



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 22 July 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 Ian Wingfield (Chair)
Councillor Sunny Lambe
Councillor Lorraine Lauder MBE (Reserve)

OFFICER SUPPORT: Debra Allday, legal officer
Wesley McArthur, licensing officer
Ray Moore, trading standards officer
Paul Newman, environmental protection officer
Jayne Tear, licensing responsible authority officer
P.C. Graham White, Metropolitan Police Service
Andrew Weir, constitutional officer.

1. ELECTION OF CHAIR

Councillor Lorraine Lauder MBE nominated Councillor Ian Wingfield to chair the meeting. This was seconded by Councillor Sunny Lambe.

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.

Apologies were received from Councillor Sandra Rhule. Councillor Lorraine Lauder MBE was in attendance as the reserve member.

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.

5. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

6. LICENSING ACT 2003: PECKHAM FOOD AND WINE, 176 PECKHAM HIGH STREET, PECKHAM, LONDON SE15 5EG

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

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

The meeting adjourned at 10.30am to allow all parties time to view the applicant's lease for the premises. The meeting reconvened at 10.45am.

The meeting then adjourned from 10.45am as Councillor Lauder had technical issues and was unable to re-join the meeting. The meeting reconvened at 11.10am, once the technical issues had been resolved.

Following further questioning, the meeting then adjourned at 11.15am to allow the applicant time to provide pages that were missing from the lease for the premises. The meeting reconvened at 11.28am. Members then had further questions for the applicant and their agent.

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

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

The trading standards officer addressed the sub-committee. Members had no questions for the trading standards officer.

The environmental protection officer addressed the sub-committee. Members had no questions for the environmental protection officer.

All parties were given up to five minutes for summing up.

The meeting adjourned at 12.12pm for the sub-committee to consider its decision.

The meeting reconvened at 12.28pm and the chair advised everyone of the decision.

RESOLVED:

That the application made by Mr. Abdul Aziz Umer for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Peckham Food and Wine, 176 Peckham High Street, London SE15 5EG be refused.

Reasons

This was an application made by Mr. Abdul Aziz Umer for a premises licence to be granted under section 17 of the Licensing Act 2003 in respect of the premises known as Peckham Food and Wine, 176 Peckham High Street, London SE15 5EG.

The licensing sub-committee heard from the applicant's representative who advised that the premises was a convenience shop. They advised that the applicant had accepted most of the conditions and reduced the hours sought to 00:00. They added that they would consider any further recommended conditions.

They informed the sub-committee that the business had been affected by the pandemic and trade had reduced by 55%. It was vital that an alcohol licence be granted, increasing the walk-in trade and the business' profit margin. Without licence the business would become insolvent. Already, customers would leave and not return when informed that the premises does not sell alcohol. There were two shops opposite the premises, both of which have licences until 00:00. The applicant stated that there were no other shops near the premises.

The applicant understood and appreciated that the premises was in a cumulative impact area (CIA) and recognised that there were problems with the suppliers and illegal workers at the premises pre-2017, stating that he didn't know the previous owners/licence holder. If a licence was granted, purchases would be made only at "authentic suppliers". When asked by the chair of the sub-committee, the applicant was surprised, but acknowledged one of the parties to the licence to assign was the same as that referred to in paragraph 28 in the report, but the applicant didn't know him; he was just a name on the lease.

The licensing sub-committee heard from the Metropolitan Police Service officer whose representation related to the prevention of crime and disorder licensing objective. They advised that premises was in the Peckham cumulative impact area where there was already a considerable amount of licensed premises including a high number of off-licences. Peckham had a large problem of street

drinking and alcohol abuse and the associated crime and disorder.

The police officer was of the view that the applicant had failed to address the cumulative impact in any way within the application and the conditions detailed in the operating schedule were minimal. The premises was owned by the council and a lease agreement was in place with the director of Peckham Food and Wine Limited in 2017. The land registry search showed the premises had been sub-leased to the applicant, suggesting the previous licence holder still had a controlling interest in the premises. If the licence was granted, the previous management could reclaim the use of the premises and circumvent the revocation and appeals process.

The Metropolitan Police Service officer objected to the granting of the licence in its entirety and stated any further premises selling alcohol would only add to the cumulative impact, attract further alcohol dependence and increase crime and disorder.

The licensing sub-committee heard from the officer from trading standards whose representation was made in respect all four of the licensing objectives. The officer advised that he visited the premises with officers from the night time economy team on 21 May 2021 and spoke with the applicant, who was at the shop.

The applicant showed the officer some documents on his phone including a license to assign, dated 28 January 2020, which assigned the lease to Mr Muhammad Hayat Balouch. The applicant advised the business was owned by A & M Local Store Ltd and that Mr Muhammad Hayat Balouch was the director of that company; the applicant was the manager of the premises and he was in the process of applying for a personal license.

The applicant also showed the officer an application for a COVID business grant for A & M Local Store Limited addressed to Mr Aziz Balouch. When asked, the applicant stated that he was Aziz Balouch. The applicant then produced a DBS certificate which gave three further aliases and stated that the reason for changing his name was religious. In addition to this, trading standards objected to the application as the premises was in the Peckham cumulative impact area and there was a presumption that new license applications should be refused on the basis that the area was already saturated.

The licensing sub-committee then heard from the officer from licensing as a responsible authority who advised that the premise was situated within the Peckham cumulative impact area. Paragraph 131 of Southwark's statement of licensing policy was a rebuttable presumption that applications for new premises licences would add to the existing cumulative impact and should be refused. It was for the applicant to demonstrate that the application would not contribute to the negative local cumulative impact on any of the licensing objectives. The licensing responsible authority officer was of the view that the applicant had not addressed the presumption in his application and therefore recommended that the application be refused.

The licensing sub-committee then heard from the officer from the council's environmental protection team who also stated that any increase in alcohol sales in the already saturated cumulative impact area was likely to contribute to a cumulative impact on public nuisance from street drinking, drunkenness, street fouling, and rowdy conduct in the street, particularly during the night and late evening. The application had not addressed the potential cumulative impact of the proposed licence, nor given any compelling reason, nor any reason at all, why this premises should be considered an exception to the cumulative impact policy.

The licensing sub-committee was informed that the premise had been a problem premises that was subject to a review by trading standards in 2017 when the licence was revoked. Despite this, the applicant failed to address the concerns raised by the responsible authorities either during the application's consultation period, or in the meeting. The sub-committee was unhappy that neither of the directors of A & M Local Store Ltd were in attendance at the meeting, especially when concerns had been raised of one of the assignees to the licence to assign having had previous dealings with the premises.

The applicant also failed to rebut the presumption to refuse this premises licence application. The sub-committee were referred to R (on the application of Westminster City Council) -v- Middlesex Crown Court [2002] EWHC 1104 in which HHJ Baker determined "...a licence could be refused on the sole ground that the area was already saturated with licence premises....and the cumulative effect of the existing premises was impacting adversely on the area to an unacceptable level". Since the premise is located in the Peckham CIA, this application is refused.

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 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: SUGO, 21 SAYER STREET, LONDON SE17 1FH

It was noted that this item had been conciliated prior to the meeting.

The meeting ended at 12.30pm.

CHAIR:

DATED: