

LICENSING SUB-COMMITTEE

TUESDAY 13 APRIL 2021

(9:45 am - 1:15 pm)

Councillor Malcolm Self (Chair)
Councillor Katrina Lidbetter
Councillor Ian George

1. APPOINTMENT OF CHAIR

It was proposed by Councillor Lidbetter, duly seconded and

Resolved, that Councillor Self be appointed 'Chair' for the duration of the meeting.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES

Resolved, that the minutes of the meeting of the Sub-Committee held on 18 January 2021 be confirmed and signed as correct.

4. PRYZM - 154-166 CLARENCE STREET, KINGSTON, KT1 1QP **Appendix A**

The Licensing Officer introduced the matter for determination and it was noted that the application provided for a Premises Licence for the sale by retail of alcohol (for consumption on and off the premises), regulated entertainment consisting of films, boxing/wrestling, dance, live and recorded music between the hours of 10:00 and 03:00 the following morning, every day of the week. The provision of late night refreshment (hot food & beverages) was also being sought from 23:00 hours to 03:00 hours the following morning.

In addition, the applicant sought non-standard timings for all licensable activities from the end of specified opening hours on New Year's Eve until the start of opening on the following day. There was also an additional hour to be added to the times all licensable activities were authorised on the day British summer time commences.

The application was for a Premises Licence which is almost identical to the current premises licence for Pryzm held by CC Stim UK Tradeco1 Ltd. This is referred to as a 'shadow licence' application. The only difference between the 'shadow licence' being applied for and the current licence is that the existing permission for 12 non-specific extensions to the permitted hours (condition 28 on current licence) was not sought to be replicated.

Shadow licences are in the main applied for by the landlord of a licensed premises which is operated by a tenant and the licence is held in the name of the tenant (as is the case with Pryzm). In these circumstances, there are several ways in which the

tenant's actions could have a negative impact on the licence: they might become insolvent or bankrupt and the licence will lapse. By applying for a licence, the landlord is protecting this asset against the risk posed by potentially insolvent or irresponsible tenants. Although landlords can use provisions in the lease, these will rarely have a bearing on the licensing process. Such provisions may provide a landlord with a right of action against a tenant, but they cannot prevent a licence from lapsing. A shadow licence solves this problem for the landlord.

The Licensing Officer explained that the applicant had advertised the application, as required, by way of a public notice at the premises and that the application had been advertised on the Council's website. 1608 residents were consulted in writing and informed that an application had been received. Seven valid representations were received from Other Persons. One of the representations was in support of the application. Out of the six representations against, three were made by one individual in three separate capacities. The representations made reference to matters that relate to each of the licensing objectives, with a greater emphasis on the crime and disorder, and prevention of public nuisance licensing objectives. No representations were received from any of the Responsible Authorities.

On behalf of the applicant, and in summary, Gary Grant (along with the applicant's other representatives Alun Thomas, Richard Tanner, Nicholas Kirby, Julia Cruickshank and Shomroni Oded) confirmed the details of the application and the reasons for its submission by the landlords of the Pryzm premises, referring to the current licence having previously been operated by one of the largest nightclub operators in the UK, a company that had recently gone into administration, with the licence now held by CC Stim UK Tradeco1 Ltd, a company set up solely to handle the previous licence holder's interests. Mr Grant confirmed that the 'shadow licence' being applied for did not include provision for 12 non-specific extensions to the permitted hours.

Mr Grant contended that approving the application would not add to the existing cumulative impact on the locality and confirmed that the application sought to protect the landlord's premises asset and, should the primary licence lapse or be revoked, enable the landlord to identify a new responsible tenant to operate the venue. It was noted that the licence application did not include details of a Designated Premises Supervisor (DPS) and that a later application would be required for the approval of the DPS, without which any 'shadow licence' approved by the Sub-Committee at the hearing could not be operated.

Mr Grant went on to speak about the applicant's trustee relationship with AEW UK Core Property Fund and also referred to the 7 representations received to the grant of the premises licence, commenting that 3 of the objections had been submitted by one resident acting in different capacities, that 1 representation had been received in support of the application and that no objections had been received from the Responsible Authorities. Mr Grant and his colleagues then responded to questions from Sub-Committee members.

The Sub-Committee then heard the representations of Lorraine Kuhn, Deepa Veniek (who had made written submissions as a resident, on behalf of London House Property Management Company, and on behalf of Clarence Street Ltd) and Ben Williams (Barrister - speaking on behalf of Clarence Street Ltd in relation to the submission made by Deepa Veniek on their behalf). The representations put forward

related to each of the licensing objectives, with a greater emphasis on the crime and disorder, and prevention of public nuisance licensing objectives. In particular, and in summary, concerns were put forward around the unreasonable impact on neighbours arising from continued anti-social behaviour from patrons at Pryzm, and ineffectiveness of the condition on the current licence regarding a management contact telephone number for Pryzm being available to residents to bring up concerns about such behaviour and the residents forum to deal with such concerns. The Sub-Committee also noted comments put forward about consideration of the 'shadow licence' application being premature, given that a review was not taking place on the operation of the current licence and objections raised related to the operation of the current licence, and that insufficient reasons had been put forward to justify the submission of the new application and why it should be granted. The Sub-Committee then asked questions of the objectors.

As the hearing proceeded toward a conclusion, Mr Grant then responded to some points raised during the earlier debate in his closing remarks.

Decision

In making their decision, the Licensing Sub-Committee considered the merits of the application and had regard to the Council's Statement of Licensing Policy and Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003. The Licensing Sub-Committee considered which steps should be taken under section 18(4) Licensing Act 2003, as would be appropriate to promote the licensing objectives. After taking account of all the relevant issues that had been raised in the application and the written and verbal representations, the Licensing Sub-Committee decided to **grant** the application for a Premises Licence, subject to the proposed hours of operation, and the conditions as are consistent with the Operating Schedule, as set out in Annex 1, 2 and 3 of the report before the Sub-Committee as detailed below. The Premises Licence was also granted subject to the mandatory conditions which must be included in the licence under section 19, 20 and 21 Licensing Act 2003.

Reasoning

In considering the application, the Licensing Sub-Committee took account of the oral and written representations put forward by the applicant and his representatives, along with the oral and written representations submitted by other persons and representatives. The Licensing Sub-Committee noted that no representations had been received from Responsible Authorities.

The Licensing Sub-Committee considered this decision to be appropriate for the promotion of the licensing objectives, primarily in view of the fact that the application was almost identical to that operated by the current premises licence, which was not under review. The Licensing Sub-Committee considered that it would not be appropriate to add any other conditions.

The Licensing Sub-Committee also noted that the applicant has not named a Designated Premises Supervisor in the application form. The applicant will not be able to operate under the Premises Licence until there is a named individual as premises supervisor on the licence. This requires a further application to be made and notice must be given to the Chief Officer of Police, who shall object if this undermines the

crime prevention licensing objective, by giving notice to the Licensing Authority. The Licensing Sub-Committee would then have to determine this application regarding the suitability of the proposed appointment.

The Licensing Sub-Committee noted the concerns of the interested parties that the provision of a dedicated telephone number, for a member of management at the premises, being provided to residents had not been successful or that resident forum meetings had not been regularly held. The Licensing Sub-Committee would like to stress that these conditions must be complied with and are there to provide continued safeguards for residents. In the event that these arrangements are not followed or are considered unsatisfactory in the future, then residents should apply for a review of the licences relating to the premises.

Furthermore the Licensing Sub-Committee would like to stress that any future review of the premises licence could, for the avoidance of any doubt, include a review of the current licence and the shadow licence now being granted.

Resolved, that the application from The Bank of New York Mellon (International) Ltd be granted for a Premises Licence in respect of Pryzm, Clarence Street, Kingston-upon-Thames, KT1 1QP as set out below:-

Licensable Activities and Hours of Operation

The sale by retail of alcohol (for consumption on and off the premises), regulated entertainment consisting of films, boxing/wrestling, dance, live and recorded music between the hours of 10:00 and 03:00 the following morning, every day of the week; the provision of late night refreshment (hot food & beverages) from 23:00 hours to 03:00 hours the following morning; non-standard timings for all licensable activities from the end of specified opening hours on New Year's Eve until the start of opening on the following day; and with an additional hour to be added to the times all licensable activities were authorised on the day British summer time commences.

- **The provision of regulated entertainment**
Monday to Sunday 10:00 hours to 03:00 hours the following morning
- **The sale by retail of alcohol**
Monday to Sunday 10:00 hours to 03:00 hours the following morning
- **The provision of late night refreshment**
Monday to Sunday 23:00 hours to 03:00 hours the following morning
- **New Year's Eve:** All licensable activities from the end of authorised hours on New Year's Eve to the start of authorised hours on the following day
- **British summer time:** An additional hour to be added to times all licensable activities are authorised on the day that British summer time commences.

Conditions arising from applicant's Operating Schedule

The prevention of crime & disorder

Drugs and weapons

1. A drugs safe and log system will be in use at the premises to account for the seizure or drugs from customers. The premises management will liaise with police for regular collection of seized drugs.

Closed Circuit Television System (CCTV)

2. Digital CCTV shall be installed, to include colour pictures of the pay desk, and maintained to the satisfaction of the Police and Licensing Authority. Recordings from the installed CCTV must cover the club entrance / exit doors, external approaches, main bars and main toilet entrances and smoking areas to be kept for 30 days and shall be immediately available for inspection and viewing by authorised Council Officers and / or the Police.

3. In the event of the venue requiring more than six door staff (i.e. holding more than 450 customers), a suitably trained staff member from the venue must monitor the CCTV screens for drunken persons or persons committing criminal behaviour. The staff member must communicate by electronic means with security staff who will be in a position to deal with the behaviour in a proper manner.

4. At the request of the Police and / or Licensing Officers, CCTV recordings in a playable format must be provided within 24 hours of the request.

5. Ensure that the CCTV system is operating 24 hours, every day.

6. A TV monitor must be clearly viewable by customers upon entering the venue showing real time footage so that they are made aware that they have been captured on CCTV as they enter the premises.

7. Signage shall be put up in the premises and be clearly visible to all customers, stating that CCTV recording is in operation and signage must, at a minimum, be put up at all entry and exit points.

8. With respect to the self-contained, designated VIP areas within the premises, a clear view through the windows will be maintained and there will be CCTV coverage of each pod within this area. Security staff will supervise their use, with management being able to access them at all times.

Incident recording

9. An incident / refusals book will be maintained and used at the premises. Upon request, it will be readily available for inspection by the police or local authority officer.

Door supervision/security personnel

10. Security personnel, registered with the Security Industry Authority (SIA) and employed at the premises must enter their full name, valid phone contact details, SIA Badge Number, employing company, along with the time that they are working in a register upon commencement of their work at the premises. The Designated Premises Supervisor / manager at the time will be responsible for ensuring this is done and for confirming the security staff details and permission to work.

11. Sufficient SIA registered door supervisors must be employed by the management to deal with all potential reasonable expectations of trouble within the premises, or caused by the premises' clientele within the near vicinity. The venue Door Staff contingent should include female door staff at a ratio of no less than 10%.

12. The ratio of door supervisors to patrons shall be no less than 1:100, with a minimum of 4.

13. Door supervisors are to use walkie-talkie or other forms of electronic communication devices to communicate with each other including the use of ear-pieces to ensure communications can be properly heard and understood at all times the premises are open to the public.

Private hire and mixed age events

14. The Designated Premises Supervisor must provide the contact name and details (including telephone number and address) or the organiser of any private hire at the premises at least 14 days before the event. Following checks the police may, if they have good reason, veto the holding of the private event in the interests of preventing crime and disorder at the premises, and the premises must comply with such a veto.

15. Police are to be informed 7 working days prior to any event where children's disco of mixed ages is to be held.

Excluded persons

16. The Designated Premises Supervisor is to take all reasonable steps to make security and other staff members aware of the identities of excluded persons.

17. A record of all excluded persons is to be kept on the premises at all times, and is to be made immediately available to police officers and / or local authority officers on request.

Plastic drinking vessels

18. Only plastic bottles and containers are permitted to be used for the sale or supply of drinks (except for wine and champagne bottles and glasses in the VIP area) after midnight.

Admission/searching/ID scan

19. The Search Policy attached to this Licence (Appendix 1) will be adopted by the Premises Licence Holder for all persons coming into the venue. The only exception being persons who are unable to go through the metal detection arch or to be searched using the metal detection wand as a result of a medical condition, provided evidence is provided by such a person of their condition to the reasonable satisfaction of the management of the premises.

20. (a) All customers attending the venue must produce identification which must be scanned into one of no less than 3 ID scanning / recognition machines that shall be operating whilst the venue is open to the public. If a person does not provide identification then they will not be granted admission to the premises. Acceptable identification for the purpose of this condition is that issued by a government agency bearing the holders photograph, name and date of birth or identification bearing the UK PASS hologram.

(b) All ID scanning / recognition machines will be tested by 18:00 hours on every day that the premises is open. In the event that any of the machines fails to work, this will be reported to the suppliers support team, the Metropolitan Police Service and the Royal Borough of Kingston Licensing department by 18:30 hours. Until such time as that machine is fully operational, customers will have their identification checked by the remaining machine(s) in accordance with the requirements of condition 40(a).

(c) In the event that all of the available ID scanning / recognition machines are not working, all customers entering the venue will have their identification photographed or filmed before they are allowed admission. A copy of the photograph or moving image recording will be retained by the premises for 28 days. Acceptable identification for the purpose of this condition is that issued by a government agency bearing the holders photograph, name and date of birth or identification bearing the UK PASS hologram. Records of all machine failures will be recorded in the Incident Log. This condition will not apply to any person who is attending a live music event at the premises, who is admitted to the premises before 22:30 hours, where the Metropolitan Police have agreed in writing that the requirement of this condition relating to such live music event can be waived, nor to any person who is attending a private pre-booked function where such person is on a guest list, provided that any person attending a private pre-booked function does so in a room which is set aside for such function. In the event that such a person is allowed admission (other than visiting the toilet) to any part of the premises which is not reserved for a private pre-booked function then such person will have to produce identification which is then scanned into an ID scanning / recognition machine, and if such person does not provide identification then they will not be granted admission to the remainder of the premises.

Queue management and dispersal

21. The Premises Licence Holder will ensure that a body worn camera is worn by door supervisors in each of the rooms, other than in the event that door supervisors need to attend to an incident or to otherwise leave a room to undertake a duty to promote the licensing objectives.

22. For the period of 30 minutes after the premises ceases to serve alcohol the licence holder must be prepared to provide security personnel, in high visibility jackets, and two of whom will wear body cameras, to assist Police to patrol Clarence Street between Cromwell Road and Old London Road for the purposes of preventing disorder and crime.

23. The Dispersal Policy attached to this Licence will be observed by the Premises Licence Holder. The Dispersal Policy will be reviewed periodically by the Premises Licence Holder or at the insistence of the Royal Borough of Kingston's Licensing department.

24. The Premises Licence Holder will provide street wardens to patrol the streets shown hatched on the plan dated 24/08/2018 and attached to the Premises Licence, a circuit around Clarence Street, Old London Road and Hardman Road from midnight to 04:00 on any evening that the premises are open for the provision of licensable activities. This condition will not apply when only persons attending a private pre-booked function at the premises or where the number of customers who have been at the premises is less than 500.

Closed Circuit Television System (CCTV)

25. The CCTV monitors located in the back of house management areas will be monitored at all times the premises are open for licensable activities, and until the last customer has left the premises.

Public safety

Boxing and wrestling

1. In the event that a boxing, mixed-martial arts or wrestling event is held at the premises, the Premises Licence Holder will undertake a risk assessment to ensure that any risks associated with the licensing objectives is minimized, including the construction of the ring, the layout and positioning of seating and the provision of trained first aid personnel.

First aid

2. When there are 500 customers in the premises, then at least one qualified first aider (e.g., St John's, Red Cross, similar awarding body or a higher level) must be employed on the premises at all times the premises are open to the public. The first aider will be available, if required, in order to advise door staff on customers prior to entry to the club regarding signs of drunkenness or drug abuse. The venue will provide first aid facilities commensurate with the type of event and customers expected".

Conduct of premises

3. The external smoking balcony will be staffed at all times to ensure that overcrowding does not occur.

4. All doors onto the external balcony and stairways A and B will be self-closing.

5. The total number of persons accommodated within the premises at any one time shall not exceed 1800, excluding staff and door staff.

The prevention of public nuisance

Conduct of premises

1. All reasonable efforts are to be employed by the management and security personnel to keep customers quiet and orderly prior to entry and upon leaving the premises.

2. The licence holder will promote the effective and quiet dispersal of patrons from the premises by requesting them both verbally, including when necessary, public announcement, and through visible signage displayed prominently at the exits, to leave and disperse in an orderly and quiet manner. Door supervisors will pay particular attention to this at the point of exit.

3. The premises shall prominently display signage informing customers:- a) To leave quietly and respect neighbours b) Stating that CCTV is in operation and police have instant access to the footage c) The management reserve the right as a condition of entry to search customers prior to entry, whilst in the club and upon leaving the club.

Dispersal

4. Barriers should be utilised outside the premises, in consultation with the police, to aid patron dispersal.

Queueing

5. The queue is to be pro-actively monitored looking for potential problems and where appropriate advising patrons on crime prevention.

Litter

6. The Premises Licence Holder will provide three litter bins, which will be placed on Clarence Street prior to the premises opening for the provision of licensable activities, and will be removed after the premises have closed.

Pubwatch and Community Forums

7. A dedicated contact telephone number for a member of management at the premises will be provided by the Premises Licence Holder to residents who live on a street from which a representation was received as part of the review hearing held on the 20th November 2012.

8. The Premises Licence Holder will, where requested by local residents, continue to hold residents forum meetings, unless it is agreed with the Royal Borough of Kingston such residents forums are no longer required.

Admission/re-admission

9. There shall be no admission or re-admission to the premises after 01:30 hours. For 12 occasions a year admission is permissible at 02:00 hours when the Police have been notified 14 days in advance.

**5. BEST KEBAB & PIZZA - 29 CAMBRIDGE ROAD, KINGSTON, Appendix B
KT1 3NQ**

The Licensing Officer introduced the matter for determination and it was noted that the application provided for a variation to the existing premises licence to permit the provision of late night refreshment from 23:00 hours to 05:00 hours daily. The application, if granted, would in effect enable the premises to serve customers during all the licensable hours and be open 24 hours each day, seven days each week, if it chose to do so.

The Licensing Officer explained that the applicant had advertised the application, as required, by way of a public notice at the premises and that the application had been advertised on the Council's website. All Responsible Authorities had received a copy of the application. The Metropolitan Police as the Responsible Authority for the prevention of crime and disorder and the Council's Environmental Protection Officer (Pollution Control) as Responsible Authority for the prevention of public nuisance had made representations to the application. 445 addresses were consulted in writing and informed that an application had been received. Four valid representations were received from Other Parties. The representations made reference to matters that relate to the prevention of public nuisance and prevention of crime and disorder licensing objectives.

On behalf of the applicant, and in summary, Muhammed Bilal Meer confirmed the details of the application and the reasons for its submission, referring to the difficulty faced by businesses during the Covid pandemic and the assistance that would be given to Best Kebab and Pizza by the variation to the premises licence. Mr Meer referred to the street barrier in Chatham Road that separated the premises from the

residential part of that road and also affected business conditions. In response to questions from the Sub-Committee, Mr Meer stated that take-away food deliveries from the premises are made by 2 cars only, parked at the rear of the shop, and that motorcycle delivery does not take place. Mr Meer also stated that Deliveroo would be able to collect and deliver food although this would also be by car only.

The Sub-Committee then heard the representations of Ryan Dowding (on behalf of the Metropolitan Police), along with PC Lee Hopkins and PC Robert Schofield. In summary, Mr Dowding put forward the objections of the Metropolitan Police to the variation in premises licence hours, referring to sympathies with the business impact of Covid, but contending that an expansion of the premises hours in this location until 05.00 would give rise to a negative cumulative impact on anti-social behaviour and the prevention of the crime and disorder licensing objective, citing crime statistics for the area which confirmed significant numbers of violence and drugs offences on Cambridge Road (and in Norbiton ward generally), along with multiple instances of littering, noise, rowdying and street drinking. It was noted that no other similar local premises were authorised to open until 05.00 and that a variation of the licence to Best Kebab and Pizza to provide this would be likely to exacerbate crime problems in the vicinity.

Mr Dowding went on to say that crime statistics also showed that drug and violence offences in the area peaked between 01.00 and 02.00. The Sub-Committee also noted the details of a warning letter sent to the previous Premises Licence Holder by the Licensing Officer, dated 26.1.21, that drew attention to unauthorised opening and deliveries until 03.30 and 05.30 respectively. Mr Dowding also drew attention to advertisements from online take-away delivery companies indicating that motorcycle delivery would be available from the premises. The Sub-Committee then asked questions and Mr Dowding, PC Hopkins and PC Schofield responded.

Richard Odell from the Environmental Protection Team at Royal Borough of Kingston then spoke to confirm his objections to the granting of the variation to the licence in view of concerns relating to the prevention of public nuisance licensing objective. Mr Odell confirmed that there is no parking outside the premises and that although the applicant stated that motorcycles were not used for delivery purposes it could not be assumed this situation would continue were business to increase. He also said that a variation to the licence to provide for additional hours of operation until 05.00 would be likely to increase noise disturbance to local residents in the area late at night as other local establishments did not open until this time.

The Sub-Committee noted that Other Persons that had submitted representations had not registered to speak at the hearing. The Sub-Committee duly noted the details of the representations submitted.

As the hearing proceeded toward a conclusion, Mr Meer then provided his closing remarks, during which he again confirmed that take-away delivery from the premises was only by car and that motorcycle delivery did not take place.

Decision

In making their decision, the Licensing Sub-Committee considered the merits of the application and had regard to the Council's Statement of Licensing Policy and Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003. The Licensing Sub-Committee in promoting the Licensing Objectives considered the steps which were appropriate to promote the licensing objectives and, after taking account of all relevant issues that had been raised in the application and the written and verbal representations, decided to **refuse** the application for a variation of the Premises Licence, as detailed below.

Reasoning

In considering the application, the Licensing Sub-Committee took account of the oral representations put forward by the applicant, along with the oral and written representations submitted by the Responsible Authorities and the written representations submitted by Other Persons.

Having fully considered these matters, the Licensing Sub-Committee decided to refuse the application for a variation to the existing premises licence for Best Kebab and Pizza to permit the provision of late night refreshment from 23:00 hours to 05:00 hours daily.

In coming to this decision, the Sub-Committee has also taken account of the licensing hours of other nearby premises which do not trade until 05.00, and considers that granting the variation would be contrary to the prevention of crime and disorder and prevention of public nuisance licensing objectives in view of the concerns expressed regarding the possible detrimental impact on the already significant levels of crime offending in the area, and the possible detrimental impact on nearby residents of increased numbers of patrons frequenting Best Kebab and Pizza, or using its delivery service.

The Licensing Sub-Committee considered this decision to be appropriate for the promotion of the licensing objectives.

The Licensing Sub-Committee considered that the applicant had not been able to demonstrate that he would be in a position to address these concerns and that no suitable licensing conditions could be imposed, on a variation of the premises licence, to manage these concerns.

The Sub-Committee considers it would not be appropriate to vary the licence, applied for, in these circumstances.

Resolved, that the application from Mr Mohammed Bilal Meer be refused for a variation to the existing premises licence in respect of Best Kebab and Pizza, 29 Cambridge Road, Kingston-upon-Thames, KT1 3NQ to permit the provision of late night refreshment from 23:00 hours to 05:00 hours daily.

6. URGENT ITEMS AUTHORISED BY THE CHAIR

There were no urgent items.

7. EXCLUSION OF THE PRESS AND PUBLIC

The motion to exclude press and public was not required.

Signed.....Date.....
Chair