

## **LONDON BOROUGH OF LEWISHAM**

MINUTES of the meeting of the LICENSING COMMITTEE, which was open to the press and public held on WEDNESDAY 16 JUNE 2021 and held remotely at 7.30pm.

### **Present**

Councillor Stamirowski (Chair) Councillors, Elliott, Hall, Howard, Kalu and Wise.

Apologies for absence were received from Councillors, Brown, Campbell, and Latouche.

### **Also Present**

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

### **Flower of Kent 135 Lewisham Way, SE14 6QP**

### **Applicant**

Vernandah Francis – Applicant  
Lloyd White – Business Partner

### **Representation**

3 Local residents  
Frank Olaniran – Crime and Enforcement Officer  
P.C Butler Metropolitan Police

#### **1. Minutes**

RESOLVED that the minutes of the meeting of the Licensing Committee held on 26 May and 1 June 2021 be confirmed and signed.

#### **2. Declarations of Interests**

None.

#### **3. Flower of Kent 135 Lewisham Way, SE14 6QP**

- 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 Manager to introduce the application.

## **Licensing Officer**

- 3.2 Ms Hooper said that members were being asked to consider an application for the variation of a premises licence for Flower of Kent 135 Lewisham Way, SE14 6QP. She outlined the application and said that 17 representations had been received from interested parties on the grounds of public nuisance.
- 3.3 Ms Hooper outlined the options open to members of the Committee having considered all the evidence presented to them and when making their decision.

## **Applicant**

- 3.4 Ms Francis said that the application had been made because the Flower of Kent had been closed for a year and 2 months and they were trying to build up their trade. She said that most of their customers work late and the premises is closed when they would like a drink. She said that the application for an extension of opening hours was in response to requests from patrons. Having spoken to P.C Butler, they decided to reduce the hours applied for by one hour to a closing time of 3pm and to midnight on Thursday and Sunday.
- 3.5 Mr Lloyd then addressed the committee. He apologised for any inconvenience caused to the neighbours. He had tried very hard to work with them. He said that he had applied for the variation of the licence because when customers were not allowed to re-enter the premises, they stood outside making noise. He said that customers did not fight outside the premises or cause anti-social behaviour and he said that the claims of nuisance made by residents was wrong. If residents were enduring nuisance, it was not caused by the patrons of the Flower of Kent. In one of the objections, there was a reference to 'those people'. He suggested that this could be a racist comment.
- 3.6 Councillor Howard asked when the Flower of Kent opened after lockdown and was advised 17 May. She said that there had been many claims of nuisance associated with the premises from a number of people including councillors. She asked the applicants whether the situation could be monitored over a period of time. Mr Lloyd said that they were close to bankruptcy. If they could not extend their opening hours, the business would fold. He said that noise was monitored every hour during opening hours in the premises, and he checks for noise outside the premises as well
- 3.7 The Chair then asked the Crime, Enforcement and Regulation (CER) officer to address the issues relating to this case. Mr Olaniran said that along with P.C Butler, they met the applicants to discuss their concerns and as a result were proposing amendments to the conditions under Annex 2 and Annex 3 which relates to the restriction of entry and re-entry to the premises. He considered that the proposed changes were a proportionate compromise. They would help to safeguard and promote the licensing objectives. They would also help the business because the hospitality industry had been badly affected by the pandemic over the past 12-15 months. Mr Olaniran said that the CER Team were also recommending the installation of a noise limiter, which would promote the licensing objectives further as well as assist staff to manage noise.

3.8 Mr Olaniran said that when the Flower of Kent had been operating successfully for a short period of time, the licensing team would welcome another application to vary the licence.

### **Representation**

3.9 Three residents made a presentation and the following points were raised:

- Re-admittance until 1am would have a negative impact on residents and should not be necessary because there is a smoking area at the rear of the Flower of Kent. In the past, patrons having left the premises, loitered in groups nearby and then re-entered. Residents, therefore, endured noise from the street until after midnight. The premises is in a residential street and there had not been any respect for local residents who endured noise nuisance created by the patrons over many nights, sometimes until 3am in the morning. Members were asked to agree that there should not be any re-admittance after midnight.
- The installation of a noise limiter would reduce noise within the premises but not outside. Residents endure noise nuisance most from the re-admittance of patrons.
- Objections had been made during the pandemic before pubs were allowed to open inside, and although the Flower of Kent was not open to full capacity yet, residents had still suffered noise from customers leaving. It was expected that this situation would deteriorate once restrictions were fully lifted and if the variation was granted.
- Although residents accepted that the Flower of Kent had suffered over the last year, it had also been a difficult period for residents and their families. An example was given of a young person who had already had her GCSEs and subsequent education severely disrupted. If the variation was granted, it would severely affect her wellbeing and future prospects. There was concern about children who were affected by the noise associated with the premises. They were unable to sleep because of the noise. This problem was exacerbated in the warm summer months when windows were open.
- Despite their best efforts, successive management had been unable to control the behaviour of customers when outside the premises and this had had a negative impact on local residents.
- Some residents had lived in the area for a number of years and had witnessed patrons writing off other cars as they left the area, driving too fast and under the influence of alcohol. When returning home after 9pm on a Thursday or Friday, residents endure parking by patrons on both sides of the road which can be challenging and a nuisance. Traffic builds up, causes frustration and blocks emergency vehicles.
- Residents did not feel able to address their concerns with management because they feared a rude response. They refuted the applicant's claims that the objections were untrue, or that racism had been expressed in their concerns. Residents just wanted to sleep in their homes; many were working from home and if the variation of the licence for the Flower of Kent was granted, it would be detrimental to the community and family life.

- 3.10 P.C Butler said that he recognised that there was strong feeling associated with this application and severe objections from members of the public. He did not believe that an extension of hours could be approved. Along with the Licensing Team, he had met with the applicant and her business partner and heard how the pandemic had affected the business and had a degree of sympathy for their situation. However, when making a decision, he considered that a balance needed to be drawn that would be acceptable to both parties.
- 3.11 The Chair said that the meeting would go into closed session. All parties would be advised of the decision within 5 working days. She thanked all those present for their attendance.

#### **4 Tai Kitchen 106 Foxberry Road Brockley SE4 2SH**

This item was postponed until the next meeting of this Committee to be held on 13 July 2021. (This date was changed to 10 August 2021)

#### **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:

#### **3 Flower of Kent 135 Lewisham Way, SE14 6QP**

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

#### **3. Flower of Kent 135 Lewisham Way, SE14 6QP**

The Committee refused the variation of a licence and added conditions as follows:

**Annex 2 - There shall be no admittance or re-admittance to the premises after 00:00 changed to 01:00.**

**Annex 3 - There shall be no admittance to the premises after midnight on Fridays and Saturdays changed to 01:00.**

#### **Noise Limiter:**

- (a) If officers of the council witness noise at a level that causes unreasonable disturbance to the occupants of any properties in the vicinity then a noise-limiting device shall be used in relation to all sound amplification equipment used in conjunction with the Premises License.

- (b) The level of this meter must be set in accordance with required legislation and standards by a qualified sound engineer, as so not to cause a noise nuisance. The limiter must be sealed in such a way that no unauthorised person can tamper with it. All amplified music played at the premises must be passed through the noise limiter. An annual calibration of the noise limiter must take place by a qualified sound engineer and recorded in the incident book.
- (c) When musical entertainment is offered at the premises after 23.00 hours, management will ensure regular monitoring in the vicinity of the premises to establish if there is noise breakout from the premises.

The Committee agreed that by permitting this change, it would allow the premises to cater to their regular patrons who attend late and allow them to recoup lost revenue as a result of restrictions placed upon the hospitality industry.

It was also expected that there would be a reduction in the amount of people loitering around the premises, causing a nuisance to local residents as they would be denied re-entry.

It was considered necessary to object to any extension of hours for existing licensable activity at this premises, as a way of safeguarding local residents from the possible negative impact.

The meeting ended at 8.05pm

Chair