

LICENSING SUB-COMMITTEE

Minutes of the meeting held at 10.00 am on 3 August 2023

Present:

Councillor Pauline Tunnicliffe (Chairman)
Councillors Robert Evans and Tony Owen

1 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Councillor Pauline Tunnicliffe was appointed chairman for the meeting.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 **New Premises Licence at PLANET 224 PLUS 123/125 Mason Hill Bromley BR2 9HT** Report ES20302

The applicant, Mr Toure attended the hearing and asked for an adjournment to enable him to seek legal advice. Members agreed to this request and advised that they did not feel the application contained enough information concerning the application which they recommended should be addressed before the re-convened meeting of the Sub-Committee.

4 **Variation of the Premises Licence at BULU 1/4 Southend Road Beckenham BR3 1SD** Report ES20301

The application

The application sought the following variation of the premises licence:

To amend the hours that licensable activities can be carried out as follows:

Sale of alcohol Monday – Thursday 08:00 to 00:00 Friday – Saturday 08:00 to 02:00 Sunday 08:00 to 22:00

Recorded Music Monday – Thursday 08:00 to 00:00 Friday – Saturday 08:00 to 02:00 Sunday 08:00 to 22:00

Live Music Monday – Thursday 08:00 to 00:00 Friday – Saturday 08:00 to 02:00 Sunday 08:00 to 22:00

Films Monday – Thursday 08:00 to 00:00 Friday – Saturday 08:00 to 02:00 Sunday 08:00 to 22:00

Late night Refreshment Monday – Thursday 23:00 to 00:00 Friday – Saturday 23:00 to 01:00.

To allow Non-Standard Timings on Christmas Eve, Boxing Day, New Year's Eve and all Sundays on a Bank Holiday Weekend to allow Live Music, Films,

Recorded Music & Late-Night Refreshment to finish at 03:00 and the Sale of Alcohol to finish at 02:40

To remove condition 10 (which requires all of the usable licensed area to be given over to tables and chairs for the use of customers) and

To remove condition 13 (which requires the premises after 19.00 hours to operate as a restaurant and the sale of alcohol to be ancillary to the supply/consumption of food. The condition also provides alcohol will only be sold or supplied by waiter or waitress service under the following circumstances: 1) To those who are seated or waiting to be seated and are waiting for a substantial table meal. 2) To those who are taking or have taken substantial table meal There is to be no vertical drinking anywhere on the premises, save for those waiting to be seated.

The application also suggests amended wording for a number of the remaining conditions as highlighted on the application form.

The London Borough of Bromley Statement of Licensing Policy 2021-2026

The premises fall within the area shown in Appendix C to the Council's Statement of Licensing Policy as being subject to a Special Policy of Cumulative Impact. The Statement of Licensing Policy provides:

In any area declared to be subject to a Special Policy of Cumulative Impact it would be the Licensing Authority's intention to refuse to grant new premises/ club licences or variations, unless the application is such that the grant of the licence would have no further detrimental impact on the area and the promotion of the licensing objectives The Licensing Authority wish to make it clear to all applicants that the presumption of refusal of all new licences and material variations stands except where the applicant satisfies the Licensing Authority that the application can be granted without having a detrimental effect on the promotion of the Licensing Objectives.

Statutory Guidance under section 182 of the Licensing Act 2023

The statutory guidance provides "A CIA should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted. After receiving relevant representations in relation to a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its CIA in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one

or more of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved”.

(i) The case for the applicant

We were addressed by the applicant Mrs Zabrina McLay and her husband Mr William McLay. She advised that she had held a senior position in a financial institution and together with her husband had some 30 years' experience in hospitality. Their proposal was to provide a pan Asian restaurant and cocktail lounge. The premises were being refurbished with a start date in September 2023. A Chief had been hired with experience in a Central London restaurant and food would be served throughout opening hours. Those seated at tables would be served alcohol through waiter service, but a small number of patrons would be served at the bar by qualified staff. On an occasional basis there would be live music and film screenings of independent films. The landlord had invested in sound insulation and with two separate doors and acoustic field at each entrance. Windows would remain closed. Patrons waiting for taxis at the end of their evening would be permitted to wait on the premises with pick up at the rear. Pre-arranged taxi arrangements would be supported. CCTV would be installed to meet the requirements of the conditions agreed with the police. The majority of tables would be booked through a reservation system. If there was a delay in setting up a customers' table on arrival, then the patrons would be directed to the bar. The security team would monitor access and egress to the smoking area. Three SIA door supervisors would be provided.

In response to questions Mrs McLay confirmed there could be eight patrons seated at the bar. The lounge area would have raised tables and patrons there would be required to order for their table area. It was envisaged there would be a 50/50 (or 60/40) split between food and cocktails.

It was not envisaged there would be a significant impact on local residents due to noise breakout due to the sound insulation and double doors on the entry and exit points. Customers behaviour would be closely monitored with a zero tolerance towards unacceptable behaviour. The reservation system would ensure that the venue was not crowded out. The smoking area would be fenced in and monitored by the security team. All orders would go through the waiter system other than the 8 patrons at the bar. All other patrons would sit or stand at a table and order through a waiter. The recorded music would be between background level and a disco level. There would be no dancing. Examples of live music might be a jazz performer, a pianist or saxophonist. A part of the lounge area would be cleared for this.

The objections had been carefully considered by the applicant and conditions agreed with the police. It was confirmed that there would be a last admittance at 12.30 am on Friday and Saturday. The usual maximum attendance would be 150 which would be managed by the reservations system and security. This level would only be normally reached on Fridays and Saturdays. The higher maximum attendance of 300 would only be applicable for special events. The security team would monitor around the perimeter of their

premises but not the wider car park. Music and alcohol would not be provided in the outside smoking area.

(ii) The case for the objectors

In addition to the written representations, we were addressed at the meeting by four local residents. They advised that in the vicinity of the premises there were long standing issues concerning anti-social behaviour. It was pointed out that once a customer leaves a licensed premises their behaviour becomes a problem for the police. If the Police due to other commitments are not able to attend, then no one else can be called. The extent of the anti-social behaviour can become unbearable and disproportionately can impact on residents' lives. Issues include noise, litter, intimidating behaviour and on occasion criminal behaviour of a serious nature. Issues have become worse since late night licenses have been granted. It was felt that it was the licence extensions that brings people to the area in the first place and the extended hours being sought would add to an unacceptable situation.

Reasons for decision

Members considered the amended application, the written and oral representations, the Council's Statement of Licensing Policy and statutory guidance. Members noted that Beckenham Town Centre in the Council's Statement of Licensing Policy is subject to a Special Policy of Cumulative Impact. Members also noted the character of the area which they considered to have a mixture of commercial and residential properties.

The current licence permits the sale of alcohol from 10am to midnight every day and recorded music from 11pm until midnight (the earlier times being permitted by the Live Music Act 2002). The variations sought are to increase the hours that alcohol is being sold from 8am until midnight Monday to Thursday and from 8am to 2.00 am on Fridays and Saturdays. On Sundays the hours are from 8am until 10pm. The variations also seek to add Live Music, Films and Late-Night Refreshments to the proposed increased hours.

In addition, non-standard timings were proposed from Christmas Eve, Boxing Day, New Year's Eve and on Sundays falling within a bank holiday weekend, with the sale of alcohol to finish at 2.40am and the other licensable activities at 3pm.

The application also sought to remove condition 10 (which requires all of the usable licensed area to be given over to tables and chairs for the use of customers) condition 13 (which requires the premises after 19.00 hours to operate as a restaurant).

The designation of Beckenham Town Centre as being subject to a Special Policy on Cumulative Impact is an indication of the concern that the concentration of licensed premises within the area is giving rise to harm to the promotion of the licensing objectives. A number of the representations refer to issues of noise, crime and disorder and public nuisance linked to patrons who

have attended licensed premises within the area (*see footnote). We concluded that there was ample evidence of harm to the licensing objectives caused by the cumulative impact of the number of licensed premises. The harm was in terms of crime and disorder, public nuisance and public safety. We found that the rebuttable presumption that the application should be refused therefore arises.

In considering the particular application, we felt that the proposed extensions to the business hours would contribute to issues of cumulative impact in the area contributing to harm to the Licensing Objectives. We were particularly impressed by the comment made to us, both orally and in the written representations, that once a patron leaves the premises, then any issues of behaviour become a problem for the police. The police, however, cannot be expected to deal with every problem arising from the concentration of licensed premises. We felt given the severity of the issues arising within the area in the early hours of the morning, that the policy presumption against a further premises being open in the area during those hours, should be applied. The only control that we felt we could impose on the licence would be to continue with the current licensed hours and therefore limit by that means any issues arising from saturation. We did not feel that the issues could be dealt with by conditions alone. We therefore did not agree to the extension of hours sought or the non-standard times being sought, other than the request for the sale of alcohol and the proposed new licensable activities to cover between 8am and 10am.

The application also sought a variation to the style of the business from a restaurant to a more mixed offer selling food and alcohol independently. It was also hoped to vary the offer by the occasional provision of independent films and live music. Subject to our comments above, we felt a well-managed pan Asian restaurant and cocktail bar need not be problematic. We noted the combined experience of the applicant and her husband in the hospitality trade. We noted conditions had been agreed with the police. The landlord was investing in sound insulation and double doors to prevent noise breakout. Although some vertical drinking was proposed, there would be waiter service to patrons seated or standing by tables with a limited number only being served directly at the bar. A fence would be installed around the smoking area to help prevent noise breakout.

Provided the current permitted hours were retained, we did not feel that the variations would add to problems of saturation or turn the premises into a late-night drinking venue.

In terms of conditions, we found the proposed conditions agreed with the police to be reasonable. We thought the requirements of condition 7 should be clarified. Training should be provided for all staff. As we were not minded to approve the extended hours sought, we felt it would be sufficient to require two SIA door staff on Fridays and Saturdays and not the three suggested. We felt that to deal with noise breakout no drinks should be consumed in the external smoking area after 9pm. Given that condition, we did not feel that polycarbonate drinking vessels would be needed in that area. The business

had indicated that their proposal was to serve patrons alcohol by waiter service, save for eight patrons who may be seated at any one time at the bar. We felt it was necessary to require this by condition to address concerns that the premises might become a late-night drinking venue.

When balancing all of the considerations, Members concluded that the application could be permitted without harm to the Licensing objectives and without adding to issues of cumulative impact in the area, but only if the hours within which licensing activities could take place was limited to between 8.00am and midnight.

Decision

That the application for the variation of the premises licence at Bulu, 1-4 Station Buildings, Southend Road, Beckenham BR3 1SD be permitted as follows:

General Description

The Premises is licensed to operate as a restaurant and bar. Food and alcohol will be made available during opening hours to the public. The sale of alcohol is permitted even if not required as part of a meal.

Opening times and times of licensable activities

Sale of alcohol Monday – Saturday 08:00 to 00:00, Sunday 08:00 to 22:00

Recorded Music Monday – Saturday 08:00 to 00:00, Sunday 08:00 to 22:00

Live Music Monday – Saturday 08:00 to 00:00, Sunday 08:00 to 22:00

Films Monday – Saturday 08:00 to 00:00, Sunday 08:00 to 22:00

Late night Refreshment Monday – Saturday 23:00 to 00:00

Conditions

(i) Proposed conditions agreed with the Police in Appendix 4 of the agenda

The conditions in numbered 1, 2, 3,4,5, 6 and 9 in Appendix 4 shall be imposed.

The condition numbered 7 shall be amended - Where the premises are being used for a pre-booked event/function/Celebration then a written risk assessment will be carried out by the management prior to the commencement date and kept available for inspection by the police. If deemed necessary, the management will put in place measures to negate any risk. Considerations to include, but not limited to; Security, appropriate number of staff, the use of polycarbonate glasses for all drinks, control of maximum capacity and implementing an entry/dispersal policy.

The condition numbered 8 shall be amended - All staff will be trained in the Licensing Act 2003 and 'Challenge 25' Policy. The training will be refreshed every 6 months and all staff training records should be maintained and kept on site. A designated member of staff should be able to produce these records on the request of police or other authorised person.

The condition numbered 11 shall be amended - The premises shall have no fewer than two SIA Registered Door Supervisors on Friday and Saturday from 1900hrs until 30 mins after closing. All must sign a register when performing duties at the premises. This register is to contain the full names, SIA badge numbers and contact details of that person.

Condition numbered 10 shall not be imposed.

(ii) Conditions to be removed from the premises licence

Conditions 10 and 13 in the premises licence shall be removed.

(iii) Additional Conditions to be imposed

Alcohol sales will be made by waiter or waitress other than to eight customers who may be served by a bartender at the bar.

No drinks shall be consumed in the external smoking area after 9pm on any day.

*Footnote

For example:

Objection 6 advises: "The noise from late night revellers spilling out into the local area once the above-mentioned establishments (as well as the Pearl restaurant) at the weekends is already a nuisance that local residents have to put up with. The weekly shouting, screaming, fighting and other anti-social behaviour experienced around the proposed site already disrupts the weekend for local residents - another establishment operating within the proposed time frames will inevitably add to this already disruptive and unpleasant atmosphere that already exists".

Objection 8 advises. "We are already currently disturbed by the noise, public nuisance, crime and disorder from 'Below 10' and other nearby bars and clubs at the weekend. This including fights and shouting, reckless driving, public urination, destruction of private property we saw the destruction of a wooden fence in front of the nursery. and loud noise from the music and people leaving the premises at 4am. We have also heard and seen police presence many times at the weekend. This is on Southend Road and is directly under our bedroom and living room. For this reason, we already have to keep our windows closed on weekend evenings, to reduce the noise, but the noise is such that we are still disturbed".

Objection 14 advises *“Currently the car park becomes full of people in their cars listening to loud music during unsocial hours, there are groups of people outside smoking and this will only increase and is likely to spill across the road from the bar which would be outside my window!, people are regularly seen arguing and fights taking place, people urinate against our wall that backs onto the main road and around the corner onto The Avenue and also Copers Cope Road, people throw their rubbish over the wall into our communal space, (kebab/takeaway wrappers), people honking their horns during unsocial hours, last Sunday there was 3 piles of sick on the road outside my home, people have been seen having sex in our close, people smoke cannabis in the carpark of Waitrose outside the proposed above bar and on the main road, there has been an increase in litter, people have been seen dealing drugs and no steps have been taken to manage any of these concerns.”*

Chairman