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LONDON BOROUGH OF LEWISHAM

MINUTES of the meeting of the LICENSING COMMITTEE, which was open to the press and public held on 23 APRIL 2024 at 7pm and held remotely via Microsoft Teams.

Present

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

Also Present

Rachel Lyne - Legal advisor
Clare Chown- Safer Communities Service Officer
Angela Mullin Murrell - Safer Communities Service Officer

Sip City Lounge, 189 Deptford High Street, SE8 3NT

Applicant

Applicant Felicity Sobers
Solicitor – Stewart Gibson

Objectors

P.C Pearce – Metropolitan Police
Five objectors made a presentation at the meeting.

1. Minutes

RESOLVED that the minutes be agreed at the next meeting of this Committee.

2. Declarations of Interests

Councillor Atkinson declared that she is the Councillor for Deptford ward.

3. Sip City Lounge, 189 Deptford High Street, SE8 3NT

- 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 Service Senior Officer for Licensing to introduce the application.

Introduction

- 3.2 Ms Chown said this hearing was to determine the variation of a premises application made by Oreoluwa Sobers-Onipede in relation to the premises at Sip City Lounge 189 Deptford High Street which was received on 12 February 2024. The last date for receiving representations was the 12 March 2024.
- 3.3 Ms Chown outlined the current licensed activities and the proposed changes in the application. Eight representations had been received from local residents and one from a local councillor on the grounds of the prevention of public nuisance, protection of children from harm and prevention of crime and disorder.
- 3.4 The Metropolitan Police had objected to the application on the grounds of the prevention of public nuisance and prevention of crime and disorder. The Local Authority had also made an objection, but those representations were withdrawn following changes to the application that had been agreed with the applicant. The were set out on pages 60-63 in the agenda and were read out at the meeting.
- 3.5 Ms Chown advised Members that after having regard to all the representations heard, both written and verbal, they must take such steps as they considered appropriate to promote the licensing objectives. She then outlined the powers available to members when making their decision.

Applicant

- 3.6 Mr Gibson made a presentation on behalf of the applicant. He said that the Licensing Authority had produced Lewisham's Licensing Policy and licensing officers were in support of the application. The conditions that had been agreed made the application an exception to the policy and should, therefore, be granted.
- 3.7 Objectors' main concern was that of the prevention of public nuisance, and the noise from the back yard that seemed prevalent. This area would now close at midnight; people would only be allowed in this area to smoke after midnight and only background music would be played after 11pm
- 3.8 Mr Gibson advised members that the applicant had agreed to install a sound limiter. A limit would be set by the Environmental Health Officer and then locked to ensure that it could not be tampered with. Windows and doors would be closed except for access when music was being played.
- 3.9 From 18 January to 3 March 2024 there were 21 Temporary Event Notices. Licensable activity had continued until 2am at the premises without any complaints having been received. Objectors' claims that they were suffering from noise nuisance could not be true. Environmental Health had not objected to the application.
- 3.10 Mr Gibson said that although the Police had objected, he was not sure why. They stated that they did not have any objection to the TENs. There had been noise complaints, but the Police had not received any. Other authorities had allegedly received complaints and yet they had not objected. He asked why the Police had not objected to the subsequent applications for TENs if complaints had been received.

- 3.11 In conclusion, Mr Gibson said that if members were minded to grant the application, before any late-night activity could take place under the new hours, there would be a fully documented dispersal policy lodged with the licensing authority. This document would concentrate on the duty of the door staff moving customers away from the premises quickly and quietly to ensure that residents did not suffer from noise nuisance.
- 3.12 Mr Gibson said that in the objections it stated that the previous owners who managed kick and munch, were the same as the current owners. This was not true. He also said that problems with parking was also included in the objections and should be disregarded because it was not a licensing issue.
- 3.13 Members were invited to ask questions and the responses were as follows:
- The DPS of Kick and Munch agreed to continue as DPS when Sip City originally managed the premises. There was then confusion as to who the DPS was and when the Police clarified that this was illegal, the premises closed until June 2023 when the current DPS was in place. On 31 July 2023, the Police then lifted the Section 19 closure order.
 - Mr Gibson clarified that 21 TENs were held at the premises within a period of 46 days. The events were licensed for alcohol, regulated entertainment, and late-night refreshment from 2300 hours to 0200.
 - The venue was not large. Between 25-30 patrons were expected each evening from Thursday to Sunday. The applicant expected patrons to be different each night rather than regular attenders.
 - The outside area would have mellow background music playing after 11pm. After 12 midnight the area would only be used by patrons wishing to smoke. It was a small area and covered so that the sound of the music did not travel too far; speakers were small.
 - Work had been undertaken to the roof in the yard and completed at the end of March. It had been covered with wood and the licensing team had seen it. There was air conditioning in the building.
 - Kick and Munch closed in December 2022 and became Sip City in January 2023. The current DPS for Sip City started in July 2023.
 - Six people were allowed in the smoking area at one time. There would be a sound limiter preset at an acceptable level by the Council's Environmental Health Officer.
 - Sip City was a restaurant not a night club. Between 11pm and 2am customers could drink, play board games and cards.
 - Customers would not be prevented from dancing if the music was playing.

Representations

- 3.14 P.C Gillian Pearce made a representation on behalf of the Metropolitan Police. She gave the history of the previous establishment Kick and Munch and then raised the following points:
- In May 2023 the Police were advised that Sip City had taken over the premises. Since then, several closure notices had been issued; initially, the DPS had been from Kick and Munch and then the current DPS took over in

July 2023. The notices had been issued because licensable activity had taken place after hours with the shutters down and loud music playing. Complaints were received from the public. The premises had also been operating without a DPS.

- An application had been made for a TEN. This was refused but the event went ahead anyway.
- The local authority advised Police that complaints had been received from the public about noise and dispersal and she was unsure why the local authority were not upholding their complaint.
- Police had not objected to the TENs because they wanted to establish whether there were any problems in the management of events. Complaints had been received.
- Although work had been completed on the roof over the smoking area, it did not prevent sound escaping.
- The Council's licensing policy referred to preferred hours of licensable activities between 11am and midnight Mondays to Sundays for bars, restaurants and pubs. The Police considered these hours to be suitable for Sip City. On this point, members received legal advice that each application should be considered on its own merits.
- In conclusion P.C Pearce said that the premises was in a residential area within a hub as described in the Council's licensing policy. The premises had been open since June and there had already been three closure notices, breach of a TEN, and noise complaints.

- 3.15 Councillor Jackson asked P.C Pearce what the three closure notices referred to and whether any of the complaints had been sent directly to Police. For clarity, he said that his questions did not relate to Kick and Munch. P.C Pearce said that complaints had been sent to the local authority who passed them on to the Police. Closure notices had been issued for not having a DPS, lack of CCTV, and holding a TEN without permission. These issues relating to the closure notices had not reoccurred.
- 3.16 Councillor Atkinson said that the current DPS said that the venue was small and could hold 25-30 people. She asked P.C Pearce the capacity of the premises. Members were advised that the garden area was quite big; narrow and the length of approximately four cars. The venue was smaller and was long and narrow.
- 3.17 Councillor Howard asked whether the complaints received related to the later hours. P.C. Pearce said that the complaints related to events after 11pm. The legal adviser said that looking through the Police summary, there had been two reports of noise on 29 June 2023.
- 3.18 The Chair asked P.C Pearce if she had dealt with any issues relating to Sip City since June 2023. She said that in November 2023 there were 19 people in the garden area when it should not have been used. An application for a late TEN was made and refused on the grounds of potential noise.
- 3.19 Councillor Atkinson asked for the month when the premises were closed but drinks were still being served. P.C Pearce did not have the information to hand and the Chair asked her to provide the information later in the meeting.

- 3.20 Councillor Onikosi asked whether noise complaints were made at the time or after the event. P.C Pearce said that the complaints were made at the time to the local authority. The Police work closely with the local authority, and she was surprised that they had withdrawn their objection to the application.
- 3.21 Councillor Onikosi asked whether the Police agreed that if the application was granted, the suggested conditions on page 64 of the agenda would be appropriate, or whether they had not been adhering to their current hours. P.C Pearce said that they had not been adhering to their current conditions and granting the licence would be a contradiction to the licensing policy because the premises is in a residential area and a hub, and the hours applied for were too late for an outside area that should close at 10pm or earlier in a residential area.
- 3.22 Mr Gibson then raised a point of law. In the Police written representation, received in advance, and included in the agenda, there was no mention of a late TEN, or noise disturbance in November. The last timeline was 31 July 2023 when the DPS was changed to the current licence holder and the closure order was lifted. He said that anything after 31 July be disregarded at this hearing because it was not contained in the original objection, raised without evidence and the applicant had not had any opportunity to consider what had been said and make a suitable response. The Council's legal representative concurred with the point raised. All evidence should have been submitted at least 24 hours before the meeting.
- 3.23 Ms Mullin-Murrell was then invited to speak. She said that the local authority had withdrawn their objection because conditions had been agreed with the applicant. Licensing hours had been pulled back to 2am and 1am for activities on a Thursday and the other activities were included in the pack.
- 3.24 Councillor Howard asked why the local authority considered the extended hours to be appropriate when it was not in line with the licensing policy on hours relating to hubs. Ms Mullin-Murrell said that the policy referred to a preferred time. Each application was considered individually. She had visited the premises; the garden would close at 12pm; background music would play between 10pm and midnight. The premises had spent a lot of money on the outside space. The walls had been soundproofed and they had a quote for soundproofing the roof. In the conditions it stated that there must be a sound limiter and no noise or vibrations should emit from the premises to cause a nuisance. The area could not be used until the whole of the building had been soundproofed. She had not seen any complaints since the TEN in January 2024. Since the agenda was published two complaints had been received due to noise from patrons leaving the venue and she had spoken to Sip City about this. However, she could not confirm that the noise was from patrons from Sip City because there were other venues in the area with late licences. The area could not be used until it had been soundproofed.
- 3.25 Ms Mullin-Murrell clarified that there was a wooden structure over the smoking area. She visited the premises with a colleague one afternoon. As a test, the music was set at the highest volume and outside this structure she could not hear it clearly. The owner had received quotes for an acoustic cover to the roof and this would help with preventing noise nuisance.

3.26 Ms Mullin-Murrell also said that she supported a closing time of 02:30 am with licensable activities stopping at 02:00 am, when other establishments closed later, because it would help to stagger closing times and make it easier to identify where most noise nuisance was created. Following a question from Councillor Onikosi, Ms Lyne explained that each application must be considered on its own merit, and all available information must be considered.

3.27 Five objectors addressed the Committee. The first objector raised the following points:

- There had always an issue with loud music playing at Sip City which continued past 11pm. Management did not appear to care about whether neighbours were unable to sleep through this noise or enjoy a peaceful life; their priority was making money rather than contacting residents to agree a solution. During parties, the noise was so loud for residents and their families that they felt as though they were a part of these parties.
- The closure hours applied for were not considered acceptable for this residential area. There were also concerns that these late opening hours would not be managed. There had always been problems at the premises, and no one checked that the opening hours were in line with agreed conditions; music continued after hours, and patrons loitered outside the premises. Residents should not have to put themselves at risk by confronting patrons who were creating nuisance. A balanced decision should be made; one which considered the needs of all parties.
- The speakers at the premises were not small. DJs were employed, people were dancing, playing cards, and board games. After closing time, patrons were always loitering outside the premises, the sound of cabs honking their horns could be heard as patrons were getting into these cars after the premises had closed. This problem was worse during the summer months.

3.28 In response to questions from members, the first objector responded as follows:

- Events had been held at Sip City regularly but not every weekend. A complaint had been made to the licensing team but most complaints had been made to the owner of the business. In the last few months, the premises had been quieter. He believed that this was because the applicant wanted the application to be granted not because improvements had been made to the business.
- Noise nuisance was created mainly by the base music from the venue and noise from patrons drinking outside the premises. The soundproofing works to the roof had not improved the situation but there had been less events in recent months.

3.29 A second objector then spoke and raised the following points:

- The noise from the rear yard caused the most concern for this objector. Noise escaped from between the building and the roof. The noise was amplified from the back of the building towards the flats. It could not be heard so well at ground level because structures blocked the sound, and it travelled up towards 2nd and 3rd floor flats.

- The applicant stated that there had not been any complaints between January and March. This was not surprising because these were cold months and patrons would not want to be in outside areas.
- It was not considered sufficient for a contact number to be available for residents to ring if they experienced noise nuisance. She outlined how this was not acceptable and the fact that there was not a process and it was not policed. She said that the Council website did not explain how to complain if a resident experienced noise nuisance.
- Most establishments had seasonal variations. However, Nigerian Independence Day was held on a different day every year. This year it was held on a Tuesday and was unreasonable for residents to be kept awake until 3am.

3.30 The third objector addressed the committee and raised the following points.

- From her window, the objector could see that Badger Badger was further up the road and patrons did not park on the pavement outside her house. On 6.12.23, the objector had witnessed patrons in Sip City as she walked down the street at 2am. Patron's cars were parked in the area. The music was not very loud, but the premises and the bar were still open and serving customers.
- Residents suffered noise nuisance from cars revving their engines and playing music. Morley's were not responsible for this noise because they closed at midnight and only mopeds came to their premises.
- Since May 2020, nuisance was also caused as gates went up and down after closing time. Staff would come out of the premises and refill glasses to the patrons outside. There had been fights at the premises and these had been documented in the Police representation. She had also witnessed patrons of Sip City going into Morley's harassing staff.
- Attempts had been made to report noise nuisance on the Lewisham Council website, but there were many broken links, and complaints were not recorded.

3.31 In response to questions from members, the third objector responded as follows:

- Between July-December 2023, the objector had made at least six complaints about Sip City. They had been made online, and via email to Council officers and the Police.

3.32 The fourth objector spoke and made the following points:

- The base music and the sound of the DJ at the rear of the premises could be heard in the objector's bedroom. The situation was worse in the summer when windows were open. The noise nuisance lasted until 2am. He had tried to speak to the owner about this nuisance, but he said that he was just trying to make money.
- The roof at the premises was not sound proofed and barbeques were held until 2am

3.33 The fifth objector spoke and made the following points:

- The objector considered Deptford High Street to be a special and unique place because it was home to residential and commercial users and the intense proximity in which they co-exist.
- He was concerned that the current licensing officers appeared to have completely ignored the licensing policy agreed in 2020. This Policy acknowledged the special dynamic between residential and commercial properties, but it was recognised that new enterprise for late night entertainment was a risk to the residential community.
- Residents provided the backbone to Deptford's community making it a safer place in which to live. If this community was not protected, it would have a negative effect on the area.
- He did not agree that there should be some compromise between the parties and said that if this application was granted, there was a real threat that there would be real harm to the area.
- Noise nuisance was a serious issue affecting the sleep of those families living in the area. Residents were relying on members making the decision because the demographic was such that not everyone had the time or ability to raise their objections.
- Deptford could have a thriving evening economy if the businesses closed at a reasonable time and residents' sleep was not disturbed. Businesses requiring later hours should consider alternative venues where late-night licences were more appropriate.

3.34 In response to questions from members, the fifth objector responded as follows.

- The objector said that he was most affected by Sip City when they held big parties, and a lot of cars were parked in the road. It was as if the high street became the venue.
- The structure in the rear garden was of concern to residents. It was not appropriate and recent works did not help with containing the noise from within the premises.

3.35 Objectors raised concerns about planning issues. Ms Lyne advised that it was not for the Licensing Committee to make any determination with regard to planning. It was a matter for the Planning Committee.

Conclusion

3.36 Mr Gibson said that there had been several representations with regard to noise nuisance. These concerns had been addressed because the applicant advised that capacity was between 25 – 30 people. He believed that the reports of parties and the associated nuisance related to the previous owners. The current DPS had described the business clearly and it would not be managed as a night club. Any references to the previous business, Kick and Munch should be disregarded.

3.37 There had been reference to complaints about the premises but there had not been any evidence of these complaints either from the Police or residents. He said that members should not take complaints into account when making their determination.

3.38 In summary, objectors made the following points:

- Complaints about the management of the premises had been made to the Council and the Police and was documented in the agenda. There was reference to three complaints made after May 2023 including one at 2am in December 2023.
- If the applicant expected a capacity of between 25 -30 patrons, it was unclear as to how the business would make money with so few people.
- If every application was considered on its merit, there was nothing in this application to suggest that the licensing policy should not be adhered to. The impact of noise nuisance on residents was huge. The process for making complaints should be easier to ensure that all residents were able to use and understand the process.
- Reducing the hours applied for by one hour did not make sense and was not in line with current licensing policy.
- In conclusion, P.C.Pearce said that she had received complaints submitted to the licensing team, but she had not written the dates down. Sleep deprivation ruined people's lives. When making their decision, she asked members to consider how they would feel if they lived in close proximity to these premises that was causing disruption for local residents.

3.39 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.

3.40 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. Sip City Lounge, 189 Deptford High Street, SE8 3NT

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

Sip City Lounge, 189 Deptford High Street, SE8 3NT

The Committee's decision was to refuse the application to vary the Premises Licence for the following reasons:

- a. The Committee heard evidence that the Premises became Sip City on 10 May 2023. The Police gave evidence both in its written submissions and in its oral submissions of a series of issues at the Premises in June 2023 and the issue of two Closure Notices in June 2023 for breach of conditions (no CCTV or incident log) and for operating without a Designated Premises Supervisor). The Committee did not consider evidence presented by the Police at the hearing in relation to issues after 31 July as that evidence had not been put forward by the Police in advance of the hearing, which is required by virtue of Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005. The Committee also heard evidence from the local residents who made submission that the issues they had raised were not limited to the period June-July 2023 and nor did they solely relate to issues connected with the previous ownership of the Premises but that the issues with noise nuisance and anti-social behaviour connected with the Premises had been ongoing in 2023 and into 2024.
- b. The Committee also heard evidence that the Applicant had operated 6 separate Temporary Event Notices events from 18 January – 3 March 2024 which allowed the Premises to trade until 02:00 hours with live and recorded music and late-night refreshments. The Committee accepts the submission of the Applicant that the events had been largely successful. However, the Committee balanced that evidence against the submissions of the residents who pointed out that the TENs events had all taken place during the winter months when windows and doors were kept closed, few people spent much time outside and therefore the impact of those late operating nights were more limited on the local residents.
- c. The Committee was not satisfied that the Applicant was upholding the licensing objectives, particularly public nuisance, in the way that it had been managing the Premises since they took over ownership. The TENs operated in the early part of 2024 were timed to take

place over the winter months and so were not as helpful to the Committee in determining whether the Applicant was capable of operating the Premises in accordance with the conditions of the licence and promoting the licensing objectives.

- d. The Committee heard evidence of the disturbances that had been caused to the local residents particularly the impact on their sleep and the variation applied for would, even on the basis of a reduced terminal hour of 02:00 hours Thursdays to Saturdays, have a greater impact on the local residents.
- e. The Committee did consider by reference to its own Statement of Licensing Policy if it could consider granting the variation to allow the Premises to trade until midnight Thursdays – Saturdays in accordance with its own preferred hours for public house, paragraph 15.7. However, in considering all of the evidence put forward it determined that granting the variation the earlier finish time of midnight would not uphold the licensing objective to prevent public nuisance.

The meeting ended at 9.32pm

Chair