

MINUTES OF THE LICENSING (HEARING) SUB-COMMITTEE

HELD ON MONDAY 11th NOVEMBER 2024, 10:00AM

Sub Committee:

Brendan Barns (Chairman)
Deputy Ceri Wilkins
Michael Hudson

Officers:

Raquel Pinto – Town Clerk's Department
Aggie Minas – Licensing Manager, Environment Department
Robert Breese – Licensing Officer, Environment Department
Sadhari Pepera - City Solicitor

Applicant:

Felix Faulkner – Applicant's Solicitor

Licensing Act 2003 (Hearings) Regulations 2005

A Public Hearing was held at 10am to consider representations submitted in respect of an Application for a Premises Licence Stonegate Pub Company Limited, 3 Monkspath Hall Road, Solihull, B90 4SJ, for Forge, 24 Cornhill, London, EC3V 3ND.

The Sub-Committee had before it the following documents:

- Hearing Procedure
- Report of the Executive Director Environment
- Appendix 1: Copy of Application
- Appendix 2: Representations from Other Persons
 - Resident 1
- Appendix 3: Conditions consistent with the operating schedule
- Appendix 4: Plan of Premises
- Appendix 5: Map of subject premises together with other licensed premises in the area and their latest terminal time for alcohol sales

The Hearing commenced at 10:00am. The Chairman introduced himself before asking the Sub Committee, the City of London Corporation officers and other parties present to introduce themselves.

The Chair confirmed the nature of the application which was a 'shadow' premises

licence application, with the proposed licence holder the same as the licence holder for the current licence held at the premises – Stonegate Pub Company Limited. The Chair also explained the order of proceedings, but given that only the applicant party was present, the Chairman asked for the Applicant to begin the representations.

The Panel noted that there was one written representation from ‘other persons’. This representation sought for the application to be either rejected or restricted, on the basis that granting the licence as applied for would undermine the licensing objectives of crime and disorder and public safety.

During the presentation from the applicant, the following points were noted:

- The Applicant began by explaining the concept of a shadow licence.
- A shadow licence is a new premises licence held by the landlord, with the purpose of protecting the landlord's interest in the property by holding a duplicate premises licence, which acts as a safety net in the event of anything adverse happening to the existing premises licence, such as a lapse due to insolvency or a surrender.
- This was commonplace within the industry and within the City of London.
- Stonegate Pub currently had two shadow licences in the City as well as over 150 across the country.
- The Applicant emphasised that the sole purpose of the shadow licence was that this was not intended to be operated, but it was merely there to protect the interest in the property.
- The premises licence had been retained by the Applicant to the new tenant as of the 5th of November, with the shadow licence due to be transferred.
- The Applicant has highlighted that only one representation had been received, from a local interested party.
- The Applicant also noted that no representations had been received by any of the responsible authorities, and that the responsible authorities were content that the application upheld the licensing objectives.
- The Applicant raised that the comments made within the singular representation referred to the operation of the premises under the existing licence, which had operated successfully without any significant issue of note. The Applicant noted that this application was for a new premises licence which required to be heard on its own individual merits.
- The Applicant had contacted the interested party to attempt to explain the application and its purpose but received no correspondence in return.
- This shadow licence application mirrored identically the hours, activities and conditions on the existing premises licence which was granted by the City of London Licensing Authority and has received no formal enforcement or review process from any of the responsible authorities.
- Three additional safeguarding conditions were agreed with the City of London licensing team. These state that a licence cannot be operated at the same time the current premises licence is being operated.
- In summary the application is for a shadow premises licence which would not have an impact on the local area. It was emphasised that this was not a new premises, and the existing premises would operate as it previously has been, albeit under a new operator. The Applicant, and the responsible authorities were

content that this application upheld the licensing objectives.

During questions to the Applicant the following points were noted:

- The Chair sought confirmation that the existing premises license had been transferred. This was confirmed by the applicant that it had been transferred on the 5th November 2024.
- In response to a question relating to the objector's written concerns on enforcement and complaints relating to the premises, the Applicant confirmed that the premises has had no formal enforcement since, since Stonegate operated it. There have not been any concerns raised and the premises has operated successfully for a number of years without any concern or complaints.
- In response to a question relating to the objector's written concerns on discounted drinks in a late-night setting, the Applicant assured the panel as with all premises, licences have mandatory conditions which require a minimum pricing attached to every drink that is sold. The Premises therefore would not be putting itself in risk of contravening the licencing objectives by underselling a drink, which would be a breach of the mandatory conditions, which is seen across the country and attached to every premise licence.
- In response to a question relating to the objector's written concerns on the lack of adequate crowd control and safety mode measures in this application, the Applicant noted that the conditions applied for, referred to the existing licence conditions, previously granted by the by the City of London, but there were also three additional conditions around safeguarding. The Applicant noted there was no request from any of the responsible authorities for any further conditions, therefore showing that the premise could control this.
- In response to a question relating to the objector's written concerns on the escalation of violence and disobedient behaviour and other criminal activities associated with binge drinking, the Applicant noted having an alcohol licence does not provide an inevitable escalation of violence. It was noted that this was raised in relation to the point that the application extending the hours which, was incorrect, as the application was merely to mirror the existing premises licence and was held as a safety net.
- The Chair sought clarity from Licensing Officers that the conditions that this licence will be shadowing were adequate, that this venue had been running in recent years without any major issues, and that there were no residential dwellings immediately by this venue, and that they were overall satisfied with the application. Officers confirmed all these points.

The Chair invited the Applicant's Solicitor to sum up. The Applicant's Solicitor stated that the application before the panel was for a shadow licence and incited the committee to grant this application as agreed with the responsible authorities.

The Chair explained that the Sub Committee would retire to make a decision and all parties would be advised of the outcome within 5 clear working days. The Chair thanked all those present and closed the Hearing at 10:13.

Deliberations:

The Sub-Committee retired to carefully consider the application, on the representations submitted in writing and orally at the hearing by the applicant. It was evident that the most relevant licensing objectives requiring the Sub-Committee's consideration was the prevention of public nuisance and prevention of crime and disorder.

The Sub-Committee noted that a shadow licence was a duplicate premises licence to be held by the landlord to protect their interest in the property in case of adverse events affecting the existing licence and noted that the shadow licence was not intended for operation but to safeguard the property. Only one representation was received from a local interested party, and none from responsible authorities, who were satisfied that the application upheld the licensing objectives. The Committee also noted that the Applicant had contacted the interested party to explain the application on 21 October but had received no response. The shadow licence application mirrored the existing premises licence, which had not faced any enforcement or review and there have been no formal complaints about noise nuisance or other issues at the premises.

It was emphasised that this application was for a new premises licence which required to be heard on its own individual merits. Three additional safeguarding conditions were agreed upon, ensuring the shadow licence cannot be operated simultaneously with the current licence. In summary, the shadow licence would not impact the local area, and the existing premises would continue to operate as before under a new operator, with the application upholding licensing objectives.

The Sub-Committee noted the concerns raised by the individual who had raised their objections and were satisfied the written representation from the sole objector had been answered satisfactorily by Applicant's Solicitor. When deliberating the outcome of this application the Sub-Committee saw no evidence that this application would be in breach of the licensing objectives. The shadow licence application was a new application, and it sought the same hours, and the same conditions as it did the current licence when it was first granted. Also, three additional conditions were agreed to address any safeguarding issues/concerns. The Panel were also satisfied with the applicant's responses to the concerns raised at the hearing, and therefore given the above and that the conditions already attached to the application, it could not justify the refusal of the application.

In reaching its decision, the Sub-Committee was mindful of the provisions of the Licensing Act 2003 ('the Act'), in particular the statutory licensing objectives, together with the guidance issued by the Secretary of State in pursuance of the Act and the City of London's own Statement of Licensing Policy dated 2022.

In determining what constituted a public nuisance, the Sub-Committee relied upon the common law definition of 'public nuisance' as: *'one which inflicts damage, injury or inconvenience on all the King's subjects or on all members of a class who come within the sphere or neighbourhood of its operation. The character of the neighbourhood is relevant to determination of the question of whether a particular*

activity constitutes a “public nuisance”.

DECISION

The Sub-Committee determined that the licence should be granted as set out below:

<u>Activity</u>	<u>Proposed licence application</u>
Supply of alcohol for consumption on and off the premises	Mon–Fri - 10:00-03:00 Sat -10:00-04:00 Sun – 12:00-00:00
Provision of Live Music	Mon–Fri - 10:00-03:00 Sat -10:00-04:00 Sun – 12:00-00:00
Provision of Recorded Music	Mon–Fri - 10:00-03:00 Sat -10:00-04:00 Sun – 12:00-00:00
Perform Dance	Mon–Fri - 10:00-03:00 Sat -10:00-04:00 Sun – 12:00-00:00
Similar to (e) (f) (g)	Mon–Fri - 10:00-03:00 Sat -10:00-04:00 Sun – 12:00-00:00
Late Night Refreshment	Mon–Fri - 23:00-03:00 Sat -23:00-04:00 Sun – 23:00-00:00
Opening Hours	Mon–Fri - 10:00-03:00 Sat -10:00-04:00 Sun – 12:00-00:00

The Sub-Committee had regard to the conditions that parties had agreed upon in advance of the hearing and felt that no further conditions were necessary.

The Sub-Committee therefore agreed that the following conditions should be attached to the premises licence:

1. On no more than 15 occasions per calendar year, the terminal hour on Sunday shall be 3.00am for the purposes of private pre-paid functions to which the public shall not be admitted following a minimum of 48 hours’ notice of such function to the Police and subject to their consent.

2. Substantial food shall be available when the premises are open for trading in all parts of the premises.
3. Facilities for providing music and dancing will be available, when the premises are open for trading, in all parts of the premises.
4. The doors and windows of the premises to be kept shut when such late night activities/entertainments take place to prevent the outbreak of noise.
5. No noise from such activities/entertainment shall be audible at the nearest noise sensitive residential properties.
6. On any nights apart from Mondays and Tuesdays, a registered door supervisor shall be employed after midnight.
7. Public music and dancing (including entertainment of the like kind) may take place at the above named premises on Weekdays & Sundays subject to compliance with the relevant Corporation's rules of management relating to the management of places of public entertainment and to the following conditions:

The manager of the premises shall, immediately prior to each licensable event, check that the escape stairs and exit ways there-from which are shared with the main building are fully functional and available for use (including all lighting systems). An assigned log recording such inspections shall be kept in the manager's office for inspection at all times.

8. The sliding door between bar 3 and bar 4 in basement one and the inward opening gates across the main entrance are to be kept locked open whilst the premises are in use by means of a padlock or similar removable fastenings. A shadow board shall be provided in the manager's office where such fastenings shall be kept when not in use.
9. Where door supervisors are employed at the premises a register shall be maintained in which the name, registration number and signature of all door supervisors employed shall be entered on a daily basis. Each entry must be verified by signature of the manager or such other person authorised by the management to do so. The register shall be available at all times for inspection by an officer of the Corporation or Police.
10. Whilst the venue is in use the internal and external doors to the lobby area of the main entrance shall be operated in accordance with a protocol agreed with the Corporation.
11. Whilst the licence is in use no public access or egress to or from the premises shall take place other than through the main entrance.

12. The total number of persons accommodated at any one time in the premises shall not exceed the following: 850.
13. There shall be no promoted events on the premises. A promoted event is an event involving music and dancing where the musical entertainment is provided at any time between 23:00 and 07:00 by a disc jockey or disc jockeys one or some of whom are not employees of the premises licence holder and the event is promoted to the general public.
14. When the premises is carrying on licensable activities after 22:00 hours on a Thursday, Friday and Saturday, a ratio of at least 1:75 registered door supervisors to patrons is to be employed.
15. There shall be no admission or readmission of customers to the premises after 01:00 hours save for customers using the agreed smoking area at premises.
16. The Licence Holder may not provide licensable activity at such a time as the designated area, shown on the submitted plan, is being used by another operator also for licensable activities.
17. This licence may not be used to provide licensable activity unless the Licensing Authority and Police are informed of the intention to use it, by the licence holder, at least 14 days prior to use.
18. When the licence is in use for licensable activity and the summary is displayed no other licence summary will be displayed at the same time.

Chairman

The meeting ended at 10:13am.