

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 24 September 2018 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Kath Whittam (in the chair)
Councillor Sunil Chopra
Councillor Margy Newens

OTHER MEMBERS PRESENT: Councillor Maria Linforth-Hall, ward councillor

OFFICER SUPPORT: Debra Allday, legal officer
Sarah Scutt, legal officer
Andrew Heron, licensing officer
Wesley McArthur, licensing officer
Jayne Tear, licensing responsible authority officer
Ray Moore, trading standards officer
P.C. Graham White, Metropolitan Police Service
Andrew Weir, constitutional officer

1. ELECTION OF CHAIR

Councillor Kath Whittam was nominated by Councillor Sunil Chopra to chair this meeting. This was seconded by Councillor Margy Newens.

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.

At this point the chair advised that the order of business would be varied to hear item 8 before item 7 to facilitate the local residents who were in attendance.

5. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

6. LICENSING ACT 2003: BY THE HORNS, UNIT 1, 22 ELEPHANT AND CASTLE, LONDON SE1 6SQ

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

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

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had no questions for the licensing officer.

The Metropolitan Police Service representative addressed the sub-committee. Members had no questions for the police representative.

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

The local resident objecting to the application addressed the sub-committee. Members had questions for the local resident.

All parties were given five minutes for summing up.

The meeting adjourned at 11.11am for the members to consider their decision.

The meeting resumed at 11.23am and the chair advised all parties of the sub-committee's decision.

RESOLVED:

That the application made by By the Horns Brewing Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as By the Horns, Unit 1, 22 Elephant and Castle, London SE1 6SQ is granted as follows:

The sale by retail of alcohol (both on and off sales)	Monday to Sunday 10:00 to 23:00
The provision of regulated entertainment in the form of recorded music (indoors)	Monday to Sunday 09:00 to 23:00
The provision of regulated entertainment in the form of live music (indoors)	Monday to Friday 18:00 to 22:00 Saturday to Sunday 13:00 to 22:00
Opening hours	Monday to Sunday 08:00 to 23:30

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 will be an accommodation limit of 125 patrons.
2. That there will be a written dispersal policy kept at the premises with the licence and made available by inspection by authorised officers of the council or the police. Relevant staff shall be trained in the implementation of the dispersal policy. Before the licence is implementable, the dispersal policy shall be submitted to the licensing authority for approval.
3. That any off sales shall be provided in sealed containers and taken away from the premises.
4. That there will be no outside seating.
5. That clear legible signage shall be prominently displayed where it can be easily seen and read, requesting that alcohol sold as off sales should not be opened and consumed in the vicinity of the premises.
6. That a CCTV system be installed at the premises and be maintained in good working order and be continually recording at all times the premises are in use under the licence. The CCTV System must be capable of capturing a clear facial image of every person who enters the premises.
7. That all CCTV footage be kept for a period of 31 days and shall on request be made immediately available to officers of the police and the council
8. That a member of staff should be on duty at all times the premises is open that is trained in the use of the CCTV and able to view and download images to a removable device on request of officers of the police and the council.
9. That all staff are trained in their responsibilities under the licensing act 2003 and training records to be kept and updated every six months and shall, upon request, be made immediately available to officers of the police and the council.
10. That Intoxicating liquor shall not be sold or supplied for consumption on the premises otherwise than to persons taking substantial table meals there and as an ancillary to that person's meal other than in the hatched area marked on the plans. A copy of the plans must be kept with the premises licence and made available immediately on request by officers of the council or police.
11. That signage on entrance/exit requesting customers to respect neighbours and leave quietly.
12. That a dedicated telephone number be provided to local residents to contact management.
13. That a smoking area shall be agreed with the licensing authority with a receptacle for

patrons to dispose of smoking waste.

14. That there shall be regular litter picks throughout the day with the last litter pick being 30 minutes after closing.

Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the licensing officer who drew the committee's attention to the fact that the police had conciliated with the applicant and agreed conditions but there were still outstanding representations from licensing and public health. He also drew the committees attention to a premises which had been missed off the list of premises in the locality at paragraph 19 and distributed their licensing hours.

The committee then heard from the applicant who stated that they had had 20 temporary event notices (TENs) granted and there had been no incidents during the TENs. The shop is small and has a capacity of three to four customers and would operate a one in one out system to ensure it did not get too crowded. The premises had been operating for 10 years without any issues with customers, and had been dealing with patrons leaving number one bar opposite during this time. They believed that the sale of late night refreshments from their premises would assist with help patrons to be less intoxicated, for example by selling soft drinks alongside food to help with dehydration. The stated that they are not in a residential area and so any noise would not affect any local residents. They can also assist customers by calling mini-cabs for them as they do now, as mini-cabs operate locally to them. There is also the 24 hour night tube on Friday and Saturdays which would help patrons leave the area quickly. They also told the committee that they had conciliated with the police to include CCTV cameras at the premises which will assist in preventing crime and disorder. They are also aware of the women's charter and have displayed posters in the premises dealing with anti-social behaviour and harassment and staff have been trained in the women's charter.

The chair requested an adjournment for the licensing officer to review the position regarding TENs as there was no mention of TENs in the report. The licensing officer returned and gave the committee a list of TENs applied for and it became clear the applicant had applied for seven TENs over multiple days. The officer noted that there had been no complaints when the TENs were in operation.

The sub-committee questioned the applicant on how he would deal with people queuing outside who needed to use the toilet, as the premises was small and did not have one. The applicant responded that London Bridge Station provide toilet facilities, as did Number one bar where most of their patrons came from. The committee were concerned with customers waiting for food outside and loitering and the risk of anti social behaviour. The applicant stated that they currently clean outside the premises, and that there had been no anti-social behaviour during the TENs. They stated that they were considering SIA security and barriers at the moment.

The sub-committee then heard from the licensing officer, who stated that the premises was in a cumulative impact zone and she did not believe that the applicant had no rebutted the presume the licence should not be granted but appreciated that they had drafted a dispersal policy at her request. She was concerned that the premises would encourage revellers to stay in the area for longer. She noted that the hours applied for were in excess of policy hours. She stated that if the committee were minded to grant the

application should would like to see a condition regarding SIA security staff and that the dispersal policy be available at the premises for officers and that officer be trained in the policy. The committee questioned the officer, and asked whether the premises not being in a residential area, and staff patrolling the queue and outside area assisted with her concerns. She stated that she would prefer to see at least one official SIA staff to control crowds of patrons. She stated the security would most likely be required in the later hours, and that requiring security early in the evening would put a financial burden on the applicant. She agreed with the chair that conflict management training would assist the staff in the shop to prevent issues escalating.

The committee then heard from public health who stated that the premises were outside of the policy hours in a cumulative impact zone an was concerned about crowds leaving the club and encouraged the committee to keep in line with the policy hours. He also was concerned that people would like Number 1 bar to get to the premises before they closed, and that a later opening hour of the premises would mean people would leave number 1 bar later and be more intoxicated.

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: PRICE CUTTER, 4 CAMBERWELL CHURCH STREET, LONDON SE5 8QU

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

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

The licensing sub-committee heard from the Metropolitan Police Service representative. Members had questions for the police representative.

The trading standards officer 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. Members had questions for the licensing officer.

All parties were given five minutes for summing up.

The meeting adjourned at 2.23pm for the members to consider their decision.

The meeting resumed at 2.30pm and the chair advised all parties of the sub-committee's decision.

RESOLVED:

That the application made by Somasundram Ariyaratnam for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Price Cutter, 4 Camberwell Church Street, London SE5 8QU be refused.

Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the representative for the applicant who advised that the applicant was well aware that there had previously been issues at the premises under the previous management and since the premises were now under the applicant's control, it was run well. The applicant had submitted a transfer application, which was refused on 15 May 2018 as he had been unable to demonstrate a sufficient distance and independence between himself and the previous licence holder, in documentary evidence. Following this refusal, the applicant had purchased a 15 year lease to the premises, with the option to purchase the freehold after 12 months. Since the applicant had taken over the management of the premises, it had been run well. The applicant had been working closely with the responsible authorities and this would continue if the premises licence were granted. Whilst the premises were situated in a cumulative impact policy area, the applicant's representative stated that the premises had previously operated as a licensed premises there would be no effect on crime and disorder.

The licensing sub-committee heard from a representative for the Metropolitan Police Service who referred to the significant history of non-compliance and offences that had taken place at the premises. Reference was also made to a failed test purchase that took place at the premises on 27 March 2018 when the premises was under the applicant's control. Whilst the applicant offered not to sell beers/ciders/lagers of 6.5+% ABV, this was not originally considered an issue by the applicant. The premises were also located in a cumulative policy area, where street drinking and alcohol dependence remains a huge issue.

The officer from Southwark council's trading standards department also detailed the history of offences and non-compliance with licensing conditions. The applicant was now a leaseholder to the premises with an option to purchase the freehold after 12 months. The reasoning for not purchasing the freehold from the outset was based on the uncertainty of Brexit, did not appear plausible and

ultimately suggested the previous management remained a controlling force in the business.

The licensing sub-committee heard from the officer for the council's licensing department in their role as responsible authority who also raised concerns regarding the history of the premises and the location in relation to the cumulative impact zone.

The licensing sub-committee noted the objection from public health.

The licensing sub-committee noted the objection from the other person.

The licensing sub-committee considered all of the facts of the case. The premises has not been permitted to sell alcohol since 29 June 2018 and less than three months has passed and is located opposite Camberwell Green, an area frequented by street drinkers.

The sub-committee were referred to R (on the application of Westminster City Council) -v- Middlesex Crown Court [2002] EWHC 1104 in which HHJ Baker adjudicated "Notwithstanding the applicant being a fit and proper person and the premises would be well run a licence could be refused on the sole ground that the area was already saturated with licence premises....and the cumulative effect of the existing premises was impacting adversely on the area to an unacceptable level". This premises has had a questionable history and the sub-committee did not accept the applicant's argument that the applicant wasn't aware that his transfer took effect and a failed test purchase whilst under the applicant's management. It is essential that this sub-committee protects the vulnerable (such as alcohol dependents) as if they were a member of our own family. The premises is located in in a cumulative impact policy area and for this reason, this application be refused.

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.

8. LICENSING ACT 2003: THE ROUND, STRAKERS ROAD, LONDON SE15 3UA

The licensing officer presented their report. They advised that the applicant was not in attendance despite having been sent invites for the meeting. The licensing officer advised that they had not received any communication from the applicant. Members had questions for the licensing 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 representative.

The local resident objecting to the application addressed the sub-committee. Members had questions for the local resident.

All parties were given five minutes for summing up.

The meeting adjourned at 11.57am for the members to consider their decision.

The meeting resumed at 1.26pm The chair did not read out the decision as none of the parties were present.

RESOLVED:

That the application made by ESCI Limited to vary a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as The Round, Strakers Road, London SE15 3UA be refused except in so far as:

Plan number : CPR-MS-PR-AL-470 dated 18.12.17 shall to replace plans PRP.L.01, PRP.L.02 and PRP.L.03, dated March 2006

Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the licensing officer who advised that the applicant was not in attendance and no communication had been received despite attempts to make contact.

The licensing sub-committee did not hear from the applicant.

The licensing sub-committee heard from the representative for licensing as a responsible authority who advised their representation sought information from the applicant as the proposed operating schedule gave limited information. While the overall reduction in opening hours was welcomed the applicant was seeking to extend the premises licence hours for the sale of alcohol and the introduction of off-sales and had failed to suggest any additional measures that could be put in place to prevent a negative impact on the licensing objectives. It was therefore difficult to make any positive recommendation to the sub-committee.

The representative for the Metropolitan Police Service echoed the sentiments of the representative for licensing as a responsible authority and advised the proposed control measures set out in the operating schedule were not precise enough to be clear and enforceable (s.182 Guidance issued under section 182 of the Licensing Act 2003 (April 2018), paragraph 1.16). The applicant's failure to respond meant the officer was also unable to make any recommendation to the sub-committee.

The licensing sub-committee heard the representations from Party 1, of the Friends of Peckham Park who objected to the application and informed the sub-committee that in 2009 the limited the hours for the sale of alcohol was imposed to prevent crime and disorder and nuisance. Party 1 also pointed out that the park was only open until 21:00 hours between May to July and closed earlier the rest of the year. There were real concerns about off-sales and individuals being intoxicated around the park and creating excessive litter with bottles/cans particularly near the children's playground.

The licensing sub-committee noted representations from two other persons also objecting to the application.

The licensing sub-committee were concerned about the applicant's failure to attend the meeting and lack of contact with responsible authorities meant that the applicant had not sufficiently addressed the four licensing objectives.

In the absence of any response or attendance by the applicant the licensing sub-committee considered that they did not have sufficient information available to them to make an informed decision to enable them to grant the variation with the exception of the change of plans which was duly accepted.

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 to modify the conditions of the licence; and

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

- a) That variation ought not to have been made; or
- b) That, when varying the licence, the licensing authority ought not to have modified the conditions of 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.

Meeting ended at 2.32 pm

CHAIR:

DATED: