



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Wednesday 8 October 2014 at 10.00 am at Ground Floor Meeting Room G02B - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Stephanie Cryan
Councillor Dora Dixon-Fyle MBE

OTHERS PRESENT: Waqas Choudhary, applicant
James Rankin, legal representative
Patrick Johnson, legal representative (observing)
Ian Clements, Metropolitan Police Service

OFFICER SUPPORT: Debra Allday, legal officer
Wesley McArthur, licensing officer
Dorcas Mills, licensing officer
Bill Masini, trading standards officer
Raye Morre, trading standards officer
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

There were none.

5. LICENSING ACT 2003: APPLICATION TO TRANSFER THE PREMISES LICENCE ISSUED IN RESPECT OF SUPERWAY EXPRESS, 212 JAMAICA ROAD, LONDON, SE16 4BD

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

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

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

All parties were given five minutes for summing up.

The meeting went into closed session at 11.35am.

The meeting resumed at 12.50pm and the chair read out the decision of the sub-committee.

RESOLVED:

That having considered the objection notices submitted by the Southwark Police Licensing Office relating to the application submitted by Mr. Waqas Amin Choudhary and Mrs Sedra Khan to transfer the premises licence under the Licensing Act 2003 in respect of the premises known as Superway Express, 212 Jamaica Road, London SE16 4BD, the licensing sub-committee has refused the application.

Reasons

The licensing sub-committee have listened very carefully to all of the representations made by all of the parties, in particular the applicant. The sub-committee have also had regard to the DCMS guidance and in particular paragraphs 8.94 and 8.95 and are aware that the police may only make valid representations against the transfer of a licence where truly exceptional circumstances exist.

The licensing sub-committee believe that such circumstances do exist in this case. The sub-committee regard as paramount importance that premises which are permitted to sell alcohol in our borough are operated by people who are properly trained and who understand what the law requires from them. This is particularly so when dealing with premises which are alleged to have been the subject of unlawful activities and which are open 24 hours.

The sub-committee were not satisfied that either Waqas Choudhary or his wife, Mrs Sedra Khan are capable of operating a premises licence for these premises within the confines of the law. The sub-committee noted that there has already been a refusal to Mr Waqas Choudhary by this committee on 30 June 2014 and noted the new documentary evidence submitted by his solicitors with which Mr Choudhary seeks to argue that Shamoan Choudhary took over the running of the premises from March 2012. Even if the sub-committee were to accept that this was the case, it was the duty of Mr Waqas Choudhary

to remove himself from the licence as the DPS. He did not, and as designated premises supervisor (DPS) he was responsible for the actions of those persons working in the shop. It was during this period that the police allege that offences took place. The sub-committee noted that the police alleged that these incidents took place in 2012. Nevertheless, they considered it relevant when determining the question of exceptional circumstances to take into account his conduct when he previously held the position as DPS at these premises.

Furthermore, from the moment that the transfer took place, with immediate effect, into Mr Waqas Choudhary's name on 17 July 2014 he was responsible for activities that took place in the premises from that moment on. What is alleged by the police is that further unlawful activities took place by persons who were working in the premises at the time. The sub-committee also noted that there had been no DPS at these premises for some considerable time and that as a matter of law no sales of alcohol should have taken place.

Mr Waqas Choudhary candidly admitted that sales of alcohol have taken place since 17 July 2014. The sub-committee also noted that visits took place on 8 August 2014 and 15 August 2014 by officers who recorded that there was no personal licence holder on the premises. The sub-committee considered that it would have been a sensible course for Mr Choudhary to have taken to have removed all alcohol from display or at the very least covered it up.

The sub-committee were not satisfied that a small hand written sign, if indeed this was displayed, was sufficient. The sub-committee noted that Mrs Sedra Khan is the wife of Mr Waqas Choudhary and she has recently given birth to a child and that her main responsibilities lie primarily with the child. The sub-committee noted her close relationship and that of her husband to those against whom it is alleged that wrong doing has taken place. By way of example, Mr Iftikhar Ahmed is her uncle. It was also noted that she is untrained and holds no personal licence although it was accepted that this was no bar from the licence being transferred into her name. Nevertheless, it is the sub-committee's view that these are premises which in view of their history require strong management. The sub-committee have not heard from Mrs Khan but what they have heard about her does not lead to the conclusion that the grant of a licence into her name would be appropriate.

The sub-committee considered, therefore, that there were exceptional circumstances relating to this transfer which allow for it to be refused. The sub-committee considered the type of premises, its history and Waqas Choudhary's involvement with them and found this less than satisfactory. The sub-committee did not feel it appropriate that the licence should be transferred into either Mr Waqas Choudhary's name or that of his wife because to do so would undermine the licensing objective of the prevention of crime and disorder.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives. The sub-committee have also had regard to the provisions of the Human Rights Act.

The licensing sub-committee considered that this decision was appropriate and proportionate in order to address the licensing objectives.

Appeal rights

The applicant may appeal against any decision:

- a) To refuse the application to transfer the premises licence
- b) To refuse the application to specify a person as premises supervisor.

Any person who submitted a relevant objection in relation to the application who desire to contend that:

- a) That the application to transfer the premises licence ought not to be been granted or
- b) That the application specify a person as premises supervisor ought not to be been granted

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: NUMBER 1 BAR, (FORMERLY K & F CLUB AND RECENTLY EBONY CLUB) GROUND FLOOR AND BASEMENT, 39-45 CAMBERWELL ROAD, LONDON SE5 0HB

The licensing sub-committee noted that this item had been withdrawn by the applicant.

The meeting ended at 12.58 pm

CHAIR:

DATED: