

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Wednesday 12 February 2020 at 10.00 am at Room G06 - 160 Tooley Street, London SE1 2QH

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**PRESENT:** Councillor Renata Hamvas (Chair)  
Councillor Lorraine Lauder MBE  
Councillor Maria Linforth-Hall

**OFFICER SUPPORT:** Debra Allday, legal officer  
Gary Ward, legal officer  
Ray Moore, trading standards officer  
Jayne Tear, licensing responsible authority officer  
Charlie Jerrom, licensing officer  
Andrew Heron, licensing officer  
P.C. Graham White, 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.

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

### 4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

The chair noted that she had passed by the premises regularly on the bus and had observed the premises operating. However, this would not influence any decisions made

at this meeting.

**5. LONDON LOCAL AUTHORITIES ACT 1991: SABRINA BEAUTY SALON, 151 RYE LANE, LONDON SE15 4TL**

The meeting adjourned at 12.03pm to allow the licensing agent time to liaise with their clients.

The meeting reconvened at 12.39pm.

The licensing agent for the premises advised that the premises had decided to withdraw the application.

**6. LICENSING ACT 2003: DENMARK EXPRESS, 74 DENMARK HILL, LONDON SE5 8RZ**

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 applicant and their representative advised that they had some new proposed conditions.

The meeting adjourned at 10.55am for the sub-committee to read the proposed conditions. The meeting reconvened at 11.10am.

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.

The licensing responsible authority officer addressed the sub-committee. Members had questions for the licensing responsible authority officer.

All parties were given five minutes for summing up.

The meeting adjourned at 11.41am for the sub-committee to consider its decision.

The meeting reconvened at 11.58am and the chair advised all parties of the decision.

**RESOLVED:**

**Decision**

That the application made by Hunish Sembhi for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Denmark Express, 74 Denmark Hill, London SE5 8BR 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 premise was a small local grocery shop in Camberwell, which was presently not selling alcohol. The applicant sought a premises licence to sell alcohol seven days a week, between the hours of 09:00 to 00:00 hours. The premises would be open 24 hours per day, seven days a week. In the course of discussion of the application, the applicant agreed to amend the start time for the sale of alcohol to 11:00 hours. The representative for the applicant further added that the applicant had provided robust conditions that would promote the licensing objectives.

A representative from the Metropolitan Police Service (Licensing Division) objected to the application, raising concerns regarding two previous premises licence reviews, in which the licence was revoked by the Southwark licensing sub-committee. The police also raised concern that there appeared not to have had any real change of ownership since March 2018. The police raised further concerns that the premises were located within the Camberwell cumulative impact zone ("CIZ") and referred to the witness statement of ward officer, PC McKay. They also advised that the applicant had failed to rebut the assumption to refuse the application.

The officer from Southwark's trading standards team objected to the application based on the premises licence review history and also due to the fact that the premises were sited within the Camberwell CIZ. There was further concern that the applicant was working at the premises during the last review period.

The licensing responsible authority officer echoed the views of the police and the trading standards officer.

The licensing sub-committee noted the representation from Southwark's public health team who raised concerns that regarding the location of the premises within the Camberwell CIZ and the high concentration of other licensed premises in the immediate vicinity.

The licensing sub-committee considered this application very carefully. It was noted that the applicant and her husband already ran another licensed premises. The applicant was a director of another convenience store in Forest Hill and both had full time jobs. Whilst the applicant stated that there would be more than one personal licence holder, no one had been trained as such and this included her husband who had in excess of 10 years experience the licensing trade. In response to the issue of street drinking, the applicant mentioned that she was a healthcare professional (as a medical sales consultant). During the course of the discussion, the applicant made reference to her examining the premises viability and was in the premises on 21 March 2018. On this date, the applicant telephoned the police due to an inebriated customer. The sub-committee concluded that the applicant was in charge of the premises at this time. Also, given the applicant's medical training, the customer must have been beyond inebriated as there would have been no need to call the police if the individual was in need medical assistance.

As demonstrated by the witness statement of PC McKay, the Camberwell area has huge problems with alcohol misuse including a large problem with street drinking. The area has been subject to considerable investment in the area to improve the local amenities. Kings College hospital and the Maudsley Hospital, both of which offer specialist treatment to vulnerable alcohol dependent patients, are situated within 500 metres of the premises. The problems described by PC McKay have not changed since the date of his statement.

Particular reference was made to street drinkers congregating in Milkwell Yard; the rear of the premises exits onto Milkwell Yard. The sub-committee were advised that Camberwell has twelve off licence premises within the immediate vicinity and approximately forty other licensed premises authorising alcohol sales.

The licensing sub-committee were advised by the applicant that since the revocation of the premises licence at Denmark Express in March 2018, Lidl had obtained a licence in the Camberwell CIZ at 56, 60 & 64 Denmark Hill, Camberwell, London SE5 8RZ. The applicant was informed that if Lidl had addressed the presumption to refuse the licence (such as the employment of SIA staff), then the application would have been granted. The applicant failed to do the same.

The sub-committee were referred to the authority of Westminster City Council v Middlesex Crown Court (2002) EWHC 1104 (Admin) 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 a questionable history. In the circumstances since the premises is located in the Camberwell CIZ, 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.

Meeting ended at 12.41 pm

**CHAIR:**

**DATED:**