

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 23 April 2018 at 10.00 am at Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

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| PRESENT: | Councillor Renata Hamvas (Chair) Councillor Sunny Lambe Councillor Lorraine Lauder MBE |
| OFFICER SUPPORT: | Debra Allday, legal officer Rebecca Millardship, legal officer Andrew Heron, licensing officer Dorcas Mills, licensing officer Carolyn Sharpe, public health officer Ken Andrews, environmental protection officer Bill Masini, trading standards 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: HSBC PLC, 62-76 PARK STREET, LONDON SE1 9DZ

The licensing officer presented their report. The licensing officer advised that the applicant had effectively conciliated with all the parties who had objected. Members had no questions for the licensing officer.

The legal representative for the applicant addressed the sub-committee. Members had questions for the legal representative.

The meeting adjourned at 10.38am for the members to consider their decision.

The meeting resumed at 10.48am and the chair advised all parties of the sub-committee's decision.

RESOLVED:

That the application made by Compass Contract Services (UK) Ltd for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as HSBC Plc , 62-76 Park Street, London SE1 9DZ be granted as follows:

| Licensable activity | Hours |
|----------------------------|--------------------------------------|
| Sale and supply of alcohol | Monday to Sunday from 08:00 to 23:00 |
| Regulated entertainment | Monday to Sunday from 08:00 to 23:00 |

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in Section M of the application form and the following additional conditions agreed by the sub-committee:

1. That there shall be no sales of alcohol for consumption off the premises.
2. That the provision of licensable activities will be restricted to employees, officers, guests and attendees at bona fide private events only.

Reasons

The reasons for the decision are as follows:

The sub-committee heard from the representative for the applicant and the parties who had made representations in respect of this application that an agreement had been reached between parties and they had effectively conciliated the matter. Owing to the late hour of this, the sub-committee heard the conditions that had been agreed, considered the submissions made in writing by absent parties and agreed to the conciliated conditions.

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

The applicant may appeal against any decision:

- a) To impose conditions on the licence
- b) To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a) The licence ought not to be been granted; or
- b) That on granting the licence, the licensing authority ought to have imposed different or additional conditions to the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

6. LICENSING ACT 2003: ORIGIN COFFEE, RAILWAY ARCH 84 SCORESBY STREET, LONDON SE1 0XN

The licensing officer presented their report. They advised that the police had conciliated with the applicant. They also advised that the licensing officer representing the council as a responsible authority was unable to attend and that their representation was as on paper.

The applicants addressed the sub-committee. Members had questions for the applicants.

The ward councillor addressed the sub-committee. Members had questions for the ward councillor.

The sub-committee noted the written representation from the licensing authority.

Both parties were given five minutes for summing up.

The meeting adjourned at 12.19pm for the members to consider their decision.

The meeting resumed at 12.50pm and the chair advised all parties of the sub-committee's decision.

RESOLVED:

That the application made by Origin Coffee for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Origin Coffee, Railway Arch 84, Scoresby Street, London SE1 0XN be granted as follows:

This licence covers the area described as being between the point of sale or brew bar to

the entrance on Scoresby Street. This is clearly set out as the highlighted lined area in the attached plan.

| Licensed Activity | Hours |
|--|---|
| Sale and Supply of alcohol (on premises) | Monday to Friday from 12:00 (Midday) to 22:00 Saturday from 12:00 (Midday) to 23:00 Sunday from 12:00 (Midday) to 16:00 |
| Opening hours | Monday to Friday from 06:30 to 22:00 Saturday from 07:00 to 23:00 Sunday from 09:00 to 16:00 |

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in Section M of the application form, the conditions agreed with the Metropolitan Police Service during the conciliation process and the following additional conditions agreed by the sub-committee:

1. That all doors and windows at the front of the premises, on Scoresby Street, will be closed after 20:00, except for the immediate access and egress of persons.
2. Notices shall be displayed at the exit requesting that patrons respect the local residents and leave the area quietly.
3. No waste or recyclable materials, including bottles, shall be removed or placed outside in outside areas between 20:00 and 08:00

Reasons

The reasons for the decision are as follows:

The sub-committee were informed that the applicants and the police had conciliated and agree appropriate conditions ahead of the meeting. As a result of this the applicant had varied the hours sought in their application to reflect those granted above.

The sub-committee considered the written representations made by licensing as a responsible authority.

The sub-committee heard from the applicant who explained the concept of the business, namely that the focus was on speciality roasted coffee that was sourced directly from growers internationally. They stated that the business was family run, independent with all roasting conducted in house, they sought to differentiate themselves from other local businesses.

They explained that the reason for applying for a licence was to enable them to serve artisanal wines and craft beers alongside food, both hot meals and platters. They set out the business plan, namely that they already had a number of other sites, a café in Shoreditch and a coffee bar in the British Library, which also had a licence to serve craft beers.

The applicant drew the sub-committee's attention to the architect's plan that showed that

only the front third of the premises would be available to patrons to enjoy alcohol with their coffee and food, with the remaining area being used for work space. The applicant agreed that they would consent to just the front part of the premises being covered by the licence, an area that they described as being capable of approximately just 15 covers.

The residents were represented by Councillor Morris who stated that she felt reassured by the applicant's comments in the sub-committee and their business plan. Councillor Morris expressed concern for the local residents who lived opposite the premises and was keen to ensure that the disturbance to these residents was kept to a minimum. It was at this point that it was established that the premises did not have permission from Network Rail to use the area outside on Scoresby Street.

The sub-committee considered each of the representations, both written and oral, and agreed to conditions as set out above. Some discussion was had concerning the deliveries to the premises, most pertinently the milk and pastries delivery that would likely take place before 6.30am each day. It was decided that it would not be possible to place a condition on this due to the nature of the business and its need for daily fresh products, this was due to a number of factors, firstly that there is not a loading bay outside of the premises and secondly that there is no other access to the premises.

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

The applicant may appeal against any decision:

- a) To impose conditions on the licence
- b) To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a) The licence ought not to be been granted; or
- b) That on granting the licence, the licensing authority ought to have imposed different or additional conditions to the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

7. LICENSING ACT 2003: LOKMA RESTAURANT, 11 BERMONSDEY SQUARE, LONDON SE1 3UN

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

The applicant for the review and their representative addressed the sub-committee. Members had questions for the applicant and their representative.

An other person supporting the review addressed the sub-committee. Members had questions for the other person.

The environmental protection officer addressed the sub-committee. Members had questions for the environmental protection officer.

All parties were given five minutes for summing up.

The meeting adjourned at 1.10pm for the members to consider their decision.

The meeting resumed at 2.02pm.

The chair advised all parties of the sub-committee's decision.

RESOLVED:

That the council's licensing sub-committee, having considered an application made under Section 51 of the Licensing Act 2003 by a local resident for the review of the premises licence issued in respect of the premises known as Lokma Limited, 11 Bermondsey Square, London SE1 3UN, having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

- Remove all late night entertainment provisions from the licence for a period of three months; that is: live music, recorded music, performance of dance and facilities for making music.
- The following further conditions have also been added to the licence:
 1. That a sound limiting device shall be installed, set and maintained by a sound engineer so that the maximum level of volume and bass of music, song or speech from licensed entertainment does not cause a public nuisance in the vicinity of the premises or within the nearest or most exposed noise sensitive premises.
 2. That all audio and musical equipment used in the premises, permitted under the Licensing Act 2003 or the Live Music Act 2012, shall be played through the installed sound limiting device.
 3. The external area will be out of use by patrons between 22:00 and 07:00, with all outdoor furniture rendered unusable by 22:15 each day.
 4. That all doors and windows will be closed after 22:00, except for the immediate

access and egress of persons.

5. That all patrons be directed to exit the premises via the doors leading onto Long Lane after 22:00.

Reasons

The reasons for this decision are as follows:

The sub-committee heard from the applicant who explained that the premises had allowed their business to be conducted in a manner, over a period of months, that had lead him to suffer to such an extent that his health had been compromised. The applicant stated that since the grant of the new licence at the premises in December 2017, he had observed excessively loud music, late night belly dancing and the premises remaining open outside of the hours set out in the licence. He further explained that any attempt to engage with the management team had not been dealt with satisfactorily.

The applicant was supported by another resident, who corroborated the observations and reiterated that bringing the matter to the sub-committee was very much a last resort, but that she found her flat to be inhabitable whilst this conduct continued. She further stated that on the occasion that she had been downstairs to speak with the management she had found them to be unhelpful at best and that the initial reduction in noise levels was reversed within approximately twenty minutes of her returning to her flat. Both the appellant and the witness had consulted with the council thereafter, to seek a resolution to the issue, but the licence holder failed to engage resulting in a number of warnings being issued.

Both the applicant and the witness were asked about the change of management and whether they felt that the change that had taken place in February 2018 had affected the noise levels. Both individuals stated that the levels had dropped, but that music could still be heard in their flats.

The sub-committee heard from the environmental protection team (EPT) who stated that two warning letters had been sent to the premises, owing to noise nuisance being observed outside of the opening hours permitted in the premises license. They were able to confirm that a further breach was witnessed by an officer resulting in an Abatement Notice of Noise Nuisance being issued on 19 February 2018. The representative acknowledged that there had been a change of management and that there had been a further complaint on 13 March 2018, but that the details had not been provided. Finally the representative confirmed that no contact had been made to request support or guidance by the premises in respect of a noise limiter or measure that could be taken to contain noise.

The sub-committee then heard from a representative for the licensed premises, who stated that there had been consistent ownership at the premises over a period of years, but went on to accept the period of noise nuisance as set out by the applicant. In response to this, the respondent had immediately served notice on the manager who had permitted the nuisances to occur.

The licence holder had then installed a sound limiter and indicated a willingness to engage with EPT to ensure that it was set at an appropriate level. In addressing concerns regarding the bass reverberation into the premises above, the representative confirmed that an expert had attended the premises and identified that a speaker on the raised glass

floor may have been responsible. It was explained that this speaker has now been moved and no longer used. The sub-committee heard that a 'complete diagnostic of the sound system' had been completed, but that no report had been provided. When asked whether they had fitted extra insulation to further reduce noise travelling, they confirmed that this hadn't been done.

The representative did draw the sub-committee's attention to the fact that there was another neighbouring premises that had also allegedly caused noise nuisance. Finally the representative did set out that there had not been any complaints since the owner had taken immediate steps to remedy the issues.

In considering the submissions from all parties the sub-committee were concerned that not only had there been noise nuisance to such an extent as to warrant two warning letters and then a noise abatement notice, but also the fact that the noise nuisance was being conducted past the operating hours as set out in the licence.

The sub-committee acknowledged that the respondent had taken steps to prevent further noise nuisance, but also recognised the submissions from the applicant that the residents were still able to hear noise from the premises in their flats. The sub-committee were therefore satisfied that the measures taken thus far had not gone far enough to completely remedy the problem.

The sub-committee felt that circumstances of the noise nuisance were such, that a 3 month suspension of the late night entertainment element of the licence was a proportionate response. They wanted to ensure that the premises understood how seriously they regarded the breaches and the way the premises dealt with the residents in making their complaints.

In adding further conditions to the licence, the sub-committee felt that these would assist the premises in ensuring that no further issues should arise. The sub-committee wanted to ensure that the licence holder was clear that the responsibility to ensure compliance with these conditions lay with him and not EPT. The sub-committee finally recommended that if the conditions 1 and 2 detailed in this notice of decision were not complied with within three months, EPT should submit a review application so that the matter can be further considered by the licensing sub-committee.

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.

8. LICENSING ACT 2003: KG2P CONVENIENCE STORE UNIT 2, NORTHCHURCH, DAWES STREET, LONDON SE17 2AQ

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 public health officer, supporting the review, addressed the sub-committee. Members had questions for the public health officer.

The licensee was not in attendance. They had advised the licensing officer that they would not be attending and had not requested a postponement of the hearing.

Both parties were given five minutes for summing up.

The meeting adjourned at 2.33pm for the members to consider their decision.

The meeting resumed at 2.36pm.

The chair advised all parties of the sub-committee's decision.

RESOLVED:

That the council's licensing sub-committee, having considered an application made under Section 51 of the Licensing Act 2003 by Trading Standards for the review of the premises licence issued in respect of the premises known as KG2P Convenience Store, Unit 2, Northchurch, Dawes Street, London SE17 2AQ having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to revoke the licence.

Reasons

The reasons for this decision are as follows:

The licensing sub-committee heard from trading standards, the applicant to the review who advised that on 22 November 2017 trading standards with officers from Southwark's night time economy team carried out a routine visit to the premises and found that the designated premises supervisor (DPS) on the premises licence no longer had any involvement with the premises. A transfer of the DPS was completed later that day into the name the current DPS.

Displayed for sale in the premises for £10 a bottle was 75cl bottles of Alomo "bitter" (40% ABV). Duty including VAT is £10.35; 75cl bottles of Joy Dodi "bitter" (42% ABV). Duty including VAT is £10.86 and 75cl bottles of Agya Appiah "bitter" (35% ABV). Duty including VAT is £9.05.

Under the Duty Stamps Regulations 2006 the retail bottles of alcohol with an ABV of 30% or higher, packaged in sizes of 35cl and larger are obliged to carry a duty stamp. None of the drinks carried the duty stamps nor had details of any importer, indicating they had been smuggled in to the UK, which in itself, is an offence under Section 144 the Licensing Act 2003. The lack of duty stamps is also an offence under the Alcoholic Liquor Duties Act 1979 (as amended). Furthermore, offering these drinks for sale is an offence under the Consumer Protection from Unfair Trading Regulations 2008 for creating the impression by displaying the articles for sale that these drinks could be legally sold when they could not. These bottles were subsequently seized. Furthermore, the Alomo and Joy Dodi bitters, being sold below the duty plus VAT is a breach of the mandatory condition 491 of the premises licence.

Karpackie and another customer a single can of Oranjeboom. Both were told they were £2.00 per can and both customers challenged the sale price, saying, the correct price was £1.20. Because of this, trading standards officers carried out test purchases at the premises on 25 November 2017, when the premises licence holder and DPS was working behind the counter and sold a can of Karpackie for £1.20 when the duty plus VAT was £1.34. The Officer asked what other beers were £1.20 and was told Oranjeboom (which had an inclusive duty price of £1.27) and Kestrel Super an inclusive price of £1.34. As a result, the officer seized 31 cans of Karpackie, 30 cans of Oranjeboom and 76 cans of Kestrel Super.

When asked for the invoices for these drinks, the premises licence holder stated that he didn't have the invoices there and wouldn't be able to produce them, stating he got the Karpackie from a "Beer Shop" in East London and paid £19 for 24 cans, which equated to 79-pence per can; 55-pence below duty.

In advance of the meeting, he provided an invoice relating to the "African Bitters" headed JAP EXOTIC PRODUCTS, address 32 East Street, North Church SE17 2SV, dated 19 November 2017. William Hill bookmakers is located at this address. The Wholesaling of Controlled Liquor Regulations 2015 introduced the Alcohol Wholesaler Registration Scheme to tackle alcohol fraud. From 1 April 2017 all retailers are required to purchase alcohol from HMRC approved wholesalers.

The premises licence holder/DPS was interviewed under caution on 1 December 2017 during which he accepted that he had run the shop since 2005. He advised that customers had requested the sale of Alomo bitter, which was not available from any cash and carry and he did not carry out any checks on the seller that sold him it. He also knew that the purchase of £19 per tray for the beer was wrong, that the invoice for the African bitters was not genuine and also the sale of high strength beers it perpetuated the problem and made it more difficult for people stop their alcohol dependency problems.

The licensing sub-committee then heard from the officer for public health who raised concern over the obvious mismanagement and alleged criminal offences at the premises which undermined the prevention of crime and disorder licensing objective. The officer advised that super strength beers and ciders are almost exclusively consumed by those with severe alcohol dependency problems. A key part of the public health strategy is to reduce consumption, like tobacco, through pricing. Selling the super strength beers and ciders significantly below the duty plus "on costs" completely undermines this strategy as well as making it unfair on other traders which run a legitimate business. Drinks such as Omo, Joy Dodi and Agya Appiah "bitters" often contain surrogate alcohol which carry extreme health risks. The officer informed the sub-committee that the premises was located in the top 6th percentile of deprivation in the country and located to a large alcohol

recovery hostel housing extremely vulnerable people with alcohol misuse problems.

The premises licence holder/DPS was not present at the meeting and the licensing sub-committee was informed that he was due to attend court. He had not requested an adjournment of the meeting and despite the court hearing, it was unlikely he would have attended in any event.

The sub-committee were troubled that there was explanation offered to them by the premises licence holder/DPS concerning the management of the premises. From the evidence presented, the premises had operated for approximately 13 years with a DPS. He admitted that drinks such as Alomo bitter were illegal, as it was unavailable in any cash and carry. He was aware that the purchase of cheap beer was wrong and he accepted that the invoice for the African bitters was counterfeit/forgery. A significant number of offences had been committed and the licensing sub-committee was informed that a prosecution file was being prepared. In all the circumstances, there was no other option available to sub-committee to promote the licensing objections but to revoke this premises licence.

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 3.32pm.

CHAIR:

DATED: