on 19 August 2019. Ms Rhodes then read out the letter dated 19 August 2019. Mr Chipping said that all letters are now displayed as required. Mr Archbold interrupted three times during Ms Rhodes' explanation so the Chair advised everyone that discussion must be conducted through the Chair.
- 3.10 Mr Archbold said that he sent a letter to licensing officers responding in full to the letter sent to them on 19 August but did not receive an acknowledgement. He said that the level of music was not loud on the night in question, the statement is a lie. He asked whether there was any proof that the music was too loud. Ms Spall said that the noise levels were witnessed by CER officers. Mr Archbold said that he disagreed with officers because he had read that there is a machine that measures noise levels; he did not believe that officers could measure nuisance just by listening. Ms Spall said that Lewisham do not use sound equipment to measure noise nuisance, the experience of officers is the measure that is used. Mr Archbold having interrupted the proceedings during this discussion, the Chair asked Mr Chipping to continue with his presentation.
- 3.11 Mr Chipping said that he collaborates with Sugahill on St Christopher's fund raiser. In 2016 they collaborated over single families support including children with autism and then Demelza House which is a South London charity. Sugahill gave up their time to support all these charities. He outlined several other charity events that Sugahill had funded including children's parties and charitable dinners. He showed pictures of the diverse community at some of these events. Mr Chipping had been to these events, the music is not too loud and the owners are respectful to local residents.
- 3.12 Mr Chipping said that Mr and Mrs Archbold have been in Lewisham for a long time and have relationships with the community, the latest being with Councillor Best. Mr Archbold said that Councillor Best runs C3. Mr Chipping said that he is very proud of the diverse events that they run and he showed pictures of some people at these events. The Chair said that these pictures had not been circulated before the meeting and were not, therefore, admissible evidence. Mr Archbold said that one of the reasons for asking for an extension of the hours is to promote the vegetarian food on offer; it is the only vegetarian and vegan café in Sydenham. Mr Chipping said that he is proud to be part of the business. It is for middle-aged

people, not young people who are more likely to cause noise nuisance. The premises is also known in the area as a safe place for trans-gender and people who are cross dressers.

- 3.13 Councillor Elliott asked for clarification about the removal of the Annex 2 condition. Mr Archbold said that the scheme requires them to pay £500 for a radio which would mean that they would be in contact with three other businesses. If he witnesses a crime, he would not use the radio, he would call the Police. Licensing Officers confirmed that they did not object to the removal of the condition.
- 3.14 Councillor Hordijkenko asked for more information about the abatement notice from the applicants' perspective. They had appeared surprised when neighbours were described as fearful of complaining because of the fear of reprisal. Mr Archbold said that he has been in business for 13 years and did not know where these allegations had come from. They had not received any complaints until the current residents moved into the shop above the flat. The complainants had never liaised with him, spoken to him or bought a coffee from the shop.
- 3.15 Mrs Archbold outlined the history of the business over the last year. There had been two late night events until 1am. A local lady wanted to celebrate her birthday and the party was held under a Temporary Event Notice (TEN). Two officers came to the premises on the night, they were rude, shouted at them and told them to turn the music off; not down. The music was turned down. Then an abatement notice was issued after the party. Another TEN was applied for to cater for a birthday party on 3 August 2019. Ms Spall explained the process when an application for a TEN is received. She said that a complaint had been received for the application on 3 August, but the application was granted when considered by this Committee.
- 3.16 Mrs Archbold said that they received another abatement notice on 17 August 2019, but the notice referred to an event on 19 August 2019. This was a Monday, a day that they are not open. Ms Spall said that Mrs Archbold was reading from an email of an objection which had the wrong date in it. The dates were correct when the notices were served.
- 3.17 Mrs Archbold said that she received an email from the clerk, just a few hours before this meeting. Attached was a copy of an objection that should have been sent with the agenda. The Chair said that the meeting could be adjourned for 15 minutes; the applicants could then read and consider the objection. Mr Archbold said that it was not fair that this email was sent so close to this meeting, and due to the content of the objection, he might have engaged a solicitor. The Chair withdrew the representation, explaining that the representation had been received in time but omitted from the agenda in error. Given this, the representation had to be included for consideration and said that the content would not be considered.
- 3.18 Mrs Archbold asked Ms Rhodes if any complaints about their premises had been received after 17 August 2019. They had responded to an email from Mr Obazee but had not received a response from him. She asked whether any complaints had been received in the last four months and if so, why they had not been informed. Ms Rhodes tried to answer but was interrupted by the applicants several times. She said that 3 weeks ago, on a Saturday, a team of licensing officers were on

duty. They received a call about nuisance at the premises. By the time they arrived at Sugahill it was shut. At this point the Chair reminded the applicants not to interrupt the proceedings.

- 3.19 Ms Rhodes said that the music had been turned off 5-10 minutes before officers arrived. Nothing was witnessed. She said that emails and telephone calls were received but the noise nuisance was not witnessed by officers so the applicants were not contacted. Although the licensable hours had not been breached, Ms Rhodes said that an abatement notice was still in place.
- 3.20 Mrs Archbold said that following the party held at Sugahill on 3 August 2019, there were no complaints. The party on 17 August was much quieter. She said that their parties are not noisy and they have only had 2 late night parties this year.
- 3.21 Mrs Archbold said that they only want to extend their alcohol licence by one hour and she listed other nearby establishments that sell alcohol until 11pm. She said that Sugahill is the last vegan restaurant in Sydenham, others had closed down. The Chair tried to explain the parameters in which Licensing Committee operates but she was interrupted by the applicants again. She said that the viability of a business is not within the remit of this Committee.
- 3.22 Mr Archbold said that at the end of the previous Licensing Committee, he advised members that in his opinion, it did not matter what action was taken, complaints would continue from residents and he considered that the matter had become personal. He said that members, during the meeting, agreed with him. Councillor Anwar said that at the last meeting there was only one objector, but now members had been made aware of several complaints that had been received regarding the activities at Sugahill. Mr Archbold said that the complainants had not come forward and he believed complaints to be based on gossip.
- 3.23 Regarding anti-social behaviour, Mr Archbold said that there had only been one incident when the Police had to be called, cad number 9608. It involved one of the complainants. In the meeting, Mr Archbold faced and accused a resident of bad behaviour, when this resident responded the Chair called for order and said that she would adjourn the meeting if there were any more interruptions.
- 3.24 Mr Archbold said that he had read that local authorities have approved noise measuring devices to determine whether a noise nuisance is breaching the law, but Lewisham do not use them. Ms Rhodes said that officers have a machine that can measure noise levels in a premises, but this evidence cannot be used in court. She explained how the machine works, but was interrupted during the explanation by Mr Archbold. She said the machine does not provide evidence regarding where the noise is coming from. Officers work on a rota basis, and when a report of alleged noise nuisance is received, a visit will be made to the premises.
- 3.25 Mr Archbold said that he is a professional DJ and the music he plays would never be above reasonable levels; they are way under the statutory limits. He plays reggae music once a month, there is no base and voices can be heard over this music.

- 3.26 Mr Archbold said that he was disappointed in Councillor Copley, his local councillor, because he had ignored emails and had not contacted him. Ms Kidd-Morton advised Mr Archbold to address the issues raised by residents. Mr Archbold said that he just wanted to serve food and drink until 11pm and Mr and Mrs Archbold believed that they were the victims.
- 3.27 Councillor Elliott was informed that the premises is not in the Cumulative Impact Zone. He said that when officers visited the premises, the CCTV was inaccessible. Ms Rhodes confirmed this, she said that they visited in March/ April 2019. The box was positioned on a shelf above the front door; neither licensing officers nor the Police were unable to gain access to the CCTV.
- 3.28 The Chair advised the applicants again that she would not tolerate their constant interruptions when officers were speaking. If they continued in this manner, she would adjourn the meeting.
- 3.29 Mrs Archbold said that the CCTV was fixed within 2 weeks of the officers identifying the inaccessibility of the box. She also advised the police about this at the last meeting of this Committee. Mrs Archbold said that there is an issue with the radio, but she would sort this out with the company soon.

### **Representation**

- 3.30 Councillor Copley said that he had been contacted by five residents who had complaints about Sugahill. He said that it was the first time he had felt compelled to attend a Licensing Committee and object to an application, due to the level of feeling from local residents. He had listened to the charity events that had been held at the premises, but this should not prevent the applicants from upholding the four licensing objectives. He said that not only had local residents made complaints but also the enforcement team had made representations about what appears to be a pattern of behaviour. He said that the complaints from these residents were separate from those submitted to this committee. They were not in attendance for fear of reprisals.
- 3.31 Councillor Copley said that some of the complaints he had received from residents about Sugahill were as follows:
- The music is way too loud inside and outside the premises. Crowds of people shouting many times late at night past 2 am.
  - Residents are concerned about the unacceptable level of disturbance created by Sugahill
  - Extending the licence would exacerbate the problem and cause residents further distress.
  - Owners of the café have historically shown no regard for noise created which affects residents living in the upstairs flats.
  - Disturbed sleep is a regular issue for residents because of Sugahill
  - Historically the café has hosted unregulated parties. The streets are full of litter and urine in the morning following these events.
  - 10-20 people shouting outside the premises until 2am is sometimes worse than the loud music that is played inside.

- Residents had been affected by the activities for 3 years. Noise vibration had caused damage to their properties

3.32 Councillor Copley said that an abatement order is still in place and he hoped that members would refuse this application.

3.33 Councillor Elliott asked whether residents' complaints had been scrutinised in case they are vexatious or frivolous. Councillor Copley said that he was responding to residents' emails. Ms Rhodes advised that she had spoken to residents who wanted to remain anonymous. They were advised to contact their local Councillor.

3.34 Mr Chipping said he attends events at Sugahill and he has never seen litter or urination outside the premises. He said that the premises do not run a young persons' disco. Sugahill is a café for elderly people who want to listen to music.

3.35 Mr Archbold said that if a premises was causing noise nuisance or anti-social behaviour in the area, it would be included in local social media and community forums. He had never received any negative press about Sugahill. In addition, he had never opened the premises until 2am. Licensed events run until 1am and everyone is out by 1.15am. He refuted claims of urination, litter and the taking of drugs outside the premises.

3.36 Members of the Committee then withdrew to make their decision. When they returned it was:

**RESOLVED that** the application be REFUSED

3.37 Ms. Spall said that parties have the right to appeal this decision to the magistrate's court. A decision letter would be sent out in the next five days and interested parties would have 21 days from the date of that letter to lodge an appeal with the Court which was usually Bromley Magistrates. The decision takes immediate effect, the licence documents would be sent out in due course.

#### 4. **Interludee 12 Leegate SE12 8SS**

4.1 The Chair welcomed all parties to the meeting and introductions were made. She then invited Ms Spall to introduce the application.

##### **Licensing Officer**

4.2 Ms Spall said that members were being asked to consider this application for two temporary Event Notices (TEN) for the sale of alcohol and regulated entertainment on 23 December 2019 and 25 December for Interludee 12 Leegate SE12 8SS. She outlined the hours of activities at the 'live performance night' and 'xmas eve party respectively'. The Crime, Enforcement and Regulation team had objected to the application in relation to the licensing objective of prevention of public nuisance.

4.3 Ms Spall outlined the steps open to members when making their decision.

##### **Representation**

- 4.4 Mr Lockett said that Interludee previously operated under a Temporary Event Notice on 15 September 2019, to open an hour later until 3am. Following this event there was an altercation outside the premises on the public square which led to a complaint being received by the Crime, Enforcement and Regulation (CER) service. A review of CCTV showed that door staff were not available to deal with this disturbance and the applicant had tried to intervene himself.
- 4.5 Officers had visited the premises earlier in the evening following a complaint regarding noise and discovered that music was audible in the surrounding area and patrons were also causing noise nuisance as they congregated outside.
- 4.6 During the visit, the front door of the premises were not being supervised by door staff, amplified music was escaping from the premises. Following discussions between officers and door staff, all patrons were ushered inside and the front door was managed.
- 4.7 In a subsequent meeting with the applicant, regarding the disturbance outside, it was made clear that any future TENs for the foreseeable future would more than likely be objected to. The applicant reassured CER, Police and Licensing officers that there would be new door staff employed at the premises and that they would be fully versed in the need to have patrons moved on from the area swiftly and quietly.
- 4.8 Whilst there had not been any further issues since this meeting in September 2019, the CER team did not have sufficient confidence in the management of the premises. Officers had concerns regarding the capability of the management to prevent public nuisance, particularly in terms of dispersal, in the run up to Christmas, It was for this reason that officers had made an objection. If members were minded to approve the temporary events, Mr Lockett suggested that the current premises licence conditions be applied throughout both events.
- 4.9 Councillor Elliott asked whether door staff are SIA accredited. Mr Golding confirmed that staff are fully accredited.
- 4.10 The Chair asked about the discussions Mr Lockett had with Mr Golding. Mr Lockett confirmed that discussions had been good. The main issue identified at the September event had been patrons congregating on the square in front of the premises. He said that it is difficult to manage and disperse the crowd because they tend to linger in the open space. At the event in September 2019, a fight broke out but this was not a common occurrence.
- 4.11 Councillor Elliott was advised that there would not be a risk assessment for the temporary events.

### **Application**

- 4.12 Mr Golding said that in September 2019 they had a licence extension until 3am. There had not been any issues since then and they had hosted some big nights. They had managed the premises for 2 years, and following discussions with CER



officers they had addressed the problems identified in September 2019. The bar/restaurant has a capacity of 100 and the events would be free.

4.13 Councillor Elliott asked how management had addressed the problems of dispersal of patrons. Mr Golding said that because of the square at the front, dispersal is now at the back of the premises. There are more exits which breaks up the crowds.

4.14 Members of the Committee then withdrew to make their decision. When they returned it was:

**RESOLVED that** the application be GRANTED and the current premises licence conditions be applied throughout both events.

4.15 Ms. Spall said that an appeal may be made against this decision to the Magistrates Court within 21 days from the date of the decision letter which would be sent out within 5 days of the meeting.

The meeting ended at 8.35pm

Chair