

LONDON BOROUGH OF LEWISHAM

MINUTES of the meeting of the LICENSING COMMITTEE, which was open to the press and public held on TUESDAY 10 AUGUST 2021 and held remotely at 7.15pm.

Present

Councillor Stamirowski (Chair) Councillor Brown (Vice Chair) Councillors Campbell, Elliott, Kalu, and Latouche.

Councillor Hall joined the meeting but due to internet issues, did not take part in any of the decisions made.

Apologies: Councillors Howard and Wise.

Also Present

Lisa Spall - Crime, Enforcement and Regulation Manager
Petra Der Man - Lawyer
Charlie Kenny – Lawyer

Merkur Slots 40 Deptford High Street London SE8 4AF

Applicant

Mr Philip Kolvin QC, presented the Premises Licence Holder's case
Dr Richard Bradley, Solicitor, Poppleston Allen
Ms Amanda Kiernan, Head of Compliance, Merkur
Mr Andy Tipple, Head of Product, Merkur -
Mr Steve Ambrose, Operations Director, Merkur
Mr Stuart Jenkins, Leveche Associates Limited
Mr Nick Mason, Leveche Associates Limited

Representation

Councillor Dacres and Harry Richardson.

Jiffy Grocery Units 23-25 Parkside Business Estate Rolt Street SE8 5JB

Applicant

Mike Dickson – Presenting Agent
Ismail Akbulut, Operations
Mark Rogers, Property Manager,

Representation

Objector Representing Acme Tenants
Heather Deedman

Good Friend Chinese Takeaway 2a Douglas Way SE8 4RJ

Applicant

Jill Hou
Kevin Guo

Representation

P.C Butler – Metropolitan Police
Frank Olaniran

1. Minutes

RESOLVED that the minutes of the meeting of the Licensing Committee held on 13 July 2021 be confirmed and signed.

2. Declarations of Interests

None.

3 Merkur Slots 40 Deptford High Street London SE8 4AF

- 3.1 The Chair welcomed all parties to the Licensing Committee. She introduced those present, and outlined the procedure to be followed for the meeting. She then invited the Crime and Enforcement and Regulation Manager to introduce the application.

Licensing Officer

- 3.2 Ms Spall said that members were being asked to consider an application for a bingo premises licence for Merkur Slots 40 Deptford High Street London SE8 4AF under the Gambling Act 2005. This application had been postponed from 24 June 2021 to allow time for full consideration of late documentation. She outlined the application and said that representations had been received from 15 interested parties on the grounds of all of the licensing objectives. These included an objector from Councillor Dacres, a ward councillor for New Cross.
- 3.3 Ms Spall then outlined the powers available to members when making their decision.

Applicant

3.4 Mr Kolvin made a presentation on behalf of the applicant. He made the following points:

- Objections to this application had not been received from any responsible authorities.
- The evidence that the applicant upholds the licensing objectives was extensive and uncontested because:
 - There were detailed statements of operations and compliance witnesses.
 - The applicant had never had an application refused.
 - There had not be any Regulation intervention in any of the 190 premises.
 - It trades successfully under a 24 hour licence in Lewisham High Street with no conditions.
 - The local authority had not made an objection to the application. Covert visits had been made to over 14 London premises in relatively deprived areas.
- The applicant trades without relevant impact because it is one of the largest most experienced gaming operators on the high street in the UK.
- The applicant's record on crime and disorder was the result of many proven factors including its systems for prevention, good management, good surveillance, rules, demographic of its customer base, layout of the premises, and liaison with the Police.

3.5 Mr Kolvin said there was no loitering outside his client's premises, Children could not see into the premises but because of the style of the buildings and the supervision, they would not be interested in going in. If they attempted to enter, they would be challenged. Vulnerable people were protected with advanced systems of player protection and his client continued to work with gambling charities to improve these systems.

3.6 Mr Kolvin said that if the application was granted, the applicant's licence would be subjected to extensive legal obligations.

Representation

3.7 Mr Richardson addressed the Committee on behalf of the Deptford Society. He said that Deptford's unique character derives from its mixed community of commercial and residential users and the Deptford Society supported this co-existence but they both had their individual needs. Deptford has high levels of social deprivation and the decision made by the Committee was vital to the future of the area.

3.8 Merkur were a highly professional company and well able to operate within the limits of gambling law. However, the Deptford Society believed that the application should be refused because the location chosen would increase the cumulative impact of gambling on existing deprivation in Deptford. Mr Richardson raised the following points:

- There were already four gambling businesses in Deptford High Street with a further four more in adjoining streets. The applicant had tried to distinguish between Bingo and betting, suggesting that there would be less impact playing Bingo. However, it was not community led, it could be described as on line gambling for those without internet access.
- Objections had been received from professionals seeking to protect children and vulnerable adults. They were highly experienced in understanding vulnerable people and the threat that this application would have to their health and mental well-being.
- The Headteacher of Tidemill School, less than 100 metres from the premises, stated that nearly half of the children in the school were in receipt of pupils' premium grant. Some parents considered gambling as a way to boost their finances; any loss of income had a huge impact on the wellbeing of their children. Considering the number of single parent households, the applicant's declaration that half of their clientele were women, being presented as a positive in their application, was of concern. The Headteacher then referred to the anti-social behaviour outside the school and the number of vulnerable people who already congregate outside the school. Pupils had written to their local M.P requesting that something should be done about this situation.
- A representation had also been received from Mr Flynn, the Chief Executive of Bench Outreach; this was one of the eleven charities in the immediate vicinity aimed at helping vulnerable adults. In his statement he referred to the link between homelessness, poor mental health, substance abuse and poverty. The applicant had not made any reference to these charities in the risk assessment.
- In 2020, when Palace Amusements was granted a gambling licence, Mr Flynn considered that this Committee had failed to protect the most vulnerable in our society.
- If the application was to be granted, in consideration of co-resistance with residents and businesses in the location, it was suggested that hours of operation should be 11pm Sunday to Thursday and midnight Friday to Saturday.

3.9 In summing up, Mr Kolvin referred to the legal test outlined in page 11 of the agenda section 153 of the Act and the Gambling Act and the mandatory aim to Permit. He said that this was not a test about the character of an area or deprivation within an area, or nuisance to local residents. It was a test about impact on the licensing objectives. He considered that the evidence presented had been clear. If there was an impact on the licensing objectives, then there were review provisions in the legislation.

3.10 Mr Harrison said that in 2013, all of the London boroughs met to discuss a framework to provide boroughs with a way in which they could test cumulative

effect of gambling on local areas. Westminster had been successful in refusing an application in Edgware on the basis of cumulative impact.

- 3.11 Councillor Dacres made a presentation. She said that Deptford High Street was already saturated with gambling establishments and they had been a source of anti-social behaviour, including street drinking, open drug dealing, and public urination. This establishment was in close proximity to two primary schools, two secondary schools, nurseries, and other premises and organisations which were used to support children and young people already vulnerable and susceptible to gambling establishments.
- 3.12 The applicant advised that they managed other gambling establishments in Lewisham and around London, but Deptford High Street had a history of anti-social behaviour. It had also been claimed that patrons did not hang around outside gambling establishments, but in Deptford this was a common cause for complaint.
- 3.13 Councillor Dacres considered that a gambling licence for 24 hours was not acceptable for Deptford High Street. The area was a densely residential area with many families living in and around the High Street. There should be a balance between the needs of the business and local residents. There were a number of charities working with very vulnerable people in the area and the increasing numbers of gambling establishments was having a negative impact on children and family life. All of the objections raised referred to the Licensing Objectives and anti-social behaviour and the protection of children.
- 3.14 The Chair asked whether the applicant would consider a reduction in the application for 24/7 operating hours. Mr Kolvin said that his client would agree to 9am-Midnight Sunday to Thursday and 9am to 2am Friday and Saturday.
- 3.15 The Chair said that the members would make a decision at the end of the meeting. All parties would be advised of the decision within 5 working days. She thanked all those present for their attendance.

Councillor Elliott joined the meeting.

4. Jiffy Grocery Units 23-25 Parkside Business Estate Rolt Street SE8 5JB

- 4.1 The Chair welcomed all parties to the Licensing Committee. She then invited the Crime and Enforcement and Regulation Manager to introduce the application.

Licensing Officer

- 4.2 Ms Spall said that members were being asked to consider an application for a variation of a premises licence for Jiffy Grocery Units 23-25 Parkside Business Estate Rolt Street SE8 5JB. She outlined the application and said that representations had been received from ten interested parties on the grounds of public nuisance.
- 4.3 Ms Spall said that conditions had been agreed between the applicant and Police and the Crime, Enforcement and Regulation service to promote the licensing

objectives. She outlined the powers available to members when making their decision

Applicant

- 4.4 Mr Nickson, licensing agent, spoke on behalf of the applicant. He said that the application for a full variation of the premises licence was to amend the hours of operation, initially until midnight but with the potential in future, for a 24 hour operation for their grocery delivery service. There would not be any changes to the inward delivery schedules, the only change would be that delivery riders would be able to supply grocery products through the night.
- 4.5 Mr Nickson said that no objections had been received from responsible authorities. In addition there had not been any objections from residents. The application included the removal of condition 6 to enable the delivery riders to operate after 11pm.
- 4.6 Mr Nickson said that there were limits to that which the licensing process could achieve to overcome the concerns raised by the business occupants in acme studios. These concerns should be discussed with the landlord or the planning authority. Members were not being asked to review the licence, only the sale and supply of alcohol alongside groceries and hot food and drinks after 11pm. The premises was not in the cumulative impact zone, the need for the variation did not have to be proved and there was a legal presumption to grant the application. The several conditions that already existed on the premises licence met the risks to the licensing objectives
- 4.7 Mark Rogers, Property Manager, then addressed the Committee on the background of the location of the premises. He said that they treat Rolt Street arches as a strategic location led by customer demand from Deptford Surrey Quays and Greenwich. All were accessible by bike. The unit was a good size for the business and the applicant had a good relationship with the landlord. There had been 3 deals with this landlord and Jiffy Grocery was the fourth. Since opening, nine people had been employed.
- 4.8 Councillor Brown asked for clarification regarding the transport used by delivery drivers. Mr Rogers said that the vast majority of deliveries would be by bicycles and E-Bikes. On occasions, motorised vehicles would be used, but these were being phased out.

Representation

- 4.9 Ms Deedman addressed the Committee. She said that she had been working for Acme studios for a number of years. Staff were used to accommodating working neighbours, but the neighbourhood had changed in recent years. There were more residential neighbours and there was a cultural quarter. The proposed application affected a number of people.
- 4.10 Ms Deedman said that there had been issues with Jiffy Groceries since June; attempts had been made to resolve these issues and concerns were on-going. The main complaint was that of noise. She did not consider the site to be

managed well despite one of the conditions on the premises licence stating that operators should stay inside the unit before deliveries. Operators were using the space between the Acme building as a social space creating noise. If granted, this problem would be an issue all hours of the day and night.

4.11 Ms Deedman said that the current legislation on licensing should be applied rigorously to online activities and business and it was for bricks and mortar. There had been problems with pollution because the archway was a rat run. A cycle lane had been installed in Rolt Street and the resultant noise had been a problem for staff in the Acme building. If the application was approved, it would only exacerbate all the problems within the area.

4.12 The second objector said she believed that objections to the application had not been received from residents because they did not have access to the front of Jiffy Grocery where the notice of application was displayed. She said that she was an artist at Acme Childers Street speaking on behalf of the artists who had objected. The main concern was regarding the prevention of public nuisance. Their studios face the Jiffy Grocery and artists were already experiencing a lot of noise and increased pollution from the current operation and this would continue into the early hours if the application was agreed. She raised the following points:

- Many artists could only work at night and were already disturbed by Jiffy Grocery's operation currently open until 11pm. Artists did not want to be disturbed later than 11pm.
- The yard was narrow and Acme Studios and Jiffy Grocery were very close. Vehicles drive straight down the yard or back up with reverse alarms all within 2/3 metres of the Acme site.
- There were frequent deliveries to Jiffy Grocery. There was noise from tail lift trucks, idle engines next to open windows,
- Artists worked with material that required ventilation. There was constant noise from Jiffy Grocery and mopeds were used for delivery. The acoustics of the site meant that noise was amplified around the area particularly at night.
- The site around the area was secure with heavy gates at night.
- There were concerns regarding the preparation and despatch of hot food on the site. Artists working on the Acme site did not want to be disturbed by food smells and ventilation fans
- Staff and riders created excess noise outside Jiffy Grocery as they socialised; including loud talking, phones on speakers, and music playing when shutters were open.
- Jiffy Grocery had been advised about the problems they were causing neighbours but the nuisance continued.
- The nuisance prevented artists from working, affected their health and wellbeing and caused stress.
- Attention was drawn to the condition in the current premises licence that riders must stay inside the premises, not make excessive noise when leaving, notices must be displayed at the exits requesting all staff to respect local residents and businesses.

- 4.13 The Chair said that the members would make a decision at the end of the meeting. All parties would be advised of the decision within 5 working days. She thanked all those present for their attendance.

5 Good Friend Chinese Takeaway 2a Douglas Way SE8 4RJ

- 5.1 The Chair welcomed all parties to the Licensing Committee. She introduced those present and then invited the Crime Enforcement and Regulation Manager to introduce the application.

Licensing Officer

- 5.2 Ms Spall said that members were being asked to consider an application for a premises licence for Good Friend Chinese Takeaway 2a Douglas Way SE8 4RJ. She outlined the application and said that this was changed following representation from the Crime, Enforcement and Regulation service on the grounds of public nuisance. The amended application was read out to those present. Representations had been received from interested parties on the grounds of public nuisance, public safety and the prevention of crime and disorder.
- 5.3 Ms Spall said that conditions had not been agreed between the applicant, and the Police and Crime and Enforcement service. She outlined the powers available to members when making their decision.

Applicant

- 5.4 Ms Hou addressed the Committee on behalf of the applicant. She said that the application had changed because the hospitality industry had been badly affected by Covid 19. Good Friend Takeaway had struggled particularly because it was a small business. Management decided to change the business operation model by widening their clientele to include customers from outside the local area. This included students from Greenwich College Goldsmiths University, and Lewisham College. They also hoped to expand their business with small birthday parties and after school events.
- 5.5 Ms Hou said that the takeaway would also meet a need from the Chinese community who may wish to meet other people with the same cultural background and who speak the same language. It was hoped that new clientele would bring in much needed revenue into the business.
- 5.6 Ms Hou said that she had read the objections from local residents. She said that Chinese people speak louder than people from other ethnic backgrounds and it could present as intimidating behaviour. The applicant and members of staff did not speak good English, therefore there could have been some mis-understanding and mis-communication between staff members and local residents in the past.
- 5.7 There had been claims regarding the sale of illegal tobacco and cigarettes at the premises. Ms Hou said that this was not true. Customers may have brought their own cigarettes and smoked outside the premises.

- 5.8 Vehicles in Douglas Way were not customers of Good Friend Takeaway. Most customers did not drive so any issues with parking could not be associated with the premises.
- 5.9 In conclusion, Ms Hou said that there had been some misunderstanding and they wanted to be open and honest and find a solution to the problems and for the business to survive with the new operating model.
- 5.10 Councillor Brown asked why the applicant had not agreed all the conditions recommended by the Police and Crime, Enforcement and Regulation Service. Ms Hou said that she had only heard about the conditions just before the hearing. There had been language barriers and Kevin Guo had been the interpreter but he was only a teenager. There had been a misunderstanding regarding the conditions and Ms Hou said that she would discuss the conditions with the applicant and a formal response would be made.
- 5.11 Ms Spall said that she was familiar with the area in which the premises operated and Good Friend Takeaway had been open during the Covid period; the applicant had received a notice for breaching the restrictions during this period. She also said that residents who had made a written representation had been too scared to attend the meeting because of fear of reprisals.

Representation

- 5.12 P.C Butler addressed the Committee. He said that the conditions had been sent to the applicant including those updated following the amended application. He said that on 14 June 2021, he attended the premises and issued a closure notice because alcohol was seen inside the premises, people were seen consuming the alcohol and there were concerns from the Police and the local authority regarding the management of the business late at night. People were arriving and leaving the premises and there was an increase in public disorder at the front of the premises particularly with regard to noise. The business had to change and this was the reason why the application was re-submitted.
- 5.13 P.C Butler said that the area around the Good Friend takeaway was saturated with late night economy and entertainment and it was imperative for local residents that all the conditions remain in place because of issues regarding noise and public disturbance.
- 5.14 P.C Butler said that he was astounded that the applicant had not agreed to the conditions; not even the revised conditions. He considered that they were imperative for the business to operate, and ensure that the licensing objectives were upheld. This would ensure that the business was operating correctly, particularly at night. P.C Butler could not understand why any business would not meet with the relevant authorities with the revised conditions in place. He said that the Police would recommend that the conditions were in place for any business wanting to remain open late at night.
- 5.15 The Chair asked P.C. Butler to comment on Ms Spall's information that the residents were too afraid to attend the meeting for fear of reprisals. P.C Butler said that he had been advised by the Crime, Enforcement and Regulation services

about residents' fears. The business had been operating for a while, and residents did not want to speak publically about the concerns they had regarding this business, and he considered it his duty to stand up for these people.

- 5.16 Councillor Campbell asked whether the business was a takeaway or a restaurant. Ms Spall said that it was a takeaway, but some patrons ate food inside the premises using it more as a restaurant, while others gathered outside. Mr Olaniran said that during the initial lockdown period, a noise abatement notice was served because loud karaoke music was being played. In addition, there had been numerous complaints of noise nuisance over a number of years. There had been intimidation from patrons, and some members of staff. Residents had made it clear to officers that they were too afraid to attend the meeting. The Crime, Enforcement and Regulation service had made an objection to this application so that the business could demonstrate that they were able to uphold the four licensing objectives. If, after a period of time, there were no further complaints, another application would be welcomed.
- 5.17 Councillor Campbell asked officers whether they approved the change to the application. Ms Spall said that officers had been concerned about an application for karaoke, music and the lateness of the operating hours, this was replaced with alcohol and late night refreshments. This was approved by officers but they were disappointed that conditions had not been agreed.
- 5.18 In summing up, Ms Hou apologised that the applicant had not reached agreement with the Police. She suggested that there had been a misunderstanding because of the applicant's difficulty with the English language, and would speak to them regarding the reason why the conditions had not been agreed. She said that the business was a takeaway but patrons sit at the tables inside the premises as they wait for food.
- 5.19 Ms Hou said that Covid19 had affected this business badly and the applicant had to remain open to make money and support the family. It was a small business and the applicant's friends and family came to the premises and paid for food to support the business. The applicant did not think about the repercussions and how it had affected others and Ms Hou apologised for this mistake. She did not believe that the applicant had broken Covid19 restrictions because patrons were family and friends supporting the business. The perception of others had not been considered.
- 5.20 Ms Hou said that with regard to alcohol, the business had been open for friends and it had been difficult for the applicant to refuse to serve friends. This was due to the fact that the applicant did not think about their legal duty because they were so concerned about the impact that Covid19 had had on their business. However, since then, action had been taken and the applicant had been co-operative and was moving in the right direction following a previous lack of awareness. Ms Hou had only recently been asked to help the applicant, previously only a teenager had been interpreting which had not been appropriate.
- 5.21 P.C Butler said that the closure notice issued on 15 June 2021 was in response to an officer who had been in the premises and discovered alcohol inside two weekends in a row. P.C Butler was concerned to hear that this had been a mistake

and they could not tell people they could not drink alcohol because management should be able to control their premises. He considered that there had been sufficient time for the applicant to consider the conditions and had been liaising with the applicant's son who spoke perfect English.

5.22 Ms Hou said that she did not say that the applicant could not manage the business rather that the business did not know that people should not have been drinking alcohol. The applicant was struggling with the business and did not think. This would not happen again. Finally, Ms Hou said that the teenager was not capable of interpreting the information. He did not have the ability to assess the situation or make a proper judgement.

5.23 The Chair said that she was satisfied that members of this Committee had read and heard all the information required to make a decision. Councillors Brown, Campbell and Latouche, confirmed that they had been present throughout the proceedings. Councillor Elliott confirmed that he had not been present for the first item, Merkur Slots.

5.24 The Chair said that the members would make a decision in private session. All parties would be advised of the decision within 5 working days. She thanked all those present for their attendance.

6 20 Orion Business Centre, Surrey Canal Road SE14 5RT

This application was withdrawn.

Exclusion of the Press and Public

RESOLVED that 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 paragraph 3 of Part 1 of Schedule 12 (A) of the Act, as amended by the Local Authorities (Executive Arrangements) (Access to Information) (Amendments) (England) Regulations 2006 and the public interest in maintaining the exemption outweighed the public interest in disclosing the information:

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

3 Merkur Slots 40 Deptford High Street London SE8 4AF

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

3. Merkur Slots 40 Deptford High Street London SE8 4AF

The Committee granted the premises licence under the Gambling Act 2005 between the hours of 09:00 to midnight Sunday to Thursday; and

09:00 to 02:00 the following morning on Friday and Saturday, and with the added conditions included on page 18 of the remote hearing bundle for Merkur Slots.

4 Jiffy Grocery Units 23-25 Parkside Business Estate Rolt Street SE8 5JB

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

4 Jiffy Grocery Units 23-25 Parkside Business Estate Rolt Street SE8 5JB

The Committee granted the application for the variation of the premises licence for Jiffy Grocery.

5 Good Friend Chinese Takeaway 2a Douglas Way SE8 4RJ

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

5 Good Friend Chinese Takeaway 2a Douglas Way SE8 4RJ

At the Licensing Committee, the representative for the applicant agreed to obtain information for members. Members agreed that consideration of the application be deferred to a future meeting of the Committee when this information had been obtained and discussions held between parties.

The meeting ended at 8.45pm

Chair