

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 30 October 2017 at 10.00 am at Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Sunil Chopra
Councillor Kath Whittam

OTHERS PRESENT: Sarah Claver, legal representative for Alpha Off Licence
Athetharen Nagaratnam, licensee, Alpha Off Licence
Sharla Thevarasa, Alpha Off Licence

OFFICER SUPPORT: Debra Allday, legal officer
Bill Masini, trading standards officer
Wesley McArthur, licensing officer
Jayne Tear, licensing officer as a responsible authority
Carolyn Sharpe, public health officer
Andrew Weir, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

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

There were none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: ALPHA OFF LICENCE, 24 PECKHAM RYE, LONDON SE15 4JR

The legal representative asked the chair for additional time to make their presentation. The chair agreed to allow all parties to have 20 minutes.

The licensing officer presented their report. Members had questions for the licensing officer.

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

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had questions for the licensing officer.

The Metropolitan Police Service representative addressed the sub-committee. Members had questions for the police.

The public health officer addressed the sub-committee. Members had questions for the public health officer.

The licensing sub-committee heard from the licensee and their legal representative. Members had questions for the licensee and their legal representative.

All parties were given five minutes for summing up.

The meeting adjourned at 12.50pm for the members to consider their decision.

The meeting resumed at 1.12pm and the chair read out the decision of the sub-committee.

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 Alpha Off Licence, 24 Peckham Rye, London SE15 4JR and having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

- a) Remove the designated premises supervisor being Athestharen Nagaratnam.
- b) That the premises licence be suspended for a period of one month.
- c) Modify the conditions of the licence by that Sharla Thevarasa be prohibited from being or applying to be the designated premises supervisor to Alpha Off Licence, 24 Peckham Rye, London SE15 4JR.

Reasons

The reasons for this decision are as follows:

The licensing sub-committee heard from a representative from trading standards who advised that the review application was submitted in respect of the prevention of crime and disorder, the

prevention of public nuisance and the protection of children from harm licensing objectives and the following has been witnessed at the premises:

- That an illegal worker was observed working at the premises on two separate occasions (in breach of the immigration legislation).
- The sale of beers, lagers and ciders with an alcohol by volume (ABV) above 7%, which is a breach of condition 128 of the premises licence issued in respect of the licence.
- The offer and sale of duty evaded super strength beer.
- The failure to have CCTV working at the premises, which is a breach of conditions 288 and 289 of the premises licence issued in respect of the licence.
- The failure to display sale price of alcohol.
- Supplying alcohol without the authorisation of a personal licence holder, which is a breach of condition 101 of the premises licence issued in respect of the licence.
- The sale of alcohol to an intoxicated person which is a breach of section 141 of The Act.
- The sale of alcohol to a child, which is a breach of section 146 of The Act.
- The offer to supply alcohol that cannot be legally sold under Consumer Protection Unfair Trading Regulations 2008.
- The failure to make available the premises licence (or certified copy of it) at the premises, which is a breach of section 57 of The Act.
- The failure to display the premises licence summary at the premises, which is a breach of section 57 of The Act.
- The supply of alcohol when there is no designated premises supervisor (DPS) in respect of the premises which is a breach of mandatory condition 100 of the premises licence issued in respect of the premises.

The licensing sub-committee heard from licensing as a responsible authority who stated that they had no confidence that the premises licence holder would be willing to enforce the current licence conditions and that any new conditions that members may impose will be similarly ignored in the pursuit of profit and therefore supported the review application and that the premises licence should be revoked.

The licensing sub-committee heard from the Metropolitan Police Service who supported the review application and detailed the significant number of breaches of the premises licence and the recommendation that the premises licence be revoked.

The licensing sub-committee heard from an officer from public health whose representation was in regards to all four licensing objectives. They advised that they fully supported the review application and that the premises licence be revoked.

The licensing sub-committee noted the representation from the council's children's social care service in respect of the protection of children from harm. The representation refers to

the various incidences of licence breaches and / or offences in respect of age verification, and in relation to the protection of children from harm, that have taken place at the premises. They supported the recommendation by the trading standards service that the premises licence issued in respect of the premises be revoked.

The licensing sub-committee heard from the representative for the licensee who took issue with factual and evidential matters. They contended that no evidence had been produced to substantiate the allegations, all of which were disputed by the licensee, nor had there been any enforcement action. None of the occasions when there had been compliant visits by the police or licensing had been referred to and none of the allegations (if substantiated) would on its own, justify a revocation of the licence. They further added that a premises licence and a DPS transfer application had been submitted and had not been objected to by the police.

Whilst the licensing sub-committee noted the concerns raised by the licensee's representative, the number of allegations cited would suggest that there were issues in the premises being adequately managed. The sub-committee was concerned that no enforcement action had been taken and because no objection had been submitted by the police concerning the transfer of the premises, the options available to the committee had been considerably limited.

Regardless, there has been a scant regard to the licensing objectives and trading standards and this sub-committee do not feel that addition conditions will address the issues that have arisen as the conditions are already on the licence. Given that the offences took place whilst the now current licensee and DPS (and his wife) were managing the premises, this licensing sub-committee's only option is for the removal of the DPS and his spouse and a period of suspension whilst alternative management is arranged.

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.

The meeting ended at 1.15pm.

CHAIR:

DATED: