

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Friday 10 August 2012 at 11.00 am at Room 25, Southwark Learning and Business Centre, Cator Street, London SE15 6AA

PRESENT: Councillor Sunil Chopra (Chair)
Councillor Dora Dixon-Fyle
Councillor Renata Hamvas

OTHERS PRESENT: Barry Craig, representative of licencees
Bithilingham Santhakumar, licencee
Ehaparam Jeyathas, licencee
O. Scharschmidt, local resident supporting premises
Olu Adedokun, local resident supporting premises
Samuel Adam, local resident supporting premises
Milton Clarke, local resident supporting premises
Francis Owuzu, local resident supporting premises

OFFICER SUPPORT: David Paabo, legal officer
Roy Fielding, licensing officer
Dorcas Mills, licensing officer
Bill Masini, trading standards officer

1. APOLOGIES

There were no apologies for absence.

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

There were none.

5. LICENSING ACT 2003 - COMMERCIAL WINE, 266 COMMERCIAL WAY, LONDON SE15 1PU

A petition and letters from members of the public in support of the premises were circulated, following the agreement of all parties.

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

The trading standards officer addressed the sub-committee. Members had questions for the officer.

The representative of Southwark Council as a responsible body addressed the sub-committee. Members had questions for the officer.

The representatives of Commercial Wine addressed the sub-committee. Members had questions for the representatives of Commercial Wine. The trading standards officer and the legal officer also had questions for the representatives of Commercial Wine.

All parties were given five minutes to sum up.

The sub-committee went into closed session at 12.55pm to consider the application.

The meeting resumed at 1.55pm.

RESOLVED:

The council's licensing sub-committee, having had regard to the application by trading standards unit for a review of the premises granted under the Licensing Act 2003 to Bithilingham Santhakumar and Ehaparam Jeyathas in respect of the premises known as Commercial Wine, 266 Commercial Way, London SE15 1PU and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

- suspend the licence for a period of six weeks.

Reasons

This is an application for the review of the above premises licence.

The review has been brought by the trading standards office of the council.

The undisputed evidence is that there were four failings at the premises. Two of these failings relate to the sale of alcohol to 15 year olds in December 2011 and February 2012. The other two failings relate to the sale of alcohol beyond the time permitted on the licence.

The evidence before the sub-committee shows significant failings of the licence holders in

addressing the licensing objectives of the protection of children from harm and the prevention of crime and disorder. In particular, the sub-committee was concerned that alcohol was sold to 15 year old children following letters and site visits from the licensing department of the council to assist the premises in operating within the law.

Some trading standard evidence before the sub-committee was disputed by the licence holder. However, the sub-committee did not need to decide conclusively on matters where the version of events differed. This is because the undisputed evidence showed that the management of the premises failed on a number of occasions to prevent after hour sales and under age sales.

The sub-committee has taken into account the council's statement of licensing policy, which contains detailed information on measures which premises should initiate to prevent underage sales. In particular, the requirement to have in place a strict proof of age compliance scheme, namely Challenge 25. In addition, the sub-committee noted that paragraph 11.29 of the statutory guidance says that underage sales should be treated very seriously.

The sub-committee accepted that the licence holder, in mitigation, has implemented some measures to address the failings, and also that the licence holder has been through a difficult period in relation to his family. Therefore, the sub-committee has not decided to revoke the licence.

The sub-committee has decided that the premises require significant improvement in training and preventing underage sales, in order to meet the licensing objectives. Therefore, the sub-committee has decided to suspend the licence for a period of six weeks. This will enable the licence holder to undertake and implement measures to address the previous failings. The sub-committee considers this decision the most appropriate, proportionate and reasonable.

The sub-committee strongly recommends that a licence holder be present in the store at all times that the store is open. The sub-committee has strong concerns that the second licence holder is rarely on the premises therefore, an additional licence holder may be appropriate. In addition, the sub-committee considers record keeping must be improved in relation to challenged sales. Finally, the sub-committee strongly recommends proper training be undertaken during the period of suspension so that the licence need not be reviewed again.

Appeal rights

This decision is open to appeal by either:

- a) The applicant for the review;
- b) The premises licence holder; or
- 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 chief executive 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 2.00pm.

CHAIR:

DATED: