

MINUTES OF LICENSING SUB-COMMITTEE

Thursday, 18 May 2023
(7:00 - 10:30 pm)

Present: Cllr Faraaz Shaukat (Chair), Cllr Adegboyega Oluwole and Cllr Victoria Hornby

Apologies:

1. Declaration of Members' Interests

There were no declarations of interest.

2. Application for a Premises Licence: LDN Riverside, Unit J Abbey Industrial Estate, Kingsbridge Road, Barking, IG11 0BP

The Licensing Enforcement Officer (LEO) presented to the Sub-Committee.

An application for a new premises licence was made by LDN Riverside Ltd for an event space/nightclub at Unit J Abbey Industrial Estate, Kingsbridge Road, Barking, IG11 0BP.

The application sought the following licensable activities and timings: Plays, Films, Live Music, Recorded Music, Performances of Dance, anything Similar to Live Music, Recorded Music and Performances of Dance, Supply of Alcohol (On the Premises) & Opening Hours:

Friday: 18:00 – 23:59 hours

Saturday: 00:00 – 23:59 hours

Sunday: 00:00 – 23:59 hours

Extension to trade on any Bank Holidays and on New Year's Eve

Late Night Refreshment:

Friday: 23:00 – 23:59 hours

Saturday: 00:00 – 05:00 hours

Sunday: 23:00 – 23:59 hours

Extension to trade on any Bank Holidays and on New Year's Eve

Representations were received from four Responsible Authorities:

- Metropolitan Police Licensing Officer
- Barking and Dagenham Council Licensing Officer
- Barking and Dagenham Council Health and Safety Officer
- Barking and Dagenham Council Environmental Protection Officer

Representations were also received from three businesses which were based in the vicinity of the premises which was subject to the licensing application.

The Chair invited the Metropolitan Police Licensing Officer (MPLO) to address the

Sub-Committee.

The MPLO outlined their concerns, stating that the Police was of the conclusion that the application did not conform to the Council's licensing objectives. The MPLO said that it was a predominantly late-night venue selling alcohol and, notwithstanding the application, it would operate as a nightclub.

The Police said that the area was an inappropriate choice for such a venue as it was a working industrial site with forklift trucks, vans and heavy goods vehicles frequently using it. The site also contained shipping containers, scrapped vehicles and loud machinery. The MPLO cautioned that they would be a hazard to patrons especially if they were intoxicated. The MPLO added that the site contained ditches, which endangered public safety, shrubbery and bushes as well as wasteland which could facilitate criminal activity such as drug taking or sexual offences. Female patrons were likely to be at particular risk. The MPLO also highlighted the proximity of the premises to the river.

The MPLO said that patrons to the LDN Riverside would come from other parts of London, and possibly the UK, noting that the premises was situated in an area with poor public transport links. The site contained materials such as wires and pieces of wood and metal that posed a hazard, especially where a person was intoxicated, and could also be used as weapons.

The MPLO emphasised that the licensing application requested that the premise operate from 6pm on Fridays to 12am on Sundays; thus, the venue could operate continuously for 54 hours. The MPLO warned that this posed potential problems with patrons drinking for long periods, especially during bank holidays. Businesses based in the industrial trade operated until the late hours and the MPLO noted that the Applicant's representatives were under the incorrect impression that the businesses operated Monday-Friday from 7am-5pm.

The MPLO said the Applicant's proposed mitigations were insufficient, highlighting that the use of fences to prevent access to wasteland and crowd control would be temporary. The erection and dismantling of the fences would also be disruptive to businesses and require the fences to be brought in and removed via a van or truck.

The proposal by the Applicant to create a shuttle bus service would add to traffic into the site and would result in patrons being dropped off whilst industrial traffic was entering and leaving the site, creating a potential hazard.

The MPLO insisted that the Police did engage with the Applicants' representatives and listened to their proposals; however, the Police was not convinced that the site was suitable for an entertainment venue. The MPLO added that attempts to meet with the Applicant had not been successful, which raised concerns, and concluded their presentation by urging the Sub-Committee to reject the application.

The Sub-Committee then received a presentation from the Representative of IEFS 17 Ltd t/a Ketra Logistics, which operated on the Abbey Industrial Estate. The Representative stated that Ketra Logistics operates next to the premises subject to the application, disclosing that vehicles varied from vans to differing types of Heavy Goods Vehicles (HGV's), with the heaviest weighing 44 tonnes and being

13.6 metres long. Ketra Logistics operated into the late hours and the risk to patrons of LDN Riverside would be considerable as the area was poorly lit and space was limited. Ketra Logistics' Representative concluded by stating that a nightclub type premises was unsuited to the site and urged the Sub-Committee to reject the application.

The Barking and Dagenham Council Licensing Officer (LO) then presented to the Sub-Committee. The LO objected to the application on the basis of public safety, citing the limited public transport and that the access road to the industrial site was narrow and potential bottlenecks had been identified. The road also had sharp blind corners which was neither appropriate nor adequate for the Applicant's proposed shuttle bus service. The LO added that the shuttle buses would consist of a minimum of two buses with a capacity for 16 people each with a 25-minute round trip. The LO said it would take an hour to transport 125 persons to and from a venue with capacity of up to 2,000 people, which the LO suggested was unfeasible. The LO also questioned how up to 2,000 patrons could leave the venue via taxi or shuttle bus, adding that in addition to the additional traffic, patrons out of frustration may opt to leave the area by foot putting them at risk from industrial traffic. The LO urged the Sub-Committee to reject the application in its entirety.

The Barking and Dagenham Council Environmental Protection Officer (EPO) then presented to the Sub-Committee.

The EPO stated that the Noise Impact Assessment submitted on behalf of the Applicant included a background noise level from a noise report provided in a previous planning application that was made in 2014. The EPO questioned whether the assessment was relevant, as the background noise levels may have changed. The EPO added that the noise report, in relation to the 2014 application, was not included in the application.

The EPO emphasised the background noise issues, adding that monitoring and measurements had not been taken and included in the Applicant's supplementary report. The EPO added that, given the proposed hours of operation, such an analysis was extremely important and the lack of such monitoring and measurements meant that the EPO had little confidence in the Noise Impact Assessment.

The Applicant had not undertaken the Hinton and Summerville impact assessment methodology as recommended by the EPO. The EPO also noted that the Noise Impact Assessment did not appear to have been carried out during the proposed operating times included in the application.

The nearest noise sensitive premises were 120 metres away. The Applicants indicated that it was a sewage treatment works; however, the EPO said that the Council's Geographical Information System indicated that it was residential premises.

The EPO noted that the acoustic report suggested that a condition be set for a noise limiter; however, the EPO concluded their presentation by stating that such a condition did not address their concerns and urged the Sub-Committee to reject the application.

The Barking and Dagenham Council Health and Safety Officer (HSO) presented to the Sub-Committee. The HSO expressed concern in regard to the site, emphasising the industrial nature of the site and the varied uses. The HSO highlighted the state of the access roads and lighting, suggesting that it would require extensive works to bring them to a standard that could address safety concerns. The HSO also questioned the use of shuttle buses and the supervision of patrons leaving the premises.

The Legal Advisor to the Applicant (LA) requested an adjournment for a period of 10 minutes whilst they conferred with the applicant in relation to the presentations. The Chair granted the request. The Sub-Committee reconvened and the LA addressed the Sub-Committee.

The LA stressed that the Applicant took safety very seriously and would not run an event space that placed patrons or performers at risk. The premises would host a variety of events serving a wide audience, with the LA noting that Barking and Dagenham Council's motto was 'one borough, one community, no one left behind.' The LA stated that the premises would embody the motto.

The LA clarified that the venue would not be opened continuously for 54 hours or longer, that there would be a change of entertainment and timed tickets with staggered start and finish times. He detailed that the venue would deploy up to 100 members of staff on site on an event day, outlining the following information to the Sub-Committee:

- The capacity of the venue was 1822;
- There would be 26 security staff on site on events day;
- 28 staff would deal with hospitality;
- There would be 12 traffic management staff, some of whom would be located at the slip road of A13 dual carriageway;
- 8 staff to look after the welfare of patrons;
- 4 medically trained staff;
- 8 managers and 1 support staff; and
- A drone operator to look over the waste land.

In relation to the concerns raised, the LA noted that operators on the site, including those who were represented at the hearing, operated with no apparent health and safety regime nor transport management. As an example, the LA highlighted photographs that showed one building whose emergency exit was blocked by an articulated truck and produce that they were transporting.

The LA argued that it was the Applicant's intention that the safety systems and risk assessments would become the norm on the site and not the exception. Where the application was refused, the Applicant may look for alternative premises elsewhere. As a result, the LA cautioned that unsafe practices would continue at the site. Where the application to be granted, then the Applicant, working with the landlord would undertake measures to improve health and safety standards at the site. The LA added that if the Sub-Committee wished to improve the area, granting the application would assist in this.

The LA also addressed the MPLO's comments relating to communication issues

with LDN management. The LA apologised and was unaware that it was an issue. A meeting was scheduled for Easter, but unfortunately the Applicant's representatives were unable to attend and an alternative date was arranged.

The LA disclosed that the Applicant had proposed a condition be added to the licence: 'The licence would be of no effect until the Event Safety Management Plan had been agreed with the Metropolitan Police and the health and safety authorities at Barking and Dagenham Council. The provisions of the Event Safety Management Plan will form part of the licence and no alterations to the plan will be permitted without the approval of the Metropolitan Police and the health and safety authority at Barking and Dagenham Council.' The Sub-Committee noted the condition.

The LA introduced the Licensing Advisor to the Applicant (LIA) to address the MPLO's concerns. The LIA explained that he was a former MPLO for Westminster and had assisted licensing applications previously. The LIA stated that the Council's policy had no cumulative impact zone or policy area that would impact the granting of the license, adding that there had been no evidence provided to suggest that crime and disorder would increase if the proposed night club was to go ahead. The LIA concluded that the MPLO's concerns were based on speculation and assumption.

In relation to the safety of patrons, the LIA said that the public had a right to use the footpaths that led to the site, and it was the responsibility of current businesses operating on the site to operate in a safe manner, adding that clubs already operated on industrial sites elsewhere without an issue.

Addressing the issue of the proximity of the River Thames, the LIA highlighted Westminster pointing out that it contained 6,500 licensed premises as well as the River Thames, various waterways, lakes, canals and streams. Westminster showed that good management was important in dealing with venues near bodies of water.

The Acoustic Advisor to the Applicant (AA) responded to the EPO's concerns regarding noise level representation. The AA disclosed that he had made numerous attempts to negotiate an agreement with the EPO but was unsuccessful as the EPO was unresponsive. The AA also rejected the EPO's submission on the lack of a background noise report, stating that a report was unnecessary as the proposed site was noisy due to the nature of business conducted there.

In response to the possible disturbance to residential or commercial properties nearby, the AA said that the closest property was empty with boarded up windows and doors, thus no resident would be affected due to the emptiness of the property. Music would be played through recorded amplified sources; the volume and intensity of the sound could be adjusted and modified to a specific level that would satisfy all relevant parties, including residential neighbours.

The Health & Safety's Advisor to the Applicant (HSA) responded to the representation of the HSO. The HSA began his representation by acknowledging the lack of health & safety regulation on the industrial site and the multiple hazardous risks.

However, it was the HAS's view that the Event Safety Management Plan (ESMP) was a comprehensive document, which included a risk assessment, that addressed all the issues raised by the HSO, adding that no objections were made to the ESMP in any of the objector's representations on the report, thus proving that the report was satisfactory against all of the hazards highlighted. The HSA then highlighted the controls that would be put in place;

- High numbers of staff to oversee the safety of patrons; and
- CCTV; and
- Installation of portable adequate lighting which would be adjusted as necessary; and
- The use of Heras fencing, which was widely used for events, and could be quickly and easily erected and removed as necessary.

The HSA said that the control requirements would be a condition of the licence and that the Applicant would institute a signing off process to ensure that no event could go ahead unless all safety procedures had been put in place.

The Traffic Advisor to the Applicant (TA) presented the Traffic Management Plan, stating that it was sufficient and other events had adopted the same approach.

In response to questioning from the Sub-Committee, the Applicant's representatives added that there were limited parking spaces which would be used by the events' organisers and that customers who frequented the venue would be made aware prior to purchasing the event ticket that there was no parking facility in the building. Instead, there would be a drop off service either through the organiser's shuttle buses or patrons would arrange their own transport such as via taxi.

In relation to further questions relating to transport provision, the Applicant's representative stated that the shuttle bus service would continue until everyone was off site and there was no set time for last departure. They would have a minimum of two buses with 16 seats in each bus transporting patrons to Barking station; in total there would be 40 people per bus per hour.

The Sub-Committee then invited the Applicant's agents to disclose how they would observe the Licensing Objective of the prevention of Crime & Disorder noting that application documents did not mention the use of dog detection for those who might be concealing illicit weapons and drugs. The LA confirmed that there would be a Drugs and Weapons Search policy where everyone would be thoroughly searched. There would also be a photo identification scanner which would deter patrons from attempting to enter the premises with prohibited items. He further stated that they would be willing to include a Drugs policy into their security report if requested by the Sub-Committee.

The Chair invited all parties present to sum up their representations before the Sub-Committee retired to make its decision.

Upon reconvening the meeting, the Legal Advisor to the Sub-Committee notified all parties of the decision:

DECISION

In its determination the Sub-Committee listened to and considered all the representations both written and oral, as well as giving due consideration to all the relevant sections of the Statement of Licensing Policy, Home Office Guidance and Statutory Guidance.

The Sub-Committee appreciated the thorough work put in by the Applicant as demonstrated in their documents and detailed operational schedule; however, the Sub-Committee saw many failings that may result in using the venue as a night club. The Sub-Committee's reservations were fuelled by the many hazardous conditions in the layout of the industrial site.

It was the view of the Sub-Committee that it would be unsafe for persons intoxicated or otherwise to be on a hazardous work site where heavy machinery and vehicles were being operated; this would not only put the prospective club goers at risk but also the vehicle operators as well. The Sub-Committee concluded that the location of the venue was not conducive for thousands of people to walk around outside on an industrial site with the presence of wasteland, riverbeds, forklifts, HGV vehicles, vans and equipment which could be used as weapons.

Even with the use of fencing, the site would remain unsafe. The Barking area is known for crime and disorder, and the Sub-Committee noted the recent increase in the crime rate. The Sub-Committee had not heard any evidence on how crime and disorder would be adequately prevented; the searching of patrons before entry into the venue did not address the likely possibility of people picking up available equipment laying around the industrial site to be used as weapons.

The protection of women had come as a matter of concern before the Sub-Committee and the secluded location of the venue coupled with possible intoxication of customers could result in sexual assaults. The safety of all parties using the venue was paramount to the Sub-Committee and the Sub-Committee engaged the Licensing Objective of the Prevention of Crime & Disorder.

Furthermore, the Sub-Committee believed that the Public Safety aspect of the Licensing Objective would be undermined; the lack of parking spaces was worrying as it was not feasible for everyone to be dropped off at the venue. This would cause an egress disruption after the event finishes as there were no 24 hours buses in operation within the locality. The nearest bus stop and train station was quite far and the pathway out of the site entailed walking alongside a busy dual carriageway. In the view of the Sub-Committee, it was highly risky and unwise for intoxicated individuals to walk alongside a dual carriageway as it may lead to fatal accidents.

Th Sub-Committee found that the Applicant was unable to convince that the granting of the Premises License would not undermine the Licensing Objectives. Neither the ESMP nor the oral representations alleviated the Sub-Committee's concerns on public safety and crime and disorder.

For the reasons above, the Sub-Committee **resolved** to reject the application.