



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 14 December 2009 at 10.00 am at Town Hall, Peckham Road, London SE5 8UB

PRESENT: Councillor Mackie Sheik (in the chair)
Councillor Althea Smith
Councillor Sandra Rhule

OTHERS PRESENT: **Sebastian's**
Dave Swaby – Licensing Officer
Alan Blissett – Environmental Protection Officer
Mathew Cullen - Planning Enforcement Officer
Courtney Sebastian Millanaise - Applicant
Cotton George Folkes – Applicant
Timothy Moore - Applicant's Representative
John Brunton - Herne Hill Society 2 Representatives (2nd person not known)
Christina Bell - 89–91 Norwood Road Management Company Representative
PC Paul Compton – Police Representative

Capalina News/Walworth Convenience Store
Dave Franklin – Licensing Officer
Dorcas Mills – Licensing Officer
Paul Gander – Trading Standards Officer

Banana's Bar
Dave Franklin – Licensing Officer
Dorcas Mills – Licensing Officer
Debbie Lawless – Environmental Protection Officer
PC. Paul Compton – Police Representative
Ms Pershard – Local Resident
Candido Rodriques – Applicant
Sandra Da Costa - Applicant's Partner
Mr. Glazebrook – Applicant's Representative

OFFICER SUPPORT: Kate Heap, Legal Officer
Lesley John, Constitutional Officer

1. CONFIRMATION OF VOTING MEMBERS

The three members were confirmed. The members confirmed that Councillor Mackie Sheik would be acting in the chair for this meeting.

2. APOLOGIES

There were none.

3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

The meeting agreed to accept the following in relation to the premises listed below:

- Sebastian's Night Club – A copy of the food menu was circulated at the meeting.
- Banana's Bar – Photographs of the interior and exterior of the property were circulated at the meeting.

Following legal advice the sub-committee declined to accept late evidence from the police and an interested party in relation to Banana's Bar.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003 - SEBASTIAN NIGHT CLUB

The licensing officer highlighted the main points of his report.

The applicants representative presented their case. Members of the sub-committee questioned the applicants and their representative.

The police representative outlined his case. The sub-committee and the applicants representative then questioned the police representative.

The environmental protection officer outlined his case. The sub-committee and a local resident questioned the environmental protection officer.

The planning enforcement officer outlined his case. The sub-committee and the applicants representative then questioned the planning enforcement officer.

One member of the Herne Hill Society and the representative for 89 Norwood Road Management Company outlined their cases as local residents. The sub-committee and the applicants representative then questioned the local residents.

The applicants representative, the police, the environmental protection officer and the local residents then summarised their cases.

At 11.37am all parties were requested to leave the room while the meeting went into

closed session. At 12.45pm all parties were recalled to the meeting and the chair read out the sub-committee's decision:

RESOLVED:

That the licensing sub-committee having considered the written representations contained in the report and oral representations of those present decided that the application be granted and that condition 135 be removed from the licence.

Conditions

In addition to the decision above, the following conditions will apply to the licence.

1. The premises be fitted with non-opening windows as agreed with the council's environmental protection team.
2. The premises be fitted with an air conditioning system which must be in operation at all times that the premises are open to the public.
3. The premises be fitted with an enclosed entrance lobby with an inner and an outer door.
4. The entrance lobby is to be manned in accordance with condition 791 at all times that the premises are open to the public to ensure that both lobby doors are not open at the same time.
5. A sound limiter is to be installed, set and maintained at all times as directed by the council's environmental protection team.
6. The internal lights will be turned up to a level agreed with the council's environmental protection team thirty minutes before closing.
7. Prominent notices will be displayed at all times on the exterior of the premises, in the entrance lobby and in the restaurant/bar requesting customers leave the premises quietly and travel away from the area quietly.
8. Door staff will limit to five the number of smokers permitted to remain outside the premises at any one time.
9. Entry will be refused to any person behaving in a disorderly manner outside the premises.

Reasons

The licensing sub-committee considered that the additional conditions were both necessary and proportionate in order to meet the four licensing objectives, in particular the prevention of public nuisance.

ADJOURNMENT

At 12.50pm the meeting adjourned for a comfort break, reconvening at 1.25pm.

6. LICENSING ACT 2003 - BANANA'S BAR, 374 WALWORTH ROAD, LONDON SE17

The licensing officer presented his case. The applicant's representative and the sub-committee questioned the licensing officer.

The applicant's representative outlined his case. The sub-committee, the police representative and the environmental protection officer questioned the applicant and his representative.

The police representative presented his case. The applicant's representative and the sub-committee asked questions of the police representative.

The environmental protection officer outlined her case. The sub-committee and the applicant's representative asked questions of the environmental protection officer.

A local resident outlined her case. The sub-committee and the applicant's representative asked questions of the local resident.

The applicant's representative, the police and the local resident summarised their cases.

At 3.25pm all parties were requested to leave the room while the meeting went into closed session. At 3.48pm all parties were recalled to the meeting and the chair read out the sub-committee's decision:

RESOLVED:

That the application by Candido Rodrigues for a variation of premises licence in respect of the premises known as Banana's Bar, 374 Walworth Road, London SE17 be refused.

Reasons

The licensing sub-committee considered the written representations contained in the report and the oral representations of PC Compton, Debbie Lawless and Ms Pershard, in addition to hearing the oral report of David Franklin. The licensing sub-committee did not receive late documentation other than photographs, following objections from Mr. Glazebrook on behalf of the applicant. The licensing sub-committee heard representations from Mr. Glazebrook on behalf of the applicant.

The licensing sub-committee was satisfied that the applicant had not to date managed the premises having regard to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. The licensing sub-committee noted that a Noise Abatement Notice was served on 12 July 2009 and was breached on 31 August 2009. The applicant did not appeal but paid the fixed penalty notice. The licensing sub-committee noted that despite counter-notices being served in respect of temporary event notice applications for the weekends of 4/5 December and 11/12 December 2009 the applicant operated outside licensing hours on those dates. In all the circumstances the licensing sub-committee concluded that it was necessary and proportionate, having regard to the licensing objectives, to refuse the application.

Appeal rights

The applicant may appeal against any decision to modify the conditions of the licence; and

Any person who made relevant representations in relation to the application who desire to contend that

- a) That variation ought not to have been made; or
- b) That, when varying the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way.

May appeal against the decision

Any appeal must be made to the magistrate court for the petty sessions area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' chief executive 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.

7. REGISTRATION UNDER THE MANUFACTURE AND STORAGE OF EXPLOSIVES REGULATIONS 2005: 365 WALWORTH ROAD, LONDON SE17 2AL

The licensing officer outlined his case. The licensing officer informed the sub-committee that the licensee would not be attending. The licensing officer had contacted the licensee to confirm this.

The sub-committee agreed to consider the revocation in the applicant's absence.

The trading standards officer outlined his case.

The licensing officer and trading standards officer summarised their cases.

At 1.40pm all parties were requested to leave the room while the meeting went into closed session. At 1.48pm all parties were recalled to the meeting and the chair read out the sub-committee's decision:

RESOLVED:

That the registration issued under the Manufacture and Storage of Explosives Regulations 2005 granted to Capalina News/Walworth Convenience Store, situated at 365 Walworth Road SE17 2AL, be revoked.

Reasons

The reasons for this decision are as follows:

The licensing sub-committee revoked the registration in respect of 365 Walworth Road.

The licensing sub-committee was satisfied that the applicant was aware of today's hearing and had chosen not to attend.

The licensing sub-committee heard from David Franklin, Dorcas Mills and Paul Gander, trading standards officer. The licensing sub-committee was satisfied by the evidence of Paul Gander and concluded that Mr. Sivaguru Sivaruban, the registration holder, was not a fit person to store explosives.

Appeal rights

A person may appeal to the Secretary of State against a decision of a licensing authority to refuse to register him or to revoke his registration and the provisions of section 44(2) to (6) of the 1974 Act (appeals in connection with licensing provisions) shall apply in respect of any such appeal.

The meeting closed at 3.50pm.

CHAIR:

DATED: