

LONDON BOROUGH OF LEWISHAM

MINUTES of the meeting of the LICENSING COMMITTEE, which was open to the press and public held on TUESDAY 15 JANUARY 2019 in Room 3 Civic Suite, Catford Road, Catford SE6 4RU at 7.30pm.

Present

Councillor Stamirowski (Chair), Councillor Elliott (Vice Chair) Councillors, Feis-Bryce, Hordjenko, Hall, Howard, Kalu and Millbank.

Apologies for absence were received from Councillors Codd, and Wise.

Also Present

Lisa Hooper - Crime, Enforcement and Regulation Manager

Lisa Spall - Crime, Enforcement and Regulation Manager

Petra Der Man – Lawyer

P.C. Nick Gerry MPS

The Chair recommended that this meeting be adjourned so that the closed agenda could be considered first. This was agreed.

At 7.55pm the meeting reconvened.

Mordens Wine Bar 7-9 Montpelier Vale London SE3 0TA

Applicant

Mr Dadds – Solicitor for the Applicant

Mr Coxon Premises Licence Holder

Representation

Mr Comber, Phoebe Comber and Mr Senior (Blackheath Society)

1. Minutes

RESOLVED that the minutes of the meeting of the Licensing Committee held on 15 November and 21 December 2018 be confirmed and signed.

2. Declarations of Interests

None.

3. Mordens Wine Bar 7-9 Montpelier Vale London SE3 0TA

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

Licensing Officer

- 3.2 Ms Hooper said that members were being asked to consider this application for the variation of a premises licence for Mordens Wine Bar 7-9 Montpelier Vale London SE3 0TA. She outlined the current licence and the proposed variation. She said that a review hearing this evening, had agreed conditions to be added to the licence to alleviate concerns raised by the Police. Those members of the public present had seen a copy of the conditions. Four objections from members of the public and the Blackheath Society had been received. She outlined the powers available to members of the Committee.
- 3.3 The Chair asked for clarity about the licence and whether the hours will remain but will include all floors. Ms Hooper said that there are different activities at different times across the floors. Regulated entertainment is predominantly in the basement and there are different times for alcohol in the basement and the ground floor. This application will ensure that one licence covers the whole of the premises.

Applicant

- 3.4 Mr Dadds said that the application is summarised on page 11 of the agenda and allows all of the floors to operate with the same licence conditions. It will allow a better management of the flow, and gradual dispersal of patrons. The Police agree that this is good management of premises and no other responsible authority has objected to the application.
- 3.5 Mr Dadds said that this application is strengthened, because since this application, further conditions have been added to the licence. In future, anyone admitted to the premises will go through the club scanner after 10pm on a Friday and Saturday and ID taken. This normally reduces crime by 70% because identification is given. In addition a noise limiter will be fitted and the limit set by environmental health. Most music will be played in the basement. Although complaints have been made by residents, environmental health have investigated but did not have any objections.
- 3.6 Mr Dadds said that with regard to the outside area, Police agree with the PLH that it will be better for smokers to be in the rear garden rather than at the front of the property. No more than eight patrons will be allowed outside at one time. Management will ensure that they are only on the terrace nearest the premises and no drinks will be allowed outside. The limiter will be set so that when the rear door opens any noise that escapes will not be above the ambient level.
- 3.7 Mr Dadds said that he has read the complaints to the application. He does not know whether the Blackheath Society had discussed this application, made a resolution, and produced minutes. He does not know whether the society has made any complaints in the last 12 months. Mr Comber had given hearsay evidence from a tenant who used to live in the flat. However, there is a 24 hour shop opposite the premises, people come and go during this period. The licence application has been widely publicised but only four complaints have been received, which is a relatively low number and he asked members to test this evidence; he believes that the conditions on the licence will promote the licensing objectives.

- 3.8 Councillor Feis-Bryce asked whether the Police support the application. Mr Dadds said that in law, it is the duty of the Police to object to a licence application if the licensing objectives are not being upheld. It should be regarded as a positive if no responsible authority has objected. P.C Gerry said that he had met with the applicant and the CER to discuss conditions. The main areas of concern were the movement of patrons throughout the night which can be difficult particularly when they have been drinking but also noise from within the club from people and music which affects local residents. The installation of a sound limiter should ensure that residents do not endure loud music. He agreed that the new conditions will address the concerns that Police identified. Mr Dadds said that free movement of people between the floors will ensure that people are not forced in to certain areas of the club.
- 3.9 Councillor Howard asked for clarification about the use of the garden area. Mr Dadds said that the rear garden area will be closed for any alcohol consumption or licensable activity from 23:00 hours. The upper terrace will be barricaded. After this time, up to eight customers will be allowed outside to smoke. The patrons will be supervised, and the Police agree that this is better than allowing smoking at the front of the premises. Councillor Howard said that smokers could be noisy. Mr Dadds agreed, some people may be noisy but the area will be managed, no alcohol will be allowed outside after 23:00 and the Police also agree that this is the best way to manage smoking at the premises.
- 3.10 Councillor Millbank said that the application is to allow the current licence, which includes the consumption of alcohol and regulated entertainment, over all of the floors. She asked whether this would mean that there will be more patrons in the club. Mr Dadds said that there would be more patrons, but it is not always at capacity. He expected that an extra 30/40 people could be allowed into the club. The current practice is that when the club closes, patrons leave all at once whereas no new patrons will be admitted and those at the premises will be able to leave gradually, so there will be a slower dispersal.
- 3.11 Councillor Millbank asked what the total number of people the club will have at any one time. Ms Der Man said that on the licence it refers to 100 people on the ground floor and another 100 in the basement. Mr Dadds said that there could be more in the cocktail bar. Mr Coxon said that they had never had more than 260 patrons. Ms Der Man said that the limit will be set by the London Fire Brigade.

Representation

- 3.12 Mr Comber said that he has been a trader and lease holder in the village for 35 years. He does not live above the premises; he had a tenant but she had to move out in 2017 having lived there for 20 years. She was very upset as she explained to him that she had witnessed terrible things including screaming from the premises. It is not supposition, it happened and she made representation. His daughter is now living in the flat opposite and she is witnessing exactly the same behaviour; she has video evidence which was not allowed.
- 3.13 Mr Comber said that there has been a breach of the licence. He found it hard to believe the claims that there is no entertainment on the ground floor because he

sees it every Saturday night; there is a DJ in a booth. Music blares out and it is horrendous and he finds it hard to believe that officers have not heard it. He said that he had spoken to many people who wanted to complain about this application, but they had not seen the notices. A lot of the units opposite the premises are empty because tenants cannot put up with not only noise but also anti-social behaviour when people leave. This was the reason that his tenant left because of fighting, urination in the street and patrons being sick every four to six weeks. He has witnessed this himself.

- 3.14 Mr Comber said that this anti social behaviour in Blackheath cannot continue. It is a small village not a large town centre. There has been a material breach, and it must stop. A DJ and booth should not be in the door as you go in on the left. It should be a drinking establishment not a night club, He said that if this application is agreed, his daughter will not be able to stay in the flat because she works in central London on a Sunday night. Patrons leave at 1am and his daughter will not be able to get up for work at 6am. He believes that there has been deception. He will not stop objecting until the premises is closed down.
- 3.15 Mr Feis-Bryce asked for clarity about the DJ booth. Mr Coxon said that on a Friday and Saturday night, the music goes off at 11.30 in the main bar area and there is background music. Mr Dadds said that in relation to noise, he said that the PLH is agreeable to a noise limiter which is set by environmental health. Ms Hooper said that until 11pm entertainment is deregulated and music can be played until then, so the music played for an extra half an hour was in breach of the licence.
- 3.16 Mr Senior said that he was involved with licensing issues when Blackheath became a Cumulative Impact Zone. He said that he was interested in becoming involved when his wife was too afraid to go out in the evening. He read from Lewisham's licensing policy which reverses the burden of proof. An application for a premises licence will be refused unless the applicant can demonstrate why the operation of the premises involved will not add to the negative cumulative impact already being experienced. It would be the contention of the Blackheath Society that this applicant has not done this.
- 3.17 Mr Senior referred to page 25. He said that the applicant is asked to describe any additional steps intended to promote the licensing objectives as a result of the proposed revocation. The page is blank apart from one line which states 'conditions to be agreed with the Police and licensing authority'. He considered that the applicant has not met the test outlined in the licensing policy; it merely states that this allows for better management.
- 3.18 Mr Senior said that members of the Committee have read several letters of complaint in the agenda; one lady in particular seems to have suffered for a long time. When the premises was called Cave Austin, the society received a letter from the manager of the club at the time, stating that opening up the upper floors would create trouble. This manager is still a director of this premises. The letter also outlines the problem of people 'trying to gain entry after the other premises in the area have closed, which may cause some destruction in the village particularly at the front door.' In conclusion, the manager states that one hour in the basement area and closing the ground floor at midnight would make things a lot easier and quieter.

- 3.19 He said that it is the contention of the Blackheath Society that this application should be refused. The applicant has not made clear how he is going to address the licensing objectives and it contradicts statements made in writing under the management of the director.
- 3.20 The Chair asked the Police and licensing team why they did not object to this application. Ms Hooper said that the service has received noise complaints in the past, a noise abatement notice was served over a year ago. A statutory noise nuisance has not been witnessed since then. Several attempts have been made to investigate over the past year, working with the complaints received, only two or three, but staff were not allowed access to the properties to witness a nuisance. CER have no reason to object from a noise perspective. She has also been working with the Police on the wider issue of dispersal and security staff. CER agreed with the conditions proposed because it should ensure that there is a robust framework. Smokers will be managed in a more controlled way in the rear garden; no drinks will be allowed outside after 11pm. CER agreed that the steps taken regarding conditions are the next step in ensuring that the licensing objectives are upheld.
- 3.21 P.C Gerry said that the previous conditions have been there for a long time and many were unenforceable. Police are aware of the issues regarding noise on Blackheath and most of the new conditions are enforceable so Police can act on them. These new conditions will uphold the licensing objectives and assist local residents and the Police to ensure that Morden's Wine Bar is operating correctly.
- 3.22 Councillor Feis-Bryce said that the DJ booth in the bar plays music until 11.30pm. This breaches the licence by half an hour. He asked whether this is a concern for officers. Ms Hooper said that there was an issue regarding the garden as well, which had been used after 11pm. There have been issues with the structure of the licence and the conditions which have been difficult for Police to enforce. CER support the application to vary the licence to make it more workable and uphold the licensing objectives. She was not going to enforce the issues of the garden whilst the application to vary was being considered. She was not aware about the DJ playing music past the licensable hours.
- 3.23 Councillor Millbank asked the applicant why he has not operated within statutory guidelines. Mr Dadds said that it was a misunderstanding. Ms Der Man asked what will be done in respect of this going forward. Mr Dadds said that a noise limiter will be installed in the basement and the ground floor. Environmental Health and licensing will set the limit so that if when the external door opens, the noise that escapes will not be too loud for residents. Ms Hooper said that a sound engineer sets the limit as outlined in the conditions. If CER receive a noise complaint and a statutory noise witnessed, then officers will ask for the sound levels to be reduced.
- 3.24 Councillor Kalu asked how many noise complaints CER have received from residents. Ms Hooper said that in the past 18 months, officers started to receive noise complaints and warning letters were issued. CER officers witnessed a statutory nuisance and an abatement notice was issued. There have not been any further statutory nuisance since then.

- 3.25 Mr Dadds said that the officer stated that there were only one or two complaints in the last 12 months. Ms Hooper said that she did not have the figures with her but she understood that following complaints from one or two residents and abatement notice was issued. A few residents made several complaints
- 3.26 Mr Dadds said that CER know the history of Morden's Wine Bar but they have not made any objection to this application. He did not know why officers were not allowed access to properties to witness a statutory nuisance. Police and CER believe that the steps that have been taken in installing a noise limiter, and ensuring that all floors operate with the same hours, will help with the smooth dispersal of patrons and the promotion of the licensing objectives.
- 3.27 Mr Dadds clarified that he had not seen any minutes where the Blackheath Society had discussed this application. No current evidence has been provided only historic evidence. This area of the village has changed. There are no other similar premises in the village that close at 2am, so there will not be dispersal from several premises at the end of the evening. There is a shop across the road that operates 24 hours a day and a cab office. The community need somewhere to go. The policy objection from the Blackheath Society is not sound because the statutory authorities have not raised the cumulative impact; in fact the licensing officer states that these steps will help with the dispersal.
- 3.28 Mr Comber stated that he wants the premises closed down. He said that this is a confirmation bias and he has a given view. Mr Comber referred to a resident leaving in 2017; his client accepts, as do officers that there was a problem that has been dealt with and the conditions address the licensing objectives.
- 3.29 Phoebe Comber said that Mr Dadds stated that residents need somewhere to go. In fact the patrons in Morden's Wine Bar are from outside the area and not for the benefit of local residents. Mr Comber said that he believes that an extra one hundred people would be in the club if this application is agreed.
- 3.30 Members of the Committee then withdrew to make their decision. When they returned it was:

RESOLVED that the application, as applied for, be agreed.

- 3.31 The Chair asked the applicant for an emergency contact number for residents and that the dispersal policy be reviewed annually. Mr Dadds said that he had just spoken to Mr Comber, who has a contact number and has agreed to work with the PLH when setting the noise limiters.
- 3.32 Ms Hooper 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.

4. Exclusion of the Press and Public

RESOLVED that in accordance with Regulation 4 (2) (b) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England)

Regulations 2012 and under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Act, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information:

The following is a summary of the item considered in the closed part of the meeting.

5. Mordens Wine Bar 7-9 Montpelier Vale London SE3 0TA

The interim steps were lifted and a raft of conditions added to the premises licence.

The meeting ended at 9pm

Chair