

## LONDON BOROUGH OF LEWISHAM

MINUTES of the meeting of the LICENSING COMMITTEE, which was open to the press and public held on 26 NOVEMBER 2024 at 7pm and held remotely via Microsoft Teams.

### **Present**

Councillor Anifowose (Chair) Councillor Howard (Vice-Chair) Councillors, Atkinson, Brown, Burgess Harding, Jackson, and Kestner.

Apologies for absence were received from Councillor Walker.

### **Also Present**

Andrew Atkinson - Legal advisor  
Clare Chown - Safer Communities Officer

### **China Ark Market, Unit K Gothenburg Court, Bailey Street, SE8 5EY**

#### **Applicant**

Mr Daly – Agent speaking on behalf of the applicant.

#### **Objector**

One Objector.

#### **1. Minutes**

RESOLVED that the minutes of the meeting of Licensing Committee held on 26 March and 19 September 2024 be confirmed and signed.

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

None.

#### **3. China Ark Market, Unit K Gothenburg Court, Bailey Street, SE8 5EY**

- 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 Safer Communities Officer to introduce the application.

#### **Introduction**

- 3.2 The Safer Communities Officer said this hearing was to determine the granting of a premises licence application made by Asian Food CW Ltd in relation to the

premises at China Ark Market, Unit K Gothenburg Court, Bailey Street, SE8 5EY. The application was received on 8 October 2024 and processed on 9 October 2024. The application had been advertised in accordance with regulations.

- 3.3 During the consultation period, the Licensing Authority received two representations from members of the public. A representation submitted by the Police was withdrawn when the applicant agreed conditions. Representations were not received from any other responsible authority.
- 3.4 The Safer Communities Officer then outlined the options open to members when making their decision.

### **Applicant**

- 3.5 The agent spoke on behalf of the applicant. He drew members' attention to the conditions that had been agreed with the Police. They were extensive, robust, and standard conditions expected for an off licence. The application was within the Council's licensing policy and the hours requested for selling alcohol were moderate for an off licence.
- 3.6 The agent recommended that the application be granted in full, with the conditions recommended by the Police. He made reference to the 182 Guidance of the Licensing Act. There were no representations from responsible authorities, extensive conditions had been agreed. There would be restrictions to the alcohol that could be sold, a personal licence holder would have to be on site, and an extensive CCTV system.
- 3.7 Councillor Harding referred to the licensing objective for the prevention of public disorder. He asked what steps the applicant would take to ensure any disturbance would be minimised for residents living close to the premises. The agent said that the applicant wanted to sell alcohol. The premises was already operating, and adding the sale of alcohol would not greatly change how the premises would operate. If the premises was disturbing neighbours, he would have expected to see more representations. He did not believe that the sale of alcohol would have an impact on public nuisance in the area. The applicant recognised that the premises was in a residential area, and the application was well within the limits recommended by this Council's licensing policy. Sale of alcohol would commence after schools started and end before the recommended time of 11pm.

### **Representation**

- 3.8 One objector addressed the Committee. He made the following points:
- He was concerned about the safety and wellbeing of his community and the quality of life. His objection was based on the applicant's inability to uphold the four licensing objectives. The applicant had not shown any respect for rules or the community that they operated in.
  - China Ark Market was a source of disturbance to residents. The applicant had failed to address residents' concerns about noise issues caused by late night delivery vehicles, customers loitering outside, and general operational noise. Approving the sale of alcohol in the area, would exacerbate these problems.

- The applicant had agreed to address problems of noise by putting notices up outside asking patrons to leave quietly but this was insufficient. The shop was unsuitable for the sale of alcohol in a residential setting. It would compromise the safety of residents particularly families and vulnerable individuals.
- The shop and residential flats share an entrance. Residents would have to navigate around patrons, some of whom could be intoxicated, to access their home. This would create an intimidating environment, particularly in the evening, compounded by the risk of anti-social behaviour. This was common with the sale of alcohol in mixed use areas.
- CCTV and staff training were useful but would not address the heightened risk that residents would face if the sale of alcohol was granted.
- If the licence was granted, the Council would undermine its duty to protect children from harm, which was one of the four licensing objectives.
- Granting the application would undermine the licensing objectives. Residents were already suffering from noise and disruption caused by the applicant. The safety of residents would be compromised, and children would be at risk of long-term harm to their wellbeing. The applicant's on-going noncompliance demonstrated that they were unfit to hold an alcohol licence.

- 3.9 Mr Daly made a point of order. He pointed out that the objector had referred to a complaint made against the applicant. His client had not received details of this complaint, and it should not, therefore, be considered. The Safer Communities Officer clarified that the complaint was a planning matter and could not be considered by this Committee.
- 3.10 Councillor Jackson asked whether there were any concerns about the local area that would suggest that patrons would buy alcohol and loiter in the area to drink this alcohol. The objector replied that residents' experience of the applicant was that he had not shown good care to the residents and would not enforce promises made. Directly across the road there was a small park which catered mainly for children. It was a potential area for people to congregate and drink alcohol.
- 3.11 Councillor Brown asked for clarity about the complaints made by the objector. The objector replied that a complaint about the electronic noise had been made to Lewisham Council. A complaint about general noise nuisance at the premises had been submitted to their local housing development.
- 3.12 Councillor Atkinson said that there were establishments in the area selling alcohol. She asked whether people already congregated in the area to drink alcohol. The objector said that children often played in the park between 4-6pm. It was located in a cul-de-sac and was very residential. He said that Tesco and the Co-op had 24-hour security guards and regularly checked individuals for ID. He was concerned that the applicant would not enforce these strict measures.
- 3.13 Mr Daly raised a point of order. He said that the objector referred to the applicant's bad reputation. There was no evidence to support this statement. The Chair advised members to disregard this comment.

- 3.14 The Chair asked the objector for more information about the noise nuisance caused by delivery drivers. The objector clarified that generally there would be 1 or 2 motorcycles on the pavement outside the entrance. There were also late-night deliveries after 8pm; large pallets were left outside on the street overnight. The delivery of these pallets caused a noise nuisance.
- 3.15 Councillor Kestner asked the objector if he was concerned about the location of the premises or the conduct of the applicant. The objector clarified that the premises was in very close proximity to residents' entrance; approximately 10-20 metres. Across the street there were 20-30 flats, and they overlooked the children's park in this cul-de sac. This was residents' primary concern although they also had concerns about the conduct of the applicant.

### **Summary**

- 3.16 In conclusion, Mr Daly explained that this was a textbook application which contained robust conditions. The business was an oriental food market. It was not a traditional off licence. The application for an alcohol licence was a business decision and an addition to the goods already being sold. It was not being sold to attract street drinkers and there would be restrictions on the ABV (alcohol by volume). There had not been any objections from any of the relevant authorities. The building was new, and planning permission was granted for mixed use at this unit. He recommended that the application be agreed with the conditions suggested by the Police.
- 3.17 The objector, in his summary, said that granting this application would undermine the licensing objectives. There would be greater public nuisance in the area; residents were already struggling with noise nuisance and disruption caused by the applicant. Public safety would be compromised, particularly for families and vulnerable individuals because of the close proximity of the premises to a residential area. There were concerns because granting this application could expose children to harm and put at risk their long-term wellbeing. Residents had already experienced a lack of care from the applicant.
- 3.18 The Chair said that she was satisfied that members of this Committee had read and heard all the information required to make a decision. All members confirmed their attendance throughout the meeting.

The Chair said that a decision letter would be sent out within 5 working days. She thanked all parties for their attendance, and they left the meeting.

### **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. China Ark Market, Unit K Gothenburg Court, Bailey Street, SE8 5EY**

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

The Committee's decision is to grant the application in the terms submitted subject to the following additional agreed conditions:

1. All sales of alcohol for consumption off the premises shall be in sealed containers and shall not be consumed on the premises.
2. There shall be a personal license holder on duty on the premises at all times when the premises are authorised to sell alcohol.
3. An incident log shall be kept at the premises, and made available on request to an authorized Local Authority or Police Officer, which will record the following:

All crimes reported to the venue.

All ejections of patrons.

Any complaints received.

Any incidents of disorder.

All seizure of drugs or offensive weapons.

Any faults in the CCTV system.

Any refusal of the sale of alcohol.

Any visit by a relevant authority or emergency service.

4. The premises shall prominently display signage at all entrances informing customers: - CCTV is in operation throughout this premises and is made available to the police.
5. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
6. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

### **CCTV**

7. The premises shall install and maintain a comprehensive CCTV system. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorized officer throughout the preceding 31-day period. The CCTV system should be updated and maintained according to police recommendations.
  
8. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member must be able to show a Police or authorized council officer recent data or footage with the absolute minimum of delay when requested.

### **Age Verification and Protection of Children from Harm**

9. A proof of age scheme, such as Challenge 25, must be operated at the premises where the only acceptable forms of identification are (recognized photographic identification cards, such as a driving license or passport / Holographical marked PASS scheme identification cards) appropriate signage must be displayed.
  
10. The DPS shall ensure that all employed staff shall receive regular training, a minimum of once a year on the prevention of underage sales and on Challenge 25 scheme. The DPS shall also ensure that all delivery agents that are used have also been trained and seek assurance from the company`s management.
  
11. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the Council at all times whilst the premises is open.

### **Supply of Alcohol OFF sales**

12. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
  
13. No super-strength beer, lagers, ciders or spirit mixtures of 6.5% ABV (alcohol by volume) or above shall be sold at the premises.

14. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale or display of alcohol.

**Training**

15. The premises Licence Holder and/or Designated Premises Supervisor shall keep up to date policies and staff training records in relation to the following: Requirements of the challenge 25 scheme, drugs, identification & recognition of drunks, identification recognition and responsibilities of dealing with vulnerable persons and the correct procedures to be followed when refusing service regular training must be provided to all staff at least every six months, a record of the training will be maintained for at least twelve months

The meeting ended at 7.55pm

Chair