

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 12 November 2018 at 12.00 pm at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

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**PRESENT:** Councillor Renata Hamvas (Chair)  
Councillor Adele Morris  
Councillor Margy Newens

**OFFICER SUPPORT:** Debra Allday, legal officer  
Dorcas Mills, licensing officer  
Ken Andrews, environmental protection officer  
Ian Clements, Metropolitan Police Service  
Graham White, Metropolitan Police Service  
Ray Moore, trading standards officer  
David Franklin, licensing responsible authority officer  
Clizia Deidda, 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: PASAJE PRIMAVERA - ARCH 146, EAGLE YARD, HAMPTON STREET, LONDON SE1 6SP**

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

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

The meeting adjourned at 12.40pm to allow the applicant to discuss the application with the legal representative.

The meeting reconvened at 12.48pm.

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

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

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

All parties were given five minutes for summing up.

The applicant requested an adjournment to discuss possible conditions with the authorities. The meeting adjourned at 1.28pm

The meeting reconvened at 1.40pm and the applicant and the authorities updated the sub-committee on possible conditions.

The meeting adjourned at 1.45pm for the members to consider their decision.

The meeting resumed at 2.30pm. The chair did not read out the decision as the parties were not present.

**RESOLVED:**

That the application made by Pasaje Primavera Limited to vary a premises licence under s.34 of the Licensing Act 2003 in respect of the premises known as Pasaje Primavera, Arch 146, Eagle Yard, Hampton Street, London SE1 6SP is granted as follows:

**The supply of alcohol for consumption on the premises:**

- Monday to Thursday from 11:00 to 00:00
- Friday and Saturday from 11:00 to 02:30
- Sunday from 11:00 to 00:00

**The provision of late night refreshment (indoors):**

- Monday to Thursday from 23:00 to 00:00
- Friday and Saturday from 23:00 to 02:30

- Sunday from 23:00 to 00:00

**The opening hours:**

- Monday to Thursday from 06:00 to 01:00
- Friday and Saturday from 06:00 to 03:00
- Sunday from 06:00 to 01:00

**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 and trading standards during the conciliation process and the following additional conditions agreed by the sub-committee:

1. That substantial food to be served at all times that alcohol is supplied on Fridays and Saturdays after 00:00.
2. That a minimum of one SIA licensed door supervisors shall be on duty at the premises at all times when the premises are open between 00:00 and 03:00.
3. That patrons admitted after midnight must have been invited.
4. That there shall be no more than 80 patrons shall be present on the premises between 00:00 and 03:00.
5. That no more than six patrons may use the outside smoking area at any one time. No drinks may be taken into this area.
6. That no alcohol may be taken off the premises.
7. That alcohol and late night refreshment is permitted until 02:30 on Fridays and Saturdays. The opening time to be extended until 03:00 on Fridays and Saturdays for events.

**Reasons**

The reasons for the decision are as follows:

The licensing sub-committee heard from the applicant's representative who advised that the premises had held a licence since 2011 and was a restaurant/bar that had an Ecuadorian menu. The alcohol menu was extremely limited consisting of beer and wine. Since the grant of the licence in 2011, no complaints either in respect of the operation of the licence or noise had been received. Due to general concerns of anti-social behaviour, the applicant had liaised joined with the other premises in the area and employed a private security firm. The applicant was very much customer led and wished the additional hours to occasionally hold birthday parties and weddings.

The licensing sub-committee heard from the representative from the Metropolitan Police Service who raised concerns that the hours sought by the applicant were a substantial increase to those already in operation and lay well outside of the Southwark licensing

policy hours. The operating schedule is also deemed to be insufficient in light of this increase.

The licensing sub-committee then heard from the officer from Southwark's environmental protection team (EPT) who also raised concerns to the extended hours and the use of the premises. The officer also mentioned that there was a history of noise complaints in the immediate vicinity. The operating schedule is again believed to be lacking in content to sufficiently mitigate the potential for a negative impact on the locality.

The council's public health department have also made representations in relation to the concerns around extended hours and the potential for public nuisance and crime and disorder in the vicinity if granted.

The licensing sub-committee noted that the representation from the health and safety Team had been withdrawn.

The licensing sub-committee were pleased that through the course of discussions with the applicant the responsible authorities agreed conditions and therefore granted the variation application accordingly.

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 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: KG2P CONVENIENCE STORE - 2 NORTHCHURCH, DAWES STREET, LONDON SE17 2AQ**

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

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

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

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

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

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

All parties were given five minutes for summing up.

The meeting adjourned at 3.17pm for the members to consider their decision.

The meeting resumed at 3.20pm and the chair advised all parties of the decision.

#### **RESOLVED:**

That the application made by Murugesu Sundarapalan for a premises licence to be granted under s.17 of the Licensing Act 2003 in respect of the premises known as KG2P Convenience Store, 2 Northchurch, Dawes Street, London SE17 2AQ is refused.

#### **Reasons**

The reasons for the decision are as follows:

The licensing sub-committee heard from the applicant who advised that he was applying for a premises licence and until he obtained a licence for the premises he would not be able to get any of the business documentation changed into his name. The applicant admitted that he had previously worked in the premises eight years ago and that he was currently unemployed. Once the applicant had obtained a licence, until he had found new management to run the premises, he would run the business himself without pay. The applicant also accepted it was his brother that lost the licence to the premises, his brother continued to be the leaseholder and his brother had submitted and paid for this application.

The licensing sub-committee heard from the representative from the Metropolitan Police Service who referred to the recent trading standards premises licence review which saw the licence being revoked by Southwark's licensing sub-committee on 23 April 2018. Since that time, there had been no change of ownership of the business. There were further concerns that premises had subsequently sold alcohol without a licence.

The licensing sub-committee heard from an officer from the trading standards team regarding the previous history of the premises licence.

On 23 April 2018, the licensing sub-committee revoked the licence to the premises from the then licence holder, being the current applicant's brother. The applicant's brother then

submitted an appeal to the Magistrates' Court. On 8 June 2018, an application to vary the designated premises supervisor was received in the name of the applicant, with immediate effect and was granted in light of the appeal. A transfer application was then received on 11 July to the applicant. This transfer application was objected to by the police, and was due to be considered by the licensing sub-committee on 22 August 2018. However, the appeal to the revocation was withdrawn on 26 July 2018 and as a result of the revocation of the licence was upheld and the application to transfer fell away.

The applicant then submitted this further premises licence on 24 August 2018. On the same day, at 20:05 a test purchase was carried out at the premises and a bottle of Nigerian Guinness was sold at a cost of £1.69. The seller advised that the applicant's brother was the premises owner. A Land Registry Search showed that the premises remained in the applicant's brother's name.

On 11 September 2018 police attended the premises and the applicant's brother was working at the premises store and advised that he was in charge. He was found displaying alcohol within the store.

On the same day both the applicant and his brother attended interviews under caution with the trading standards team during which it was accepted that they were brothers; the applicant's brother remained the owner and in charge of the business; the applicant's brother admitted the unlicensed sale of alcohol took place, but without his explicit consent; the applicant's was not involved with the running of the business and had no intention of running the business in the future; the applicant's brother completed and paid for the application; the applicant's brother would remain part of the business by taking profits from the business.

The licensing sub-committee heard from the officer from licensing as a responsible authority who raised concerns regarding the previous review and subsequent unlicensed sales of alcohol.

The licensing sub-committee then heard from the public health team concerning high-strength alcohol.

The applicant was convicted in 2009 at Staines Magistrates Court for selling counterfeit Spar Imperial vodka at his premises Esher Wines. This licensing sub-committee is extremely concerned that this is a similar offence to matters that brought about the revocation of the premises licence on 23 April 2018. Since that date, it would appear that the premises have continued to be run in a similar fashion, with numerous licensing offences being committed, including the unlicensed sale of alcohol (s.136 Licensing Act 2003) and making false statements in licensing applications (Section 158 Licensing Act 2003). This sub-committee are therefore of the view that the applicant is not a fit and proper person to hold a premises licence and refuse this application.

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:

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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.

The meeting ended at 3.21pm.

**CHAIR:**

**DATED:**