

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Tuesday 14 February 2017 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Sunny Lambe (in the chair)
Councillor Sunil Chopra
Councillor Charlie Smith

OTHERS PRESENT: Ankurkumar Desai (licensee)
Councillor Barrie Hargrove, ward councillor

OFFICER SUPPORT: Debra Allday, licensing officer
Wesley McArthur, licensing officer
Bill Masini, trading standards officer
Jayne Tear, licensing as a responsible authority officer
Andrew Weir, constitutional office

1. ELECTION OF CHAIR

In the absence of the chair, Councillor Sunil Chopra proposed Councillor Sunny Lambe to chair the meeting. This was seconded by Councillor Charlie Smith.

2. APOLOGIES

There were none.

3. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

4. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none.

5. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

6. LICENSING ACT 2003: RAKH'S NEWS, 157-159 PECKHAM HILL STREET, LONDON SE15 5JZ

The licensing officer presented their report. Members had no questions for the licensing officer.

The trading standards officer, the applicant for the review, addressed the sub-committee. Members had questions for the trading standards officer.

The licensing officer representing the council as a responsible authority addressed the sub-committee and call on the ward Councillor, Barrie Hargrove as a witness. Members had questions for the licensing officer and the ward councillor.

The licensee for the premises addressed the sub-committee. Members had questions for the licensee.

All parties were given five minutes for summing up.

The meeting went into closed session at 11.28am.

The meeting resumed at 11.52am and the chair advised all parties of the decision.

RESOLVED:

That the council's licensing sub-committee, having considered an application made under Section 51 of the Licensing Act 2003 by the council's trading standards service for the review of the premises licence issued in respect of the premises known as Rakh's News, 157 – 159 Peckham Hill Street, London, SE15 5JZ and having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

- a) Suspend the licence for a period of three months.
- b) Modify the conditions of the licence by adding the following conditions:
 1. That the premises licence holder and designated premises supervisor shall, within three months undertake refresher training from a recognised accredited training provider focusing on responsibilities of the Licensing Act 2003.
 2. That no beers, lagers or ciders in single cans, bottles or multi-packs with an ABV of more than 6.5% will be displayed, sold or offered for sale from the premises.
 3. That alcohol shall not be sold in an open container or be consumed in the licensed premises.

4. That the premises shall operate an agecheck 'Challenge 25' policy That a challenge 25 scheme shall be maintained at the premises requiring that staff selling alcohol request that any customer who looks under 25 years old, and who is attempting to purchase alcohol, provides valid photographic identification proving that the customer is at least 18 years old. Valid photographic identification is composed of a driving licence, passport, UK armed services ID card and any proof of age standards scheme (PASS) accredited card such as the Proof of Age London (PAL) card.
5. That all staff involved in the sale of alcohol shall be trained in the prevention of sales of alcohol to underage persons, and the challenge 25 scheme in operation at the premises. A record of such training shall be kept / be accessible at the premises at all times and be made immediately available for inspection at the premises to council or police officers on request. The training record shall include the trainee's name (in block capitals), the trainer's name (in block capitals), the signature of the trainee, the signature of the trainer, the date(s) of training and a declaration that the training has been received.
6. That clearly legible signs shall be prominently displayed where they can easily be seen and read by customers stating to the effect that a challenge 25 policy is in operation at the premises, that customers may be asked to provide proof of age and stating what the acceptable forms of proof of age are. Such signage shall be displayed at all entrances, points of sale and in all areas where alcohol is displayed for sale. The signage shall be kept free from obstructions at all times.
7. That a register of refused sales of alcohol shall be maintained in order to demonstrate effective operation of the challenge 25 policy. The register shall be clearly and legibly marked on the front cover as a register of refused sales, with the address of the premises and with the name and address of the licence holder. The register shall be kept / be accessible at the premises at all times. On a monthly basis, the designated Premises Supervisor (DPS) shall check the register to ensure it is being properly completed. The DPS shall sign and date the register to that effect and where appropriate take corrective action in a timely manner if the register is not being completed correctly. The register shall be made immediately available for inspection at the premises to council or police officers on request.
8. That an approved CCTV system shall be installed at the premises that records clear images of both the interior and exterior of the premises. It shall be designed, installed and maintained in compliance with The Information Commissioner's Office (ICO) code of practice relating to closed circuit Television (CCTV). The CCTV installed inside the premise shall be positioned to capture the sale of alcohol and tobacco products. The CCTV system shall have a minimum of 31 days recording facility and will be maintained in full working order at all times and be continually recording at all times the premise is in use under the licence. The CCTV System must be capable of capturing a clear facial image of every person who enters the premise. All CCTV footage shall be kept for a period of thirty one (31) days and shall, upon request, be made immediately available to the police and/or authorised officers from Southwark Council.
9. That all staff working at the premise shall be trained and be fully conversant in

the correct operation of the CCTV and be able to demonstrate its operation on immediate request by the police and/or authorised officers from Southwark Council.

Reasons

The reasons for this decision are as follows:

The licensing sub-committee heard from the trading standards officer, the applicant for the review who advised that the review application had been submitted in respect of the prevention of crime and disorder, the protection of public safety and the protection of children from harm licensing objectives. The officer mentioned that the vicinity in which the premises was located namely. Peckham Square/Peckham High Street/Peckham Hill Street being a known “hot spot” for drunken behaviour and anti-social behaviour. On 20 September 2016 Southwark Community Warden Officers (CWO) were on duty and witnessed an IC3 male drinking a can of beer, shouting and causing members of the public to stop and look. The officer spoke to the man whose speech was badly slurred, was unsteady on his feet and smelt heavily of beer. The officer assessed that the male as being intoxicated.

The CWO witnessed the male walk towards the premises, crossed the road without looking causing a motorist to press his car horn to warn the man of his presence, go into Rakhs News and pick and purchase six cans of super strength beer. The CWO went into the shop and spoke to the man who had made the sale. The DPS accepted that a sale had been made to a drunk person and despite knowing the conditions of the premises licence he had made the sale as he “just wanted to get them out of the shop”

The incident was followed up on 5 October 2016 with the Night Time Economy Team At the time of the visit the Premise Licence holder was shown as Hemantkumar Patel and Ketan Patel. The designated premises supervisor was Ketan Patel. There were three people behind the counter. The male behind the counter who identified himself as the owner and DPS was not named on the premises licence. He said he had been the owner for just over a year and had worked at the shop for about four years and reluctantly admitted that the other names on the licence had not been involved in the business since he bought the business. He offered no explanation why no transfer application had been submitted.

Whilst checks on one of the other men were being made by the UK Border Force, the same male exited via a rear door exit, before the police were able to stop him.

Mr Desai was asked about the sale to the drunk male on 20 September and whether the incident was still recorded by way of the CCTV. He was unable to demonstrate this saying the CCTV was not working and that it was “only there to deter” and it was not recording.

On display in the shop were packets of psychoactive substances seized as they contravened the Psychoactive Substances Act 2016. The product “Yooba Gold” was described as “A mix of legal highs and herbal extracts with psychoactive effects, combined to produce an alternative to similar illegal substances”. The products could not be legally sold.

On 20 December 2016, the premises licence holder and DPS accepted Simple Cautions for the offences of serving alcohol to a drunk contrary to The Licensing Act and in respect of the Psychoactive Substances, two offences, one under The Psychoactive Substances

Act 2016 and one under The Consumer Protection from Unfair Trading Regulations 2008.

The officer representing licensing as a responsible authority addressed the sub-committee.

They advised that that the supported the application in its entirety under the prevention of crime and disorder, public safety and the prevention of public nuisance licensing objectives. The officer called a local ward councillor as a witness who advised that the area where the premises was located was a focal point to the local community and there had been considerable investment to regenerate the area. Regardless, there was known alcohol and drug abuse in the area in addition to anti-social behaviour and violence; poorly managed licensed premises such as Rakh's was fuelling such issues.

The licensee of the premises addressed the sub-committee and advised that this was his first business venture and the last 12 months had been very stressful. He fully admitted that the incidents had occurred on 20 September and 5 October 2016. In relation to the sale to the intoxicated male, he advised that whilst the male was banned from entering the premises, he did so when the shop was full of school children and he was distracted by them and had not realised that he was drunk. Concerning the psychoactive substances, he did not realise that they were illegal. He added that the employment of the illegal worker was at a time when he was seriously understaffed and desperate. Since the council's intervention, the majority of the super strength lagers, beers and ciders had been removed from the shelves of the premises and the CCTV was now working. A positive letter from Camelot was provided following a underage sale operation.

The licensing sub-committee considered all of the oral and written representations before it and considered the offences committed so serious that they were initially minded to revoke the licence. The sale to a drunk, the sale of psychoactive substances and employment of an illegal worker was completely unacceptable. The licensee had shown blatant ignorance of the Licensing Act 2003 completely undermined the licensing objectives. However, the licensee accepted the errors that he had made and had accepted a simple caution for the offences committed. Since the intervention, the licensee had been fully co-operative with trading standards and had taken some steps in line with the recommendations of the responsible authorities. In view of this, the sub-committee are of the view that a period of reflection time to ensure the procedures detailed in the modified conditions is required and a suspension of the licence is required.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

Appeal rights

This decision is open to appeal by either:

- a) The applicant for the review
- b) The premises licence holder
- c) Any other person who made relevant representations in relation to the application

Such appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court for the area within the period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

This decision does not have effect until either

- a) The end of the period for appealing against this decision; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

Meeting ended at 11.54 am.

CHAIR:

DATED: