

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 26 September 2019 at 10.00 am at Room G06 - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Sirajul Islam
Councillor Lorraine Lauder MBE

OFFICER SUPPORT: Debra Allday, legal officer
Wesley Mcarthur, licensing officer
Clizia Deidda, public health officer
Ray Moore, trading standards officer
Paul Newman, environmental protection officer
P.C. Ian Clements, Metropolitan Police Service
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

The chair advised that she knew one of the objectors as an acquaintance but this would not have any influence when considering the application.

5. LICENSING ACT 2003: PREMIER PECKHAM LOCAL, 16 PECKHAM HIGH STREET, LONDON SE15 5DT

The licensing officer presented their report. The licensing officer advised that the sub-committee should consider the licensing responsible authority's representation as on paper as the licensing responsible authority officer was unable to attend the meeting. 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 public health officer addressed the sub-committee. Members had questions for the public health officer.

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

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 trading standards officer.

Two other persons, namely local residents objecting to the application, addressed the sub-committee. Members had questions for the other persons.

All parties were given five minutes for summing up.

The meeting adjourned at 12.06pm for the sub-committee to consider its decision.

The meeting reconvened at 12.36pm and the chair advised all parties of the decision.

RESOLVED:

That the application made by Amuthalingam Krishnapillai for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Premier Peckham Local, 16 Peckham High Street, London SE15 5DT be refused.

Reasons

The reasons for the decision are as follows:

This was an application for a premises licence for a premises that had previously been operating as a chicken takeaway. The applicant and their representative advised that the applicant had purchased the premises approximately four to five months prior to applying for the licence. The applicant also advised that he had the franchise of the Morley's chicken, a branded franchise, approximately three doors away. He advised that the new business was not making a profit as most customers preferred the Morley's chicken brand. The premises would be converted and it was the applicant's intention for it to become a local convenience store. They advised that the premises were situated on Peckham High Street where there was ongoing regeneration and with many local residents, the area would benefit from a 24 hour convenience store.

The licensing sub-committee heard from the representative from public health who objected to the application under all of the licensing objectives. The premises were located in the Peckham cumulative impact policy area and as a result, the applicant had not adequately rebutted the presumption that the premises would not add to the overall cumulative impact in the area. In addition the late night food takeaways generated crime and disorder and therefore the application should be refused.

The licensing sub-committee heard from the environmental protection team who objected to the application under the prevention of public nuisance licensing objective. They advised that the premises were located in the Peckham cumulative impact policy area and it was their view that the proposed operation type of the premises with a 24 hour availability of alcohol would add to the cumulative impact in the locality

The licensing sub-committee heard from the representative from Metropolitan Police Service who objected to the application in its entirety. They advised that the premises was located in a cumulative impact area, where the number, type and density of premises selling alcohol was high and there were serious problems of nuisance and disorder as a result. It was the opinion of the police that the applicant had failed to adequately rebut the presumption that the operation of the premises would add to the cumulative impact in the locality.

The licensing sub-committee then heard from trading standards who objected to the application representation in respect of the prevention of crime and disorder licensing objective. The trading standards service informed the sub-committee that the premises were located in the Peckham cumulative impact policy area and the proposed operating hours exceeded those recommended in the council's statement of licensing policy. They added that the applicant had not shown any mitigating measures to prevent it from adding to the cumulative impact in the area. Furthermore, the licensing sub-committee were reminded of the on going serious issues with the sale of non-duty paid alcohol in the local area and the need for measure to be to prevent the sale of illegal alcohol.

The licensing sub-committee noted the written representation of licensing as a responsible authority who submitted their representation in respect of the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm licensing objectives.

The licensing sub-committee then heard from two other persons both of whom objected to the licence. Both of the objectors lived in the immediate vicinity of the premises. Their representations related to the prevention of public nuisance, the prevention of crime and disorder and the protection of children from harm licensing objectives. In summary, it was their contention that the proposed operation of the premises was likely to give rise to nuisance, crime and disorder and anti social behaviour in the local area. The premises was in close proximity to three local schools and the premises being able to sell alcohol 24 hours per day would have a negative impact on the local school children.

The licensing sub-committee noted the eight other objections to the premises licence application.

The licensing sub-committee noted that the premises are located in the Peckham cumulative impact policy (CIP) area which was created in November 2008. The creation of a CIP creates a rebuttable presumption that all new premises licence applications are likely to add to the existing cumulative impact and therefore, will be refused. It was for the applicant to demonstrate that the application would not further contribute to the negative

local cumulative impact on any one or more of the licensing objectives by addressing local concerns within their application and operating schedule.

Unfortunately, neither the applicant nor his representative gave the members of the sub-committee any confidence that the premises would not contribute to cumulative impact. When asked to explain Challenge 25, the applicant's response was vague and was unable to name acceptable forms of identification. Indeed, his representative rather inappropriately named the forms of ID for him. Nor did the applicant address the over-saturation of convenience stores in the area (one of which was next door to the premises itself) or the larger supermarkets. It was also noted that neither the applicant nor his representative approached any of the responsible authorities nor engaged productively with them.

The Peckham CIP area contributes to 10.8% of Southwark's rowdy behaviour and street drinking, 6.1% of Southwark's Ambulance call-outs, and 10.4% of Southwark's non-domestic violence. The applicant has failed to rebut the presumption to refuse this premises licence application. 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". In the circumstances since the premises is located in the Peckham CIP, this application is 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 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.

The meeting ended at 12.38pm.

CHAIR:

DATED: