

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 18 July 2019 at 10.00 am at Room G06 - 160 Tooley Street, London SE1 2QH

PRESENT:

Councillor Lorraine Lauder MBE
Councillor Maria Linforth-Hall
Councillor Charlie Smith

**OTHER MEMBERS
PRESENT:**

**OFFICER
SUPPORT:**

1. ELECTION OF THE CHAIR

Councillor Charlie Smith was nominated by Councillor Lorraine Lauder to chair the meeting. This was seconded by Councillor Maria Linforth-Hall.

1. 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.

5. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

6. LICENSING ACT 2003: BHINDER OFF LICENCE, 149 PECKHAM HIGH STREET, LONDON SE15 5SL

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

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

The premises licence holder and their legal representative for the premises addressed the sub-committee. Members had questions for the premises licence holder their legal representative.

All parties were given five minutes for summing up.

The meeting adjourned at 11am for the sub-committee to consider its decision.

The meeting reconvened at 11.20am 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 Bhinder Off-Licence, 149 Peckham High Street, London SE15 5SL 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 four weeks.
2. Modify the licence conditions by removing premises licence condition 845.
3. Modify the premises licence conditions by adding the following conditions:
 - 3.1 That no beers, lagers, ciders or similar alcohol to be sold in cans with an ABV in excess of 6.5% or in bottles larger than 750ml with an ABV of 6.5% and that any sales of alcohol shall be provided in sealed containers and taken away from the premises.
 - 3.2 That the hours for the sale of alcohol be between 10:00 hours and 00:00 hours.
 - 3.3 That all staff involved in the retail sale of alcohol to be provided with training on all aspects of the Licensing Act 2003 from an accredited training provider.

Reasons

The reasons for this decision are as follows:

The licensing sub-committee heard from the officer from trading standards, applicant to the review application who advised that Bhinder Off-Licence has previously been subject to a trading standards review application due to the display and sale of illegal alcohol. The review application was considered by the licensing sub-committee on 28 June 2016 and resulted by the suspension of premises license and modification of the licence with conditions. One of the conditions imposed was condition 845 "That no beers, lagers or ciders in single cans, bottles or multi-packs with an ABV of more than 6.5% will be displayed, sold or offered for sale from the premises unless written authority is obtained from the police licensing unit in advance. The written authority must be kept and made available for inspection immediately on request by any responsible authority".

On 12 March 2019 officers from the council's trading standards and licensing team, together with the night time economy police, attend the Bhinder's Off-Licence. Officers witnessed Oranjeboom 8.5% lager on sale. The joint premises license holder and designated premises supervisor (DPS) was behind the counter. When asked about this a list of exemptions from Southwark police licensing was produced. The list included an "Oranjeboom 7.5%" and a "Perla Black 7.5%". They advised that there has never been a Perla 7.5%. Officers seized 214 x 500ml cans of Oranjeboom lager 8.5% and 78 x 500ml cans of Perla Black lager 7.5% under the provisions of the Consumer Rights Act 2015 and the Consumer Protection from Unfair Trading Regulations 2008.

The joint premises license holder and DPS was asked to produce invoices for the products And was invited to attend a PACE interview. Whilst solicitors for premises license holder/DPS provided some invoices, he failed to attend the interview. Trading standards say that an adverse inference may be taken for the failure to attend the interview. An exemptions list was also provided and it was noted that the items seized were not on the exemptions list. The solicitors said that those products had been a mistake when the exemptions were drafted and offered not to sell them anymore, which they were not permitted to do under condition 845. Officers requested that the licence holder/DPS voluntarily withdraw the other items from the exemptions list, but no response was received in respect of this.

The licensing sub-committee then heard from the officer from the Metropolitan Police Service who supported the review. The officer informed the sub-committee that at the 2016 review the police did not want to allow any exemptions, but the committee on that occasion were not in agreement. The 'exemption condition' is placed on a number of licences across the borough in an attempt to reduce alcohol fuelled violence, street drinking and anti-social behaviour by alcohol dependent people. The condition used in areas that have specific problems associated with the consumption of high strength beers, lagers and ciders, Peckham being one of those areas in Southwark. The allowing of exemptions is to permit the sale of "specialist products" that would not be purchased by problem drinkers. The officer asked that the sub-committee consider all options, including the revocation of the licence.

The licensing sub-committee then heard from public health who advised that the premises was located in the Peckham ward and falls within the Peckham cumulative impact policy (CIP) area; a geographical zone within which the current saturation of licensed premises is having a negative impact on the local area. These negative impacts include crime, anti-social behaviour and alcohol-related health harms. Peckham is also a ward with high

levels of deprivation; deprived populations are disproportionately affected by alcohol related harm. Alcohol-related crime and disorder and public nuisance are of concern within Peckham and emphasises the important on and operators of licensed premises to run responsible businesses in line with their licence conditions. The officer from public health also raised concern regarding the hours of operation, stating that a later start time for alcohol sales would dissuade the early-morning alcohol purchasers who are likely to be alcohol misusers.

The representative for the joint DPS/licence holder then addressed the licensing sub-committee who advised that the premises are the family's sole source of income and its livelihood. Only a very small proportion of the alcohol sold by the Off Licence is beer, lager or cider of high strength. The majority of its alcohol sales are wines, lower percentage beer, lager or cider. There had only been this one infringement since the 2016.

The infringement appeared to have been an administrative one, in respect of two products: Oranjeboom Red 8.5% ABV and Perla Mocha 7.6% ABC. The premises licence holder/DPS accepted this arose as a result of his own confusion but appreciates the seriousness of his error and has engaged with the responsible authorities. The premises offered to cease the sale of Perla Black and Oranjeboom. The licensing sub-committee was invited to consider the infringement at the lesser scale of seriousness. The representative for the premises licence holder/DPS further invited the sub-committee to deal with the matter by way of removing condition 845 and restricting the trading hours of off sales.

The sale of high strength beers, lagers and ciders continues to be a problem within, in particular within the Peckham ward, which is a designated CIP. The abuse of alcohol has a major impact on crime, anti-social behaviour and alcohol-related health harms. As a major issue in general across the borough, the sale of these super strength beers, lagers and ciders is not compatible with the licensing objectives. The premises has already had its premises licence review in 2016 and one would expect that having retained their premises licence, the licence conditions would be adhered to rigorously. It is therefore felt that the premises licence be modified (as above) and there be a suspension of the licence for a period of 4-weeks during which all staff involved in the sale of alcohol to be provided with training on all aspects of the Licensing Act 2003 from an accredited training provider all suspension sub-committee has been invited to consider all options available.

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
- d) 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

- i. The end of the period for appealing against this decision; or
- ii. In the event of any notice of appeal being given, until the appeal is disposed of.

Meeting ended at 11.23 am

CHAIR:

DATED:

[CABINET ONLY]

DEADLINE FOR NOTIFICATION OF CALL-IN UNDER SECTION 17 OF THE OVERVIEW AND SCRUTINY PROCEDURE RULES IS MIDNIGHT, [DATE].

THE ABOVE DECISIONS WILL NOT BE IMPLEMENTABLE UNTIL AFTER THAT DATE. SHOULD A DECISION OF THE CABINET BE CALLED-IN FOR SCRUTINY, THEN THE RELEVANT DECISION WILL BE HELD IN ABEYANCE PENDING THE OUTCOME OF SCRUTINY CONSIDERATION.