

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 24 September 2020 at 10.00 am at Online/Virtual: please contact andrew.weir@southwark.gov.uk for a link to the meeting and the instructions for joining the online meeting

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Sunny Lambe
Councillor Margy Newens

OFFICER SUPPORT: Debra Allday, legal officer
Charlotte Precious, legal officer
Toyin Calfos, legal officer (observing)
Andrew Heron, licensing officer
Ray Moore, trading standards officer
Yemisi Forrest, trading standards officer (observing)
David Franklin, licensing responsible authority officer
P.C. Ian Clements, Metropolitan Police Service
P.C. Graham White, Metropolitan Police Service
Andrew Weir, constitutional officer

1. APOLOGIES

This was a virtual licensing sub-committee meeting.

The chair explained to the participants and observers how the virtual meeting would run. Everyone then introduced themselves.

There were no apologies for absence.

2. CONFIRMATION OF VOTING MEMBERS

The voting members were confirmed verbally, one at a time.

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: CRUSON LOCAL FOOD, 26 CAMBERWELL CHURCH STREET, LONDON SE5 8QU

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

The agent for the applicant addressed the sub-committee. Members had questions for the agent for the applicant. Members also had questions for the designated premises supervisor.

The meeting adjourned at 10.40am as the members wished to ask questions of the applicant directly. The meeting reconvened at 10.47am.

Members asked questions of the applicant. The legal representative for a local resident objecting to the application also had questions, which the chair allowed.

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

The trading standards officer then 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.

The legal representative for a local resident objecting to the application addressed the sub-committee. Members had questions for the legal representative.

All parties were given up to five minutes for summing up.

The meeting adjourned at 1.10pm for the sub-committee to consider its decision.

The meeting reconvened at 1.40pm and the chair advised all parties of the decision.

RESOLVED:

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 Cruson Local Food, 26 Camberwell Church Street, London SE5 8QU be refused.

Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the applicant's representative who advised that the application was made by MM Cruson Local Food Limited. Mrs Sahar Allahgul was the sole director, who was unable to attend the hearing due to IT issues. The representative advised that the applicant was available on the telephone via the designated premises supervisor (DPS), Alex Maxwell, who was present at the meeting and able to speak on her behalf, having bought a 25% share of the business. This however, had not been registered at Companies House to date

The representative for the applicant advised that the premises was a small convenience store and it was the applicant's intention to sell a small amount of alcohol, being no more than 25% of the shelf space. Through the application process the hours for off-sales had been amended to 11:00 to 22:00 and 23 conditions had been proposed, to be added to the licence. It was felt that the concerns raised by the police in terms of the problem drinkers in the vicinity was addressed by the reduced hours, which fell within the recommended hours in Southwark's statement of licensing policy. Additionally, there would be no sales of beers, ciders and lagers exceeding 6.5% ABV and no miniature bottles of liquor would be sold.

Regarding the concerns raised by trading standards, it was proposed that a personal licence holder would be on the premises at all times, a Challenge 25 scheme would be operated and training records would be maintained.

It was also felt that the suite of conditions went a long way to address the licensing as a responsible authority's concerns. The applicant was unable to address the other persons' representations as these were very general in nature.

The licensing sub-committee then heard from the representative from the Metropolitan Police Service who objected to the application due to the premises being situated in the Camberwell cumulative impact Area (CIA). The officer referred to the case of Westminster City Council v Middlesex Crown Court, which confirmed that the application could be refused solely on the basis that the area was already saturated with licensed premises. With that in mind, Camberwell was subject to considerable problems with alcohol misuse including a large problem with street drinking. Kings College hospital and the Maudsley Hospital were situated in the area and have Alcohol treatment centres within both, attracting alcohol dependent people to the area. There were 12 off licences in the immediate

vicinity of Camberwell Green. The Metropolitan Police Service objected to the granting of the licence in full and did not see any reason for further licenced premises to be needed in the area, as any further premises selling alcohol will only add to the cumulative impact, attract alcohol dependent people and add to the local crime and disorder.

The officer from trading standards also objected to the application under the protection of children from harm and the prevention of crime and disorder licensing objectives. They further objected on the basis that the premises was located within the Camberwell CIA.

The officer also referred to a visit to the premises on 31 July 2020 with the night time economy team. When asked who was in charged, officers were told that it was a man called Waheed. The lady behind the sales counter stated that she lived above the shop and said that she had been asked to look after the shop as the family running it were busy with family matters. She knew nothing about age verification or any other matters relating to under age sales, when the premises was open and selling tobacco.

The officer also referred to a quantity of non duty paid herbal shisha for sale and a couple of counterfeit in ear, wireless Bose headphones were also offered for sale. A man, who said that he was a shop assistant at the premises, came into the premises and said he had bought the headphones from a man who had called at the shop selling a variety of similar items.

It was also established that the director of MM Cruson Local Food Limited, Mrs Sahar Allahgul was married to Mr Waheed Allahgul, who was a designated premises supervisor of a premises on Southwark Park Road, London SE16 3TP, that was reviewed in 2014 and had its premises licence revoked for amongst other things, selling counterfeit vodka. It was trading standards' contention that Waheed Allahgul was the person in control of the operation.

The licensing sub-committee then heard from licensing as a responsible authority whose representation was based on the Southwark statement of licensing policy 2019 – 2021 and related to the prevention of crime and disorder and the prevention of public nuisance licensing objectives. The officer also made reference to the premises being situated in the Camberwell CIA as defined within the Southwark statement of licensing policy 2019 – 2021 and that the applicant had failed to rebut the presumption that this application is likely to add to the existing cumulative impact and should therefore be refused.

The solicitor for local resident A then addressed the licensing sub-committee. He stated that there were six off-licences within 100 metres of the front door of the premises and then referred to the data produced by Southwark's public health team and the statement produced by PC McKay regarding the street/problem drinkers in the Camberwell area.

Whilst each application should be should be judged on its own merits, the applicant

had failed to address the CIA and had not rebutted the presumption against granting a licence in such a designated area. Furthermore, the Home Office Revised Guidance issued under Section 182 of the Licensing Act 2003 provided that on a review of a premises licence involving counterfeit or non-duty items, revocation should be considered in the first instance. The sub-committee were urged to refuse the application.

The licensing sub-committee considered the written representations of the three other persons who were not present at the hearing.

The licensing sub-committee considered the application very carefully all of the written and oral representations before it. When considering the application, it was reminded that each application needed to be considered on its own merits. On this occasion, the sub-committee found the objections raised by both the responsible authorities and the other persons compelling.

The sub-committees were concerned that prior to the hearing, the premises had been inspected (on 31 July 2020) and had non duty paid herbal shisha for sale addition to counterfeit earphones the owner was not present and left the resident from above the shop to run the shop, who had no knowledge of age restrictive products.

The application had been made by MM Cruson Local Food Limited, whose sole director was Mrs Sahar Allagul. It was claimed that the DPS, Alex Maxwell had bought a 25% share in the business, but there was no record of this at Companies House. It was the DPS who had submitted the application. Neither Mrs Sahar Allagul or Mr Alex Maxwell accepted responsibility for the items seized on 31 July 2020.

The sub-committee accepted that in premises selling counterfeit/non-duty paid items, it should consider revocation in the first instance. The sub-committee were also sceptical of Mrs Allagul's husband being involved in the management of the premises. Ultimately, the sub-committee were not confident in the ability of either the director of MM Cruson Local Food Ltd or the DPS to properly manage a licensed premises.

The applicant also failed to address the presumption to refuse the licence, despite the premises being located in a CIA. With six other off-licences within 100 metres of the premises, this sub-committee are of the view that an additional licence premises with off sales would just be an additional premises available to the problem drinkers of Camberwell. The sub-committee agreed with the decision in Westminster City Council v Middlesex Crown Court, that a premises licence could be granted, solely on the grounds that a premises licence was in a CIA. On this basis, this licensing sub-committee refused this premises licence 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:

- 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: GEORGE CANNING - 123 GROVE LANE, LONDON, SE5 8BG

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

The Metropolitan Police Services representative, the applicant for the review, addressed the sub-committee. Members had questions for the police.

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

A representative for the freeholder of the premises was in attendance. The advised that they had nothing to say.

The premises licence holder addressed the sub-committee. Members had questions for the premises licence holder.

All parties were given up to five minutes for summing up.

The meeting adjourned at 2.32pm for the sub-committee to consider its decision.

The meeting reconvened at 3.00pm and the chair advised all parties of the decision.

RESOLVED:

That the council's licensing sub-committee, having considered an application made under Section 53 C of the Licensing Act 2003 by the Metropolitan Police Service for the review of the premises licence issued in respect of the premises known as the George Canning, 123 Grove Lane, London, SE5 8BG and having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

1. Reduce the operating hours and the hours permitted for licensable activities as follows:

- i. Premises open to the public :
Monday to Sunday: 07:00 to 00:00
- ii. Sale of alcohol on/off the premises:
Monday to Sunday: 07:00 to 23:30
- iii. Late night refreshment:
Monday to Sunday: 23:00 to 00:00
- iv. Live music:
Monday to Sunday: 11:00 to 23:00

Recorded music:
Monday to Sunday: 07:00 to 23:30

2. Modify the conditions of the premises licence by adding the following conditions:

- i. That a CCTV system shall be installed at the premises and be maintained in good working order and be continually recording at all times the premises are in use under the licence. The CCTV system must be capable of capturing a clear facial image of every person who enters the premises.
- ii. That all CCTV footage shall be kept for a period of 31 days and shall on request be made immediately available to officers of the police and the council.
- iii. That a member of staff shall be on duty at all times the premises is open, who is trained in the use of CCTV and able to view and download images to a removable device on the request of the police or a council officer.

- iv. That all staff shall be trained in their responsibilities under the Licensing Act 2003 and training records to be kept and updated every six months and shall, upon request, be made immediately available to officers of the police and the council.
- v. That there shall be an immediate change of management at the premises. Mr Curren shall not be permitted work at the premises.

Reasons

This was an application by the Metropolitan Police Service to review a premises licence in respect of the premises known as the George Canning, 123 Grove Lane, London SE5 8BG. The application follows the decision of the licensing sub-committee to suspend the premises licence on 3 September 2020 pending the determination of this review.

On 3 September 2020, the licensing sub-committee heard evidence of an incident that occurred on Monday 31 August 2020 at approximately 02:50. The police advised that a fight started inside the George Canning during which the victim sustained a broken jaw and was stabbed in the stomach. The premises should have been closed to the public at 00:30 with alcohol ceasing at 00:00. The incident was described as a "lock in" and a number of people present, including witnesses, were customers of the premises. Three suspects were arrested at the premises shortly after this incident, including a member of staff. A witness called the police stating that there was a fight at the pub. Police attended on the original call and spoke to staff at the premises but nothing was disclosed.

A further call to the police by a member of the public was made at 03:04. The member of the public told the police that the victim who had been found lying on the pavement just outside the Lettsom Estate, Camberwell Grove, London SE5. The informant was woken by the victim calling for help, shouting that he had been stabbed. The victim stated that this had occurred inside the George Canning. Police attended the premises and found the manager in an alley next to it. The police requested to view the premises CCTV of the incident. The manager initially denied being able to show the officers the CCTV but later admitted that he could and led the police to the office to view the footage. The manager was described as being intoxicated, his speech was slurred and he appeared unsteady on his feet. The police entered the kitchen area of the pub and found two suspects hiding in the darkness, both were arrested on suspicion of assault.

CCTV was subsequently viewed and seized by the police which showed an incident at 02:20 hours when a female, the girlfriend of the victim, assaulted him. She was also one of the suspects arrested. Then between 02:50 and 03:00 it shows a melee; the victim punched a suspect, three people then dragged him to the ground. The victim is then seen emerging from the premises with a blood stained top. The weapon was not located at the premises and is believed to have been disposed of prior to police arrival.

The sub-committee further heard that neither the licence holder, designated premises supervisor (DPS) nor the manager were working at the premises on the evening of the incident. When police attended the premises, it was noted that members of staff had cleaned the scene meaning the loss of forensic evidence. The manager who was said to not be on duty at the time of the incident was intoxicated and it is believed complicit in trying to cover up the incident and/or at least provide a place for two suspects to hide from the police. Finally there was a link between the licensee for the George Canning and the old Charlie Chaplin public house, which had been reviewed in 2017. The Charlie Chaplin was subject to an expedited review when two intoxicated males were stabbed, and the landlord was described as inebriated at the time.

At the full hearing on 24 September 2020, the sub-committee heard from the police representative who considered that poor decisions had been made by the manager of the premises at the time of the incident. Furthermore, the DPS worked in lots of premises, primarily remotely which was insufficient. The police representative had since met with the premises licence holder who had removed the manager and ensured a new DPS was in place who would also act as a manager.

The police met with the DPS and conducted background checks; she had a long history of working within public houses and raised no concerns. She would be on site the majority of the time, alleviating many of the police concerns with the management structure. They considered the premises licence holder to be fully cooperative and willing to put conditions in place to avoid such an incident happening again. They viewed the incident at the Charlie Chaplin in the bigger picture; it did not occur outside of operating hours and, with both incidents, the licence holder gave their full compliance and cooperation. The police asked the sub-committee to modify the conditions of the premises licence rather than revoke it.

The sub-committee then heard from a representative of the licensing authority. They advised that they did not have confidence in the management of the premises to run it effectively, especially considering they had been involved in two incidents that had led to reviews. They considered there was a lack of control and people were in the premises after hours. At the Charlie Chaplin a knife had been taken from behind the bar and someone had been stabbed, this incident was similar. They questioned why it would be any different should the premises licence continue and how the committee would know any new policies would be adhered to.

Lastly the sub-committee heard from the premises licence holder, Donal Ennis. In addressing the incident at the Charlie Chaplin, he stated it was a very unfortunate incident and no further issues arose thereafter. He considered the premises to be very different, in different areas and in different circumstances. He suggested it was unfair for it to impact upon the licence of the George Canning. Turning to the incident, giving rise to the review, he explained that managers are given strict guidelines and that he does not promote or allow any out of hours drinking. He stated that the incident would not have happened if the premises had closed on

time and the manager did what he was trained to do. He stated that he runs 17 pubs and training is maintained in all premises.

Mr Ennis was keen to impress upon the sub-committee that the way the premises had been managed the night of the incident was not in line with the way his pubs are run. The manager handled the incident very badly and acted outside of all training, guidance and policies he had been given. Even if the police had not wanted the manager removed, he would have been anyway. Aside from the incident, Mr Ennis has been the premises licence holder of the George Canning for eight and a half years without any other issues. He advised that he did not consider it a problematic pub and would be putting in a new team. There will now be a new DPS who will also manage the premises.

The sub-committee carefully considered both the oral and written evidence submitted and agreed with representations given by the police. The incident seems to have arisen as a result of poor management: one DPS for several premises who operates remotely is not sufficient, furthermore the management structure was weak and it was difficult to determine who was in charge at the time of the incident. Since the incident, Mr Ennis had been proactive in replacing the DPS and manager.

The sub-committee considered that Mr Ennis was genuine in expressing his willingness to address the problems with the George Canning and felt confident the conditions agreed between the police and Mr Ennis were necessary to facilitate this and uphold the four licensing objectives. The sub-committee recommend the premises ensure there is a clear line of management and that ongoing training is provided.

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 applicant to vary the premises licence supervisor
- c) The premises licence holder
- d) 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.

Review of interim steps pending appeal

At the conclusion of the review hearing the licensing sub-committee reviewed the interim steps to determine which interim steps were appropriate for the promotion of the licensing objectives, pursuant to section 53D of the Licensing Act 2003. The sub-committee concluded that these interim steps were appropriate:

To withdraw the interim step to suspend the premises licence.

The Licensing Sub-Committee were satisfied that these modified interim steps are more appropriate and proportionate to promote the licensing objectives to modify the interim steps, as detailed above

The interim steps are open to appeal by:

- a) The chief officer of police for the police area in which the premises is situated;
or
- b) The holder of the premises licence

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.

The meeting ended at 3.03pm.

CHAIR:

DATED: