

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 10 November 2014 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Dora Dixon-Fyle MBE
Councillor Lorraine Lauder MBE

OTHER MEMBERS PRESENT: Asif Ali, applicant, Presco Food and Wine
Anna Ali, applicant, Presco Food and Wine
Graham Hopkins, legal representative
Graham White, Metropolitan Police Service
Donovan Haye, representative from Club Favour
Kamart Pennyfeather, witness for Club Favour
Emeka Osisiona, representative from Club Favour
Fatima Sheriff, applicant, Fanta's Beauty

OFFICER SUPPORT: Debra Allday, legal officer
Cynthia Barrientos, legal officer
Dorcas Mills, licensing officer
Mark Orton, licensing officer
Ray Moore, trading standards officer
Bill Masini, trading standards officer
Farhad Chowdhury, health and safety 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: PRESCO FOOD & WINE, 244 SOUTHWARK PARK ROAD, LONDON SE16 3RN

The licensing officer presented their report. The licensing officer advised that the police and the trading standards officers had requested that additional documentary evidence be placed before the sub-committee. The applicants' representative objected to this under Section 18 of the Licensing Act 2003 (Hearings) Regulations 2005, but were agreeable that both police and trading standards could make oral representations, which was accepted by the police and trading standards.

Members had no questions for the licensing officer.

The applicants addressed the sub-committee. Members had questions for the applicants

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

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

The meeting adjourned at 1.02pm, at the request of the applicants' representative to allow the applicants and their representative time for a private discussion. The meeting resumed at 1.09pm.

The meeting adjourned at 1.21pm, at the request of the applicants' representative to allow the applicants and their representative time for a private discussion. The meeting resumed at 1.26pm. At this point the applicants' representative advised that they were no longer representing the applicants and that the applicants would continue without any representation.

The meeting went into closed session at 11.02am.

The meeting resumed at 12.32pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the application submitted by Anna Ali for the grant of a premises licence issued under the Licensing Act 2003 in respect of 244 Southwark Park Road, SE16 3RN be refused.

Reasons

The police and the trading standards officer requested that additional documentary evidence be placed before the sub-committee. However, the applicant's representatives objected under Section 18 of the Licensing Act 2003 (Hearings) Regulations 2005, but were agreeable that both police and trading standards could make oral representations,

which was accepted by the police and trading standards.

The licensing sub-committee heard evidence from the applicant's representative who informed the sub-committee that the premises was a groceries convenience newsagents that was owned by Yaqoob Khan, the uncle of Mr Ali, the applicant's husband, who owned 12 other such stores. Two previous Temporary event notices (TENs) had been granted without issues, which had been applied for after Mrs Balakrishna, who had surrendered the licence after she was sacked for selling single cigarettes. The application was to reinstate the licence on the same basis as that granted in March 2006.

It was accepted that Mr Ali had drafted the application, and that Mrs Ali had accepted all of the suggested police conditions and that she would work in the shop as an assistant manager. Mr Ali had accepted a simple caution in respect of counterfeit alcohol, which was accepted by him. The applicant's representative highlighted that there were no representations made by local residents or local businesses or from the environmental protection team. The sub-committee enquired as to who would be running the premises on a day to day basis and were informed that it would be Mr Ali and the designated premises supervisor (DPS) and a Mr Michael, who has a personal licence (currently employed at another premises owned by Mr Yakoob Khan). Mrs Ali and a Mr John would be working in the premises when they receive their personal licences. Mrs Ali confirmed that she had completed the personal licence course in June/July 2014 but had yet to apply for her personal licence. When asked about the Challenge 25 obligations she was unable to provide specific details.

The licensing sub-committee heard from the trading standards officer who stated that the applicant, Mrs Ali, was a front for her husband, Mr Asif Ali, who would not be a suitable personal licence holder (or DPS). It was the trading standards officer's belief that the application was a sham in order to circumvent the provisions and the aims of the Licensing Act 2003. All of the documentation had been completed by the applicant's husband and Mr Ali sought to be the DPS. The original application had been rejected because Mr Ali had signed it on behalf of his wife. Two TENs had been granted in the name of Mr Ali, each requesting the sale of alcohol 24 hours per day, seven days per week. A third TENs was rejected following objections from the environmental protection team.

Trading standards went on to give evidence concerning diversion fraud spirits from a shop owned by Yakoob Khan and managed by Mr Asif Ali at Presco, 133-135 Southampton Way SE5 7EW. A quantity of diversion fraud spirits were found at the premises being seven bottles of High Commission Whisky and two bottles of Glenn's Vodka. Mr Ali and Mr Yakoob Khan were interviewed by trading standards on 1 September 2014 who stated that the offending spirits had been bought off of a student. Both Mr Asif Ali and Mr Yakoob Khan accepted simple cautions for these trademarks offences.

Trading standards also stated that in August 2014 a Mrs Balakrishna voluntarily surrendered the old licence after she was forcibly evicted from the premises, after a prolonged campaign of harassment by Mr Ali and that her colleague, Nazim Ali had been assaulted by Mr Asif Ali, in addition to taking cigarettes and money from the till.

Due to a lack of premises licence, no licensable activities were permitted to take place at the premises. On 5 September 2014, a warning letter was hand delivered to the premises, advising of the same. Trading standards returned to the premises on 10 October 2014 and noted that there was alcohol on the shelves but covered with paper bags; the two

people working in the shop stated that Mr Asif Ali was their boss. On 24 October 2014, officers from trading standards and the police attended the premises. One male with a foreign student visa was working in the shop and stated that he was being paid £2.50 per hour/£30 for a 12 hour shift. The sub-committee noted that the employment of a person on a student visa was an immigration offence.

The licensing sub-committee heard from the Metropolitan Police Service representative who stated that their original representation was in response to the application that was before him. However, on 29 October 2014 he received additional information and stated that there were exceptional reasons to refuse the application. The sub-committee were provided with evidence from the police representative of a highly sensitive nature in closed session, in accordance with paragraph 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

When all other parties returned to the room, the police officer stated that the employees of the premises did not control the amount of youths that they had in the shop at any one time and that this was causing serious anti-social behaviour in the area. Furthermore, the premises failed to assist the police in providing CCTV to assist in prosecuting offenders.

On 5 November 2014 armed police were called to the premises in response to a report that a male was seen standing at the doorway of the premises with a gun, walking in and out of the premises. The male was seen waving the gun with both hands on it and pointing it at members of the public. The police arrested the suspect, who was employed by the premises. The gun was in fact a BB gun and in addition to it, a magazine and pellets were found at the premises as well as a baton.

On 6 November 2014 there was a fire at the location and both the police and fire brigade were required to attend. The fire brigade confirmed that a firework, being a rocket that would be used in public displays, had been let off into the shop. The fire brigade noted that the fire exit at the rear of the premises had been padlocked shut and if persons had been in the premises it was unlikely that they would have been able to escape safely.

Mr Ali stated that the gun was a plastic gun and that youths had been aggressive to the employee and that the plastic gun was the same as those of being sold in the shop. He also stated that the pellets were sold separately. Mr Ali stated that he had received a lot of threats as a result of not selling alcohol to young people. Concerning the baton found on the premises, Mr Ali stated that this was Mr John's, which he had in the premises previously.

After a short adjournment, requested by the applicant's representative, the representative withdrew their services. Mr and Mrs Ali advised that they wished to continue with the application without representation. Neither Mr nor Mrs Ali explained the incident that took place on 6 November 2014.

The sub-committee found that this was a sham application and that it was in the name of Mrs Ali only. Mr Ali is a relative of the leaseholder Mr Yakoob Khan. Mr Ali and Mr Khan have accepted cautions in relation to trade marks offences relating to spirits. There are allegations of violence and theft in relation to Mr Asif Ali. The TENs applications were submitted in the name of Mr Asif Ali. Staff at the premises stated in October 2014 that Mr Asif Ali was their boss. If the application is by Mrs Ali, she has exercised poor judgement in appointing Mr Asif Ali as the DPS. Furthermore, she has allowed the payment of staff

substantially below the minimum wage and in breach of immigration laws. The incident on 5 November 2014 involved Mr John, who the applicant originally stated would be on a day to day basis as a personal licence holder. This contention was retracted on the police disclosure of the incident. Finally, the incident on 6 November 2014, which was serious in itself, the fire brigade found that the fire exits were padlocked shut, which potentially was a public safety concern.

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) That 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 on 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: CLUB FAVOUR, (GROUND FLOOR) 512 -516 OLD KENT ROAD, LONDON SE1 5BA

The licensing officer presented their report. The licensing officer advised that the licensing officer representing the council as a responsible authority had submitted an additional representation in support of the review. This was circulated to all parties.

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

The sub-committee viewed CCTV evidence provided by the police.

The representatives from the premises addressed the sub-committee. The representatives from the premises advised that the victim of the incident at the premises was present and would speak as a witness for the premises. Members had questions for the representatives from the premises and their witness.

The meeting went into closed session at 5.05pm.

The meeting resumed at 5.10pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the meeting be adjourned to 3 December 2014 to allow the premises to bring additional CCTV footage and for the police to bring the updated witness statements as evidence for the sub-committee to consider.

7. PART II OF THE LONDON LOCAL AUTHORITIES ACT 1991: FANTA'S BEAUTY, (GROUND FLOOR) 194 WALWORTH ROAD, LONDON SE17 1JJ

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

The applicant addressed the sub-committee. Members had questions for the applicant.

The health and safety officer addressed the sub-committee. Members had questions for the health and safety officer.

Both parties were given five minutes for summing up.

The meeting went into closed session at 6.07pm.

The meeting resumed at 6.55pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the application submitted made by Fatima Sheriff for the grant of a special treatment licence in respect of the premises known as Fanta's Beauty, Ground Floor, 194 Walworth Road, London SE17 1JJ be refused.

Reasons

This was an application submitted by Fatima Sheriff for the grant of a special treatment licence in respect of the premises known as Fanta's Beauty, Ground Floor, 194 Walworth Road, London SE17

The licensing sub-committee heard evidence from the applicant who informed the sub-committee that this was a new application. She advised that she had run a similar premises for around 12 years previously. Following a conviction in May 2014 for health and safety breaches she had improved her practices and provided the relevant certificates for all prospective staff with the application. The applicant submitted that she had made improvements at the premises and had ordered the most up to date sterilisation equipment. The applicant stated that there would be no risk to the public.

The licensing sub-committee heard from the health and safety officer who confirmed that the applicant had been convicted on three counts in relation to health and safety offences. The officer believed that the applicant was not a fit and proper person to hold a licence of

this nature. He referred to 20 complaints from parents and schools regarding underage piercings without parental consent. He advised that after complaints had been made to the council it was difficult to obtain witness statements due to unwillingness to formally assist in prosecution.

The officer contended that the premises had been improperly conducted in the past as members of the public were receiving special treatment from members of staff who were not suitably qualified and approved by the council, which is legally required. He further added that the applicant had provided falsified certificates of qualification to the health and safety team.

Given the history of the applicant, the officer remained concerned that the members of the public would be at risk of harm if a licence were to be granted.

The sub-committee was not satisfied that the applicant had significantly improved her practices. When questioned on procedures regarding ID verification of underage customers the applicant was unable to provide a clear and coherent policy for her and her staff to follow. There was no evidence of staff training either. Members were also concerned that the applicant had listed a named apprentice tattooist on the application form. When questioned on this she denied that she had completed the form and did not know why the named apprentice tattooist was listed. Having heard all of the evidence, the sub-committee did not regard the applicant to be a fit and proper person to hold a special treatment licence and the licensing sub-committee considered that its decision was appropriate and proportionate.

Appeal rights

The applicant may appeal this decision. An application 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 in writing by the licensing authority of the decision appealed against.

The meeting ended at 7.01pm.

CHAIR:

DATED: