

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 14 March 2016 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Sunil Chopra
Councillor Tom Flynn

OTHERS PRESENT: Imran Shah, applicant for Payless
Robert Jordan, licensing agent for Payless
David Lockwood, applicant for Neal's Yard
Cydia West, applicant for Neal's Yard Dairy
Carlos Delgado, premises user, Tropical
Shankar P Sivashankar, licensing agent for Tropical

OFFICER SUPPORT: Debra Allday, legal officer
Wesley McArthur, licensing officer
Jayne Tear, licensing officer as a responsible authority
Bill Masini, trading standards officer
Mark Prickett, environmental protection 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

The chair advised that item 7, Licensing Act 2003: Tropical, 186-188 Old Kent Road, London SE1 5TY - Temporary Event Notice, would be considered as urgent.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: PAYLESS, 94-96 PECKHAM ROAD, LONDON SE15 5PY

The licensing officer advised that all parties had conciliated prior to the meeting but not within one clear working day of the meeting. Therefore the sub-committee would have to determine if they were satisfied with the conciliated agreement. The licensing officer outlined the conditions agreed between the applicant and the responsible authorities.

The police, the trading standards officer, the environmental protection officer, the environmental protection officer, the licensing officer representing the council as a responsible authority and the applicant all confirmed that they were satisfied with the conciliated conditions.

The members of the sub-committee confirmed that they were satisfied with the conciliated conditions. The chair advised that the licence was granted subject to the inclusion of the conciliated conditions and that the notice of decision would be circulated to all parties following the meeting.

RESOLVED:

That the application by Imran Shah for a grant of a Premises Licence issued under the Licensing Act 2003 in respect of Payless, 94-96 Peckham Road, London SE15 5PY is granted as follows:

Licensable Activity	Hours
Sale and supply of alcohol (off the premises)	Monday to Sunday between 06:30 and 00:00 the following day
Operating Hours	Sunday to Thursday between 6:30 and 02:00 the following day Friday and Saturday between 06:30 and 03.00 the following day

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in Section M of the application form, the conditions conciliated with the environmental protection team and the police during the conciliation process and the following conditions agreed by the licensing sub-committee:

1. That a CCTV system 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.

2. That all CCTV footage shall be kept for a period of 31 days and shall be made immediately available to officers of the police and the council on request.
3. That no beers / ciders in single cans, bottles or multi-packs with an ABV of above 6.5% will be displayed / sold or offered for sale from the premises, unless prior written permission is obtained from Southwark Police Licensing Office. Such permission must be kept at the premises and be made available immediately on request to officers of the police or council
4. That no alcohol shall be displayed or stored within 1 metre of the entrance door.
5. That all staff shall be trained in their responsibilities under the Licensing Act 2003 and training records pertaining to such training shall be kept and be updated every 6 months. The training records shall be made immediately available to officers of the police and the council upon request.
6. That a personal licence holder shall be on the premises at all times after 20:00 when intoxicating liquor is being offered for sale.
7. That condition 4AI be amended to read "That a register of refused sales of alcohol shall be maintained in order to demonstrate effective operation of the policy. The register shall include the premises name and address on the front cover and shall be available for inspection at the premises on request by council authorised officers or the police."

Reasons

The reasons for the decision are as follows:

The licensing officer advised that all responsible authorities had conciliated with the applicant. This was confirmed.

The licensing sub-committee were satisfied that the hours and conditions agreed during conciliation were appropriate and proportionate in order to address the licensing objectives. The sub-committee have determined that this licence shall not have effect until licence number 845109 is surrendered by the applicant. The applicant agreed that licence 845109 will be surrendered within seven days of this notice of decision.

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: NEAL'S YARD DAIRY LIMITED, 6-8 PARK STREET, LONDON SE1 9AB

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

Both parties were given five minutes for summing up.

The meeting went into closed session at 10.45am.

The meeting resumed as 11.01am as the members had additional questions for the applicant.

The meeting went into closed session at 11.07am

The meeting resumed at 11.24am and the chair advised that the licence had been granted. The chair advised that the notice of decision would be sent to all parties following the meeting.

RESOLVED:

That the application by Neal's Yard Dairy Limited for a grant of a Premises Licence issued under the Licensing Act 2003 in respect of Neal's Yard Dairy, 6-8 Park Street, London SE1 9 AB is granted as follows:

Licensable Activity	Hours
Sale and supply of alcohol (on the premises)	Monday to Friday from 18:00 to 22:30 Saturday from 12:00 to 22:30
Opening hours	Monday to Friday from 09:00 to 22:30 Saturday from 12:00 to 22:30

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions and conditions derived from the operation schedule highlighted in Section M of the application form.

Reasons

The reasons for the decision are as follows:

The applicant informed the sub-committee that the premises was located on Park Street on the edge of Borough Market and retails cheese and other dairy products. They planned to run pre-arranged ticketed events which would be sold in advance to a maximum of 30 people. Each event would last up to three hours and on all such occasions, alcohol would be supplied for consumption on the premises, in small volumes to compliment the cheeses. During these events the premises would be closed to the general public who did not have a ticket. At no stage will alcohol be served in unlimited quantities, at most the equivalent of approximately two small glasses of wine. The applicant accepted that the premises was in a cumulative impact zone but felt that the extremely niche and limited market that this premises attracted did not justify the need for a CCTV system.

The licensing sub-committee noted that the ward councillor had conciliated with the applicant.

The licensing sub-committee heard from the Metropolitan Police Service representative who emphasised that the premises was in a a cumulative impact zone and directed members to the council's statement of licensing policy 2015-20, which recommends that licensed premises install a CCTV system. The police also felt that the CCTV would be beneficial for the premises' own security. However, the police conceded that due to the nature of the planned events there was a smaller risk of impact on crime and disorder in the area but there still remained a risk.

The licensing sub-committee accepted that the premises is situated in a cumulative impact zone and that it was a matter for the applicant to rebut the presumption for refusing an application. However, the sub-committee were referred to paragraphs 140 and 141 of the council's statement of licensing policy 2015-20 and considered that the premises would have no negative impact because: the size of the premises, that it would cease operating before midnight, the premises is not alcohol led and operates during the daytime economy, the tight limit on alcohol being supplied only when there are ticketed events with a maximum number of 30 and finally this was a niche food led business in a food led area. On this basis the sub-committee saw no reasons to impose CCTV conditions.

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.

7. LICENSING ACT 2003: TROPICAL, 186-188 OLD KENT ROAD, LONDON SE1 5TY - TEMPORARY EVENT NOTICE

The licensing officer presented their report. Members had questions for the licensing officer.

The premises user and their representative addressed the sub-committee. Members had questions for the premises user and their representative.

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

The environmental protection officer addressed the sub-committee. Members had questions for the environmental protection officer.

All parties were given five minutes for summing up.

The meeting went into closed session at 12.18pm.

The meeting resumed at 12.59am. As none of the parties were present the chair did not read out the decision.

RESOLVED:

That a counter notice be issued under Section 105 of the Licensing Act 2003 in respect of a temporary event notice (TEN) served by Mr Carlos Fernando Delgado Armijos in regards to an event to be held at Tropical 186-188 Old Kent Road, London SE1 5TY between 20:00 on 25 March 2016 and 03:30 on 26 March 2016.

Reasons

This was a temporary event notice given by the premises user, Mr Carlos Fernando Delgado Armijos, in regards to an event to be held at Tropical 186-188 Old Kent Road, London SE1 5TY between 20:00 on 25 March 2016 and 03:30 on 26 March 2016.

The sub-committee heard from the premises user and their representative who advised that contrary to the application stating that the premises user was seeking two TENs on 25 and 26 March, it was in fact for one event starting at 20.00 on 25 March 2016 and ending at 03.30 on 26 March 2016. The premises had held four previous TENs since the premises user had taken over the licence in May 2015 and there had been no objections from the police. Concerning the issues raised by the responsible authorities, none of these had taken place whilst a TEN had been in operation. Furthermore, the representative for the premises user contended that the two closure notices issued by the police had been served incorrectly.

The sub-committee heard from the Metropolitan Police Service representative who objected to the TEN. The police had been monitoring the premises due to previous instances, breaches of the premises licence and problems relating to the operation of the venue. On 6 December 2015 at approximately 02.15 officers attended the premises and found a male outside the premises extremely intoxicated. The premises were in breach of their licence as no TEN was in place and the premises were open more than 2 hours beyond the terminal hour. A Section 19 Closure Notice was therefore issued. On 3 January 2016, at 03.15, officers visited the premises and found a number of people inside drinking alcohol and music being played. A further Section 19 Closure Notice was issued. The police advised that they did not have faith in the management of the premises to run this event.

The sub-committee heard from the council's environmental protection officer who amplified the police's position. They added that the premises user attended an interview under caution and had admitted the offence that took place on 3 January 2016. As a result the environmental protection team had concerns over the effectiveness of the premises management and that granting the TEN to allow operation until 3.30 could potentially cause public nuisance.

Given that the premises user's licence was transferred on 11 May 2015 and that a licensing unit induction took place on 17 June 2015, during which the licence and conditions were explained, including opening and closing hours, the licensing sub-committee are somewhat concerned of the number of breaches and non-compliance that have taken place. On two occasions police closure notices have been served. An interview under caution took place on 18 February 2016 and the premises user admitted a criminal offence. It was also noted that the TEN application was due to start at 20.00 on 25 March 2016 at which time the premises licence would be operational up to 00.00. Therefore, if the TEN were granted, it would circumvent the conditions attached to the premises licence. Due to the very recent non-compliance of the licence, the sub-committee determine to issue a counter notice.

In reaching this decision the sub-committee had regard to all the relevant considerations and the licensing objectives and felt that this was an appropriate and proportionate decision in order to address the licensing objectives.

Appeal rights

Where the relevant counter notice under Section 105(3) is given the premises user may appeal against the decision. Where counter notice is not given, the chief officer of police or the environmental protection team may appeal against that decision. The appeal must be made to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against. No appeal may be brought later than five working days before the day on which the event begins.

Meeting ended at 1.00 pm

CHAIR:

DATED: