

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 10 June 2021 at 10.00 am at Online/Virtual: please contact andrew.weir@southwark.gov.uk for a link to the meeting and the instructions for joining the online meeting

PRESENT:	Councillor Sunny Lambe (Chair) Councillor Sunil Chopra Councillor Charlie Smith
OFFICER SUPPORT:	Debra Allday, legal officer Andrew Heron, licensing officer Justin Miller, trading standards officer David Franklin, licensing responsible authority officer P.C. Ian Clements, Metropolitan Police Service P.C. Mark Lynch, Metropolitan Police Service P.C. Jonathan Ducker, Metropolitan Police Service Andrew Weir, constitutional officer

1. ELECTION OF CHAIR

Councillor Sunil Chopra nominated Councillor Sunny Lambe to chair the meeting. This was seconded by Councillor Charlie Smith.

2. APOLOGIES

This was a virtual licensing sub-committee meeting.

The chair explained to the participants and observers how the virtual meeting would run. Everyone then introduced themselves.

There were no apologies for absence.

3. CONFIRMATION OF VOTING MEMBERS

The voting members were confirmed verbally, one at a time.

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

There were no late and urgent items of business.

The chair advised that the order of business would be varied to hear item 8 before item 7.

5. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

6. LICENSING ACT 2003: ST GEORGES TAVERN, 14 COLEMAN ROAD, LONDON SE5 7TG - PREMISES LICENCE TRANSFER

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 officer objecting to the application addressed the sub-committee. They also called upon two of their colleagues from the Metropolitan Police Service and a trading standards officer as witnesses. Members had questions for the police officer and their witnesses.

The licensing sub-committee noted the written representations from the local resident objectors, who were not present at the meeting.

The applicant was given five minutes for summing up.

The meeting adjourned at 11.11am for the sub-committee to consider its decision.

The meeting reconvened at 11.40am and the chair advised everyone of the decision.

RESOLVED:

The licensing sub-committee having considered the objection notice submitted by the Southwark Police Licensing Office relating to the application submitted by Mr Charles John Cleary to transfer a premises licence under section 42 of the

Licensing Act 2003 in respect of the premises known as St Georges Tavern, 14 Coleman Road, London SE5 7TG has refused the transfer application.

Reasons

This was an application made by Mr Charles John Cleary to transfer a premises licence under the Licensing Act 2003 in respect of Georges Tavern, 14 Coleman Road, London SE5 7TG.

The licensing sub-committee heard from the applicant who advised that he had agreed a 10 year lease for the premises and that he had signed a memorandum in connection with it. The applicant said that he was aware there had been issues with the pub but was coming in afresh. He was likely to refurbish the premises. He had managed pubs since 2005 and there was no black marks against him and always kept a good pub.

The licensing sub-committee then heard from the Metropolitan Police Service officer who objected to the transfer application. They advised that the premises licence held by Mr Patrick Holland was subject to a premises licence review submitted by Southwark's trading standards. The review had been submitted on 15 April 2021. The transfer application had been received on 7 May 2021 and an application to vary the designated premises supervisor to Declan Sweeney had been received on 6 May 2021. The police objected to this transfer of the premises licence as it appeared to an attempt by the current premises licence holder to circumvent the natural course of the review process.

The applicant had provided no documentary proof of the transfer of the business and/or the lawful occupancy of the premises, which supported the police's objection. Furthermore, the proposed DPS (Declan Sweeney) had been present and working at the premises when they were visited by officers when breaches of the premises licence and COVID-19 regulations had been witnessed. The police called on colleagues from the police in addition to trading standards as witnesses, both of whom were able to confirm Mr Sweeney's presence in the pub when breaches of the premises licence and COVID regulations had taken place.

In the discussion section of the hearing, the applicant was asked about the licensing objectives. The applicant was also asked about Challenge 25. Unfortunately, the applicant failed to demonstrate that he had a good command of licensing, stating that he had heard of the licensing objectives, but unable to name any of the four objectives. Instead the applicant spoke of pub watch and that he would train staff how to run a pub. Concerning Challenge 25, the Applicant simply said that under 25's would not be allowed in the pub.

Southwark's Statement of Licensing Policy makes reference to transfer applications following a premises licence review being submitted:

"98. This authority is concerned over the frequently observed practice of an application for a transfer of a premises licence being made following an

application for a review of that same licence being lodged.

99. Where, such applications are made, this authority will require documented proof of transfer of the business / lawful occupancy of the premises, to the new proposed licence holder to support the contention that the business is now under new management control”.

With the lack of any documentary evidence relating to the transfer of the business and/or the lawful occupancy of the premises together with the Applicant’s lack of working knowledge of licensing law, the Licensing Sub-Committee felt they had no alternative but to refuse the application.

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 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.

7. LICENSING ACT 2003: ST GEORGES TAVERN, 14 COLEMAN ROAD, LONDON SE5 7TG - VARIATION OF DESIGNATED PREMISES SUPERVISOR

The licensing officer presented their report. The licensing officer advised that he had spoken to the proposed designated premises supervisor (DPS) and that they had advised that they did not wish to be the designated premises supervisor. Members had no questions for the licensing officer.

The Metropolitan Police Service officer, objecting to the DPS variation addressed the sub-committee. Members had questions for the police officer.

The police officer had nothing to add in summing up.

The meeting adjourned at 12.49pm for the sub-committee to consider its decision.

The meeting reconvened at 12.57pm and the chair advised everyone present of the decision.

RESOLVED:

That the licensing sub-sommittee having considered the objection notice submitted by the Southwark Police Licensing Office relating to the application submitted by Patrick Holland to vary the designated premises supervisor (DPS) to Declan Sweeney in respect of the premises known as St Georges Tavern, 14 Coleman Road, London SE5 7TG has refused the application.

Reasons

This was an application made by the licence holder, Patrick Holland to vary the designated premises supervisor (DPS) in respect of the premises St Georges Tavern, 14 Coleman Road, London SE5 7TG.

The licensing sub-committee heard from the licensing officer who informed the members that on, or around, 1 June 2021 the premises licence holder had written to the licensing Authority in a letter dated 26 May 2021 advising:

“I am writing to inform you that I will not be in attendance at the licence hearing on June 10 2021.

My role at the premises is now over. I have not renewed my lease for the rental and it has been reassigned. I am not able to manage a premises in the current situation and due to my own personal circumstances being out of the country”.

The licensing officer also informed the sub-committee that they had also heard from Declan Sweeney, the proposed DPS, who had been present during the earlier transfer of the premises licence application, which the sub-committee had determined to refuse.

Mr Sweeney had advised the licensing officer that he no longer wished to pursue the application. Because the application had been made by the licensee, it was for the licensee to withdraw the application. Similarly, because the proposed DPS had only just advised the licensing officer that he no longer wished to pursue the application and notice had been given less than 24 hours before the hearing, under regulation 10 of the the Licensing Act 2003 (Hearings) Regulations 2005, Mr Sweeney would be required to orally inform the sub-committee himself.

The licensing sub-committee heard from the Metropolitan Police Service officer who opposed the application. The premises licence was subject to a review submitted by Southwark's trading standards team. The review of the premises licence was submitted by trading standards on 15 April 2021. The DPS variation made by the licensee was received on 5 May, followed by a transfer application on 7 May 2021. The licensee's consent to transfer was signed and dated by the licensee on 27 April 2021 (12 days after the review application). The police were of the view that as of 27 April, the licensee intended to transfer the premises licence and therefore no longer responsible for that premises. He then submitted the transfer and DPS change on 5 May and 7 May respectively.

If the licensing sub-committee were not minded to refuse the application on these grounds, the police advised that the proposed DPS had been present and working at the premises at times when officers visited the premises and found it to be operating in breach of the premises licence as well as offences in relation to the smoke free legislation. Every person working at a licensed premises authorised to sell alcohol should be aware of their responsibilities under the licensing act and health and safety legislation.

The Southwark trading standards officer was called as a witness for the police and concurred with the police regarding breaches of premises licence and the breaches in smoke free legislation and the COVID-19 legislation. The police requested that the sub-committee refuse the application.

The licensing sub-committee, having heard the evidence from the police and their witness from trading standards, in addition to the preamble from the licensing officer, found there was exceptional grounds to refuse the application.

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 the decision to refuse the designated premises supervisor transfer application

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.

8. LICENSING ACT 2003: ST GEORGES TAVERN, 14 COLEMAN ROAD, LONDON SE5 7TG - REVIEW

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

The trading standards officer, representing the trading standards officer who had submitted the review, addressed the sub-committee. Members had questions for the trading standards officer.

The licensing responsible authority officer, supporting the review, addressed the sub-committee. Members had questions for the licensing responsible authority officer.

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

It was noted that nobody representing the premises was in attendance.

All parties were given five minutes for summing up.

The meeting adjourned at 12.26pm for the sub-committee to consider its decision.

The meeting reconvened at 12.39pm and the chair advised everyone of the decision.

RESOLVED:

That the council's licensing sub-committee, having considered an application made under Section 51 of the Licensing Act 2003 by trading standards for the review of the premises licence issued in respect of the premises known as St Georges Tavern, 14 Coleman Road, London SE5 7TG having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to revoke the licence.

Reasons

This was an application submitted by Southwark's trading standards team (in their role as a responsible authority) made under Section 51 of the Licensing Act 2003 for the review of the premises licence held by Patrick Holland in respect of the premises known as St Georges Tavern, 14 Coleman Road, London SE5 7TG

The licensing sub-committee heard from the licensing officer who informed the members that on or around 1 June 2021 the premises licence holder had written to the licensing authority in a letter dated 26 May 2021 advising:

"I am writing to inform you that I will not be in attendance at the licence hearing on June 10 2021.

My role at the premises is now over. I have not renewed my lease for the rental and it has been reassigned. I am not able to manage a premises in the current situation and due to my own personal circumstances being out of the country”.

No one was in attendance representing the premises, nor was there anyone in attendance as an interested party be it a brewery or freeholder.

The licensing sub-committee then heard from the applicant for the review, an officer from Southwark’s trading standards team, who advised that on 2 October 2020 trading standards were conducting a visit at the premises at 21:25 hours with officers from the police night time economy team.

The front door to the premises was locked with a security gate across. The officers went to the side entrance which was also not accessible but the person in charge at the time opened it and let them in. The person in charge was the father of the designated premises supervisors (DPS). Customers were inside the premises seated including a long line of customers around the bar. The COVID-19 legislation at this time required seated table service, meaning customers were prohibited from sitting at the bar, contrary to COVID-19 legislation. It was made clear to the person in charge that customers had to vacate the premises by 22:00 hours as required by the COVID-19 legislation.

The officer for trading standards who attended on 2 October 2020 spoke with the individual in charge of the premises, who stated that a licensing administrative officer had stated that it was okay for the DPS’s father to run the pub for a couple of weeks while the DPS moved house. The licensing administrative officer subsequently confirmed that this was not the case.

There was no personal license holder present, contrary to condition 836 of the premises licence (That a personal licence holder be on the premises at all times that intoxicating liquor is sold or supplied).

The male serving behind the bar had not completed the personal licence exams. This was contrary to condition 840 of the premises licence (That all staff concerned with the supply of intoxicating liquor undergo a recognised training scheme for such duties and a record of such training is kept and made available for inspection, on request, to officers of the police or council).

Two rooms at the back of the premises were being used by customers to smoke. This was in breach of the Health Act 2006.

As a result of the breaches found on 2 October 2020, the police issued a Section 19 Criminal Justice and Police Act 2001 Closure Notice.

Officers returned to the premises on 24 October 2020 at 22:20 hours and found blackout boards had been placed across the windows. People could be heard

inside. The police banged on the door to open up and they were let in. The premises was found to be in breach of the COVID-19 regulations. It was full of customers and there was no social distancing at the bar. In addition, the premises were operating beyond the 22:00 curfew and there were no signs that the premises was in the process of closing. Staff were found not to be wearing masks again and there was no seated table service. Customers were also found smoking at the bar, in breach of the Health Act 2006.

As a result of these breaches a Prohibition Notice was issued to the premises that it was not to re-open until they were operating in a COVID secure way.

Attempts were made to discuss the matter with both the premises licence holder and the DPS, neither of which engaged with trading standards again.

On 21 February 2021, trading Standards and the police night time economy team attended the premises visited and heard people inside, and the doors locked. Because no one would open the door, Police were required to break down the door. People were found hiding in the kitchen. People were also drinking on the premises in breach of Regulation 8 and Part 3 of Schedule 3A, paragraph 11(1) Public Health (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020. A fixed penalty notice was issued, in respect of these breaches on 18 March 2021.

The licensing sub-committee then heard from the Metropolitan Police officer, who supported the review of the premises licence by trading standards. The police officer concurred with the evidence provided by trading standards that the premises had been operating on a number of occasions in breach of the premises licence, in contravention of the Health Protection Coronavirus regulations 2020 and Health Act 2006 concerning the smoking inside the premises. On the grounds of the prevention of crime and disorder licensing objective, the police recommended to the sub-committee that the premises licence should be revoked.

The licensing as a responsible authority officer also gave evidence to the licensing sub-committee, who also concurred with the evidence of trading standards. The officer also stated that he had no confidence in the current management, premises licence holder or DPS and similarly requested that premises licence be revoked.

The licensing sub-committee noted the letter in support of the premises from one other person who was not present at the meeting.

All attempts of engagement with the licensee and DPS by trading standards, the police and the licensing authority were not heeded and this licensing sub-committee are concerned as to who is in charge and running the premises.

There have been flagrant breaches of the premises licence, Health Act 2006 and the COVID-19 legislation. The breaches have taken place at a time when there is a global pandemic, putting staff of the premises, customers, general public including officers at serious risk. This sub-committee has several options available to it in dealing with the premises licence and are obliged to take the most appropriate and

proportionate course of action.

Given the level and serious of the breaches, the lack of any engagement from the premises and the fact that no one has attended from the premises, the licensing sub-committee unanimously agree to revoke the premises licence.

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

This decision is open to appeal by either:

- a) The applicant for the review
- b) The premises licence holder
- 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' clerk 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 1.00pm.

CHAIR:

DATED: