

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 20 June 2019 at 10.00 am at Room G06 - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Maria Linforth-Hall
Councillor Ian Wingfield

OTHER MEMBERS PRESENT: Councillor Humaira Ali, ward councillor
Councillor William Hougbo, ward councillor

OFFICER SUPPORT: Debra Allday, legal officer
David Franklin, licensing responsible authority officer
Richard Kalu, licensing officer
Andrew Heron, licensing officer
Ray Moore, 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.

At this point the chair advised that the order of business would be varied to hear item 6 first.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: ELECTRIC SHUFFLE, UNIT LES - 02 LONDON BRIDGE STATION, (10 BERMONDSEY STREET) LONDON SE1 2ER

The legal representative made an initial request for additional time to present their application. The chair advised that all parties would have the allocated 15 minutes to make their presentations.

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

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

The meeting adjourned at 1.20pm until 1.30pm for the applicant to discuss the issue of capacity with their legal representative.

It was noted that the responsible authorities had conciliated with the applicant prior to the meeting.

The local residents objecting to the application addressed the sub-committee. Two local residents were represented by ward councillors. Members had questions for the local residents and the ward councillors.

All parties were given five minutes for summing up.

The meeting adjourned at 2.58pm for the sub-committee to consider its decision.

The meeting reconvened at 3.23pm and the chair advised all parties of the decision.

RESOLVED:

That the application made by Electric Shuffle Ltd for a premises licence to be granted under Section.17 of the Licensing Act 2003 in respect of the premises known as Electric Shuffle, Unit Les – 02 London Bridge Station (10 Bermondsey Street), London SE1 2ER be granted as follows:

Indoor sports:

Sunday to Thursday from 11:00 to 23:00
Friday and Saturday from 11:00 to 00:00

Recorded music (indoors):

Friday and Saturday from 23:00 to 00:00

Late night refreshment (indoors):

Friday and Saturday from 23:00 to 00:00

Supply of alcohol (on the premises):

Sunday to Thursday from 11:00 to 22:45
Friday and Saturday from 11:00 to 23:45

Operating hours:

Sunday to Thursday from 11:00 to 23:00
Friday and Saturday from 11:00 to 00:00

Non standard timings:

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

An additional hour on the Friday, Saturday and Sunday preceding a Bank Holiday.

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the proposed conditions within the application form, the conditions agreed with the licensing authority (as responsible authority) and the environmental protection team during the conciliation process and the following additional conditions agreed by the sub-committee:

1. That there will be a maximum capacity for patrons of 300. This may be increased to 350 patrons on 12 occasions per year. A record of the same shall be kept on the premises.
2. That the premises would arrange meetings with the local residents at least once every six months.

Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the representative for the applicant who advised that the premises would be a railway arch under London Bridge Station. Planning permission had already been recommended by planning officers to permit this venue to operate as a leisure-led facility. They advised that if the licence was granted, the premises would be a positive and exceptional addition to the major London Bridge redevelopment and regeneration project.

The representative for the application acknowledged that the premises was located in a cumulative impact area with a presumption to refuse the application but added that the premises would offer a unique experience to all those that lived, worked and visited the borough. They informed the sub-committee that the applicant had an exemplary professional record with all of their other licensed premises. Furthermore, significant revisions had been made to the application, including reduced policy hours and a suite of robust conditions that would benefit the locality.

They advised the sub-committee that the responsible authorities' were satisfied with the amended application and had now withdrawn their objections. They further added that expert evidence from two former police officers independently conclude that the premises was unlikely to have a negative impact on the licensing objectives and expert acoustic evidence confirmed noise mitigation measures would be contained within the premises and the high-levels of existing background noise in the locality would mask any potential

noise impact from arriving and departing patrons. The applicant also would employ street marshalls to assist in the safe dispersal of patrons. The applicant also would employ two street marshalls to assist in the safe dispersal of patrons and at weekend there would be “floating” street marshalls the number of which would be deployed following a risk assessment.

The licensing sub-committee noted that the responsible authorities, namely the environmental protection team and licensing (as a responsible authority) had conciliated with the applicant. They also noted that the police had not made a representation in respect of the application.

The licensing sub-committee then heard from local residents who had submitted representations as other persons. Party 39 (who represented 11 other persons) stated that a capacity of 300 would have a serious and negative impact. There would be an increase in queues and people congregating outside the premises together with an increase in smokers from the patrons. They informed the sub-committee that, in their opinion, the street marshalls proposed by the applicant had no power and therefore had no proper enforcement powers. Concerning transport, the premises was located on a red route so Uber (and other similar operations) would be unable to stop outside the premises and there was also no evidence that public transport would be used. It was the view of party 39 that the premises would operate as a nightclub.

Party 11 was represented by the ward councillor who advised that whilst she did not object to the applicant’s proposed activities, there should be less emphasis on drinking alcohol as alcohol would encourage anti-social behaviour. They advised the sub-committee that residents frequently experience intoxicated individuals, people loitering around, empty drinks cans, vomit, urination and defecation on the streets. They said that It was their constituents’ right when then they closed the front door to their property that they are not disturbed by the outside world. Residents were unable to soundproof their homes any further and they should not have to tolerate further noise from licensed premises.

Party 12 was represented by another ward councillor who largely echoed his fellow ward councillor (for party 11). They advised that the area did not need an activity led licensed premises.

Party 2 stated that there were already two late night venues in the area and both already affect their family’s sleep. The late night premises were already blight on the entire neighbourhood. They said that they felt that street marshalls had no enforcement powers in relation to the later night revellers.

Party 29 stated that dispersal was a big issue and that people often disperse to small dark areas of private property where street marshalls were not permitted to enter.

The licensing sub-committee took into account the 36 other representations from local residents opposing the application most of whom were not present (Regulation 20(3) The Licensing Act 2003 (Hearings) Regulations 2005).

The licensing sub-committee concluded that the premises was within the Borough and Bankside cumulative impact area and in accordance with paragraph 130 of the Southwark statement of licensing policy (2019 – 2021) there was a rebuttable presumption that this application will be refused or subject to certain limitations. Nevertheless, the licensing sub-committee was satisfied that granting this application will not impact further on the relevant licensing objectives in accordance with the approach set out between paragraphs 150 –

155 of the statement of licensing policy together with the considerable suite of conditions detailed in the operating schedule of the application and the conditions agreed with the responsible authorities to avoid any further impact on the relevant licensing objectives. Therefore an exception could be made to policy.

In the view of the licensing sub-committee these matters were sufficient to both rebut the presumption contained in paragraph 130 of the Southwark statement of licensing policy (2019 – 2021) and to justify the grant of 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.

The sub-committee noted that, during questioning, the applicant said that they would avoid using single use plastics where possible, for example they would be using paper straws rather than plastic ones. Similarly, the applicant would actively discourage customers driving to the premises and encourage the use of public transport. While the sub-committee welcomes these commitments, it did not form part of the decision to grant a licence.

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: SIX YARD BOX PECKHAM, 34 - 36 CHOUMERT ROAD, PECKHAM, LONDON SE15 4SE

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

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

The licensing sub-committee noted that the responsible authorities ad conciliated with the

applicant prior to the meeting.

The licensing sub-committee heard from two other persons (local residents) objecting to the application. Members had questions for the other persons.

All parties were given five minutes for summing up.

The meeting adjourned at 11.45am for the sub-committee to consider its decision.

The meeting reconvened at 12.00pm and the chair advised all parties of the decision.

RESOLVED:

Decision

That the application made by Six Yard Box Limited for a premises licence be granted under the Licensing Act 2003 be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Six Yard Box Peckham, 34 – 36 Choumert Road, Peckham, London SE15 4SE be granted as follows:

Films

Thursday and Friday from 19:00 to 22:00

Supply of alcohol for consumption on and off the premises

Monday to Thursday from 15:00 to 22:30

Friday and Saturday from 12:00 to 23:00

Sunday from 12:00 to 22:00

Non standard timing: New Years Eve from 12:00 to 00:30

Opening hours of the premises

Monday to Thursday from 15:00 to 23:00

Friday and Saturday from 12:00 to 23:30

Sunday from 12:00 to 22:30

Non standard timing: New Years Eve from 12:00 to 01:00

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, any conditions derived from the operating schedule in Section M of the application form, conditions conciliated with the Metropolitan Police Service and the licensing responsible authority during conciliation and the following conditions imposed by the licensing sub-committee

1. That plans shall be resubmitted and the outside area to be hatched.
2. That a maximum of nine patrons, including smokers shall be permitted within the demarcated area (as hatched on the attached plan as per condition 1) and shall be roped off at all times the premises is operating.
3. That after 22:00, patrons shall not use any outside area other than those who

temporarily leave the premises to smoke. Smokers shall use the demarcated area and no more than five smokers shall be permitted to do so at any one time.

4. That a direct and dedicated telephone number for the manager at the premises shall be made available to local residents.
5. That the applicant shall work with local residents by way of liaising with local residents and residents associations and keep the same informed of events taking place and allow residents the means to register any issues with the premises.
6. That no glass drinking vessels or containers (including bottles) of any sort may be taken outside the premises, including within the roped off area.

Reasons

This was an application for a premises licence in respect of the Six Yard Box, described as two self-contained shops, divided by a plasterboard partition wall. There is no rear exit or entrance to the building from either side of the premise. There is one flat above the premise, for which a course of soundproofing in the floor has been laid. There is a restaurant operating out of the neighbour in 38 and a food shop in 32.

The applicant advised the sub-committee that the premises would be a small retro bar selling football shorts and other memorability. The premises was located in the Peckham cumulative impact policy area, but the likely impact to crime and disorder would be negligible: the applicant had considerable experience working in licensed premises; there would be no amplified music that could effect local residents and in any event, soundproofing works would be carried out before the premises officially opened. Furthermore, the operating hours sought was within the framework hours as set in Southwark's statement of licensing policy.

The applicant also undertook to avoid using single use plastics where possible, for example they would be using paper straws rather than plastic ones.

The licensing sub-committee noted that the Metropolitan Police Service had agreed conditions with the applicant and subsequently withdrew their representation.

The licensing sub-committee heard from two other persons, who objected to the application stating that since licensed premises had opened in a neighbouring road (Blenheim Grove) residents had been blighted with increased crime and disorder, anti-social behaviour and noise nuisance in the locale. They advised that they thought that the same would occur on Choumert Road.

The licensing sub-committee were reminded that they were obliged to promote the licensing objectives. No evidence had been presented by the local residents to indicate that the premises would undermine the objectives and there were sufficient measures put in place by the applicant, which would promote the licensing objectives.

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: SEEHRA SUPERMARKET, 154 CAMBERWELL ROAD, LONDON SE5 0EE

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. Members had questions for the licensing officer.

The legal representative and the designated premises supervisor (DPS) for the premises addressed the sub-committee. Members had questions for the DPS and their legal representative.

All parties were given five minutes for summing up.

The meeting adjourned at 4.16pm for the sub-committee to consider its decision.

The meeting reconvened at 4:25pm 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 trading standards for the review of the premises licence issued in respect of the premises known as Sehra Supermarket, 154 Camberwell Road, London SE5 0EE having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

1. Suspend the premises licence for a period of 3 months.
2. Modify the premises licence by way of adding the following conditions:
 - i. That a challenge 25 scheme shall be maintained at the stalls selling alcohol 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.
 - ii. 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 stall. A record of such training shall be kept/be accessible at the stall at all times and be made immediately available for inspection at the stall 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.
 - iii. 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.
 - iv. 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. The register shall be made immediately available for inspection at the premises to council or police officers on request.
 - v. That no beers / ciders in single cans, bottles or multipacks with an ABV of above 6.5% will be displayed / sold or offered for sale from the premises, unless prior written permission has been obtained from a Metropolitan Police Licensing Officer from Southwark. Such permission must be kept at the premises and made available immediately on request to the relevant authorities.
 - vi. That the premises license holder shall ensure that spirits in re-sealed cans will not be purchased.
 - vii. That the premises license holder shall ensure that invoices (or copies) of all alcoholic goods purchased (for retail sales at the shop) will be kept on the premises and made available to officers of the council, police or HMRC upon request.
 - viii. That the designated premises supervisor, all staff and personnel involved in

the sale or supply of alcohol shall receive independent training on all aspects of the Licensing Act 2003 and the conditions attached to the particular licence. This training will be undertaken by all staff and personnel involved in the sale or supply of alcohol every six months. A training record of the same will be maintained and shall be kept/be accessible at the premises at all times. Training record(s) shall be made immediately available for inspection at the premises to council or police officers on request.

Reasons

This was an application by the council's trading standards team under Section 51 of the Licensing Act 2003, for the review of the premises licence in respect of the premises known as Sehra Supermarket, 154 Camberwell Road, London SE5 0EE.

The licensing sub-committee heard from the an officer from the trading standards team, the applicant to the review who advised that the application was submitted in respect of the prevention of crime and disorder licensing objective following criminal offences having taken place at the premises.

On 20 March 2019 officers from trading standards, licensing team and police from the night time economy team attended the premises of Sehra Supermarket following a failed test purchase of a can of Karpackie 9% ABV lager being made. The Karpackie 9% ABV lager cost £1.30 for a 500ml can. The minimum price for this item, (being duty plus VAT) would be £1.34; the case was sold four pence below the minimum price – which is simply the taxes on the product. The Karpackie was seized as it was believed it had been smuggled into the UK from Poland without the payment of duty. A considerable amount of other spirits, bitters and lagers was seized for failing to carry the required duty stamps. Spirits revealed had counterfeit rear labels, counterfeit duty stamps and counterfeit company trade marks. These are commonly found on products that have been produced in the UK for export and therefore free of UK duty. The products are then diverted back onto the UK market before reaching their port of departure. These particular items had no UK duty marks, the rear sticker removed and replaced with a counterfeit one.

The designated premises supervisor (DPS) was subsequently interviewed under caution and admitted the offences:

- Contravention of Section 144 of the Licensing Act 2003 – knowingly keeping on licensed premises smuggled goods (being super strength beers and spirits).
- Offer and sale of duty evaded super strength beers and spirits – Customs and Excise Management Act.
- Contravention of Section 136 of the Licensing Act 2003 – contravention of a mandatory premises license condition that alcohol should not be sold below the minimum price – Karpackie 9% ABV lager on sale at £1.30 when the minimum price was £1.34.
- Failure to produce traceable invoices for all super strength beers purchased – General Food Hygiene Regulations 2013, Regulation 19.
- Contravention of Regulation 12 of the Consumer Protection from Unfair Trading Regulations 2008 – engaging in a commercial practice creating the impression that a

product can be sold legally when it cannot.

- Contravention of Section 92 of the Trade Marks Act 1994 – use of a registered trade mark without the approval of the trade mark holder.

The matter was disposed of by way of a caution.

The licensing sub-committee then heard from licensing as a responsible authority who supported the review application on the grounds of prevention of crime and disorder stating that the conditions on the premises licence did not fully promote the licensing objectives. The officer added that if the sub-committee were not minded to revoke the premises licence, more robust conditions to promote the licensing objectives and a period of suspension whilst this is implemented would be recommended as an alternative.

The representative for the DPS and owner of the premises advised that there was no dispute of the facts of the case. The DPS stated that it would never happen again. His brother was assisting in the premises, who purchased the items from an individual that came to the shop whilst the DPS was away from the shop. The items had been displayed for purchase in the shop for one day only. During the discussion stage of the meeting the DPS agreed to co-operate with trading standards and provide his brother's details so he could also be interviewed by trading standards. He also accepted that he had also bought some African bitters from another licensee. In mitigation the DPS was remorseful and stated it would never happen again and that the premises was the only income he had for his family.

The licensing sub-committee considered the matter very carefully. The matters put before the sub-committee were criminal offences and undermine the licensing objectives. The premises are located in the Camberwell Green ward which has a serious problem of alcohol dependent residents and where there is a number rehabilitation facilities. Selling alcohol below the minimum price takes advantage of this vulnerable group of residents. The sale of issue of the sale of high strength beers and ciders continues to be a problem in the London Borough of Southwark and has a major impact on public health and the well being of the local population. The issue of illegal alcohol in general continues to be a major issue across the borough and is not compatible with the licensing objectives. The licensing sub-committee were minded to revoke the premises licence, but considered the overall effect this would have on the licence holder's family. A significant period of suspension is required to divert alcohol dependent customers from purchasing cheap alcohol from Sehra Supermarket. This would also allow the additional all staff and personnel to receive training on the Licensing Act in addition to the new robust conditions that this sub-committee have attached to the 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 4.27pm.

CHAIR:

DATED: