

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 10 February 2022 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 Renata Hamvas (Chair)
Councillor Sunil Chopra
Councillor Margy Newens

**OTHER
AUTHORITIES
PRESENT:** P.C. Ian Clements, Metropolitan Police Service

**OFFICER
SUPPORT:** Toyin Calfos, legal officer
Charlotte Precious, legal officer
Charlie Jerrom, licensing officer
Wesley McArthur, licensing officer
Jayne Tear, licensing responsible authority officer
Andrew Weir, constitutional officer

1. 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.

2. CONFIRMATION OF VOTING MEMBERS

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

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

There were no late and urgent items of business.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LONDON LOCAL AUTHORITIES ACT 1991: BEAUTY BY EVA, 157 CAMBERWELL ROAD, LONDON SE5 0HB

The licensing officer presented their report. They advised that the applicant had informed them that they would not be attending the licensing sub-committee meeting. Members had questions for the licensing officer.

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

The meeting adjourned at 10.30am for the sub-committee to consider its decision.

The meeting reconvened at 11.05am and the chair advised all parties of the decision.

RESOLVED:

That the application made by Chris Robson on behalf of Beauty By Eva, for a special treatment licence to be granted under Section 10 (1) of the London Local Authorities Act 1991 in respect of the premises known as Beauty By Eva, 157 Camberwell Road, London, SE5 0HB be refused

Reasons

The licensing sub-committee heard from the licensing officer who stated that the application concerned a new special treatment licence in respect of Beauty by Eva. He said there had been one objection raised by the Metropolitan Police Service. He informed the licensing sub-committee that the applicant had stated he would not attend the meeting. The licensing officer mentioned that the applicant did not ask for an alternative date convenient to him to attend. A representative was not instructed to attend the meeting on the applicant's behalf.

The licencing officer went on to say, the licensing unit had asked the applicant to provide a copy of the lease. The applicant did not respond to that request. The licensing officer noted, the former licensee of 157 Camberwell Road, London SE5 0HB had enquired with them previously, to have their licence transferred to the applicant.

The licensing sub-committee confirmed with the licensing officer that only one nail technician had been named on the application.

The licensing sub-committee heard from the Metropolitan Police Service, who objected to the grant of a licence under section 8 (c) and (e) of the London Local Authorities Act 1991. Section 8 provides:

- c) The persons concerned or intended to be concerned in the conduct or management of the premises used for special treatment could be reasonably regarded as not being fit and proper persons to hold such a licence;
- e) The premises have been or are being improperly conducted;

At the meeting, the police officer stated, officers from night-time economy team, the council licensing team, trading standards and immigration officers attended the premises on 17 July 2019. Upon entering the premises, officers were able to confirm that six people were working at the premises, all of which had entered the country illegally and therefore did not have the right to work in the United Kingdom. Two of the illegal immigrants were juveniles who were placed into the care of social services.

At the raid, the officers carried out checks and found out that none of the workers at the nail shop were not licenced to carry out special treatments but did so, to unsuspecting members of the public. The police officer mentioned that none of the persons working at the premises at the time of the raid had the correct qualifications to administer special treatments.

In accordance with their procedures for new applications, they had requested a copy of the lease from the applicant. As the applicant failed to provide a copy of the lease agreement, they could not ascertain whether there had been a change in the ownership of the premises.

The police concluded that the application should be refused for the reasons stated.

The licensing sub-committee were very concerned by the potential link between the former licensee and the applicant. It was noted by the licensing sub-committee, that the former licensee had nominated the applicant to take over the licence previously. The licensing sub-committee were concerned that the applicant had only named one technician in the application even though the premises had the capacity for six technicians.

As the applicant did not attend the meeting, did not instruct a representative to speak on his behalf and did not provide a copy of his lease as requested by the police and the licensing unit; the licensing sub-committee had a number of unanswered questions. On that basis, the licensing sub-committee could not be satisfied that the applicant is a fit and proper person to hold a licence. The licensing sub-committee also concluded that the premises had been improperly

conducted.

In reaching its decision, the licensing sub-committee had regard to all the relevant considerations and were of the view that this decision was appropriate and proportionate in all of the circumstances.

Appeal Rights

The following parties may appeal a decision of the sub-committee:

- An applicant for the grant, renewal or transfer of a licence whose application is refused.
- An applicant for the grant, renewal or transfer of a licence who is aggrieved by any term, condition or restriction on or subject to which the licence is granted, renewed or transferred.

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: AHWAZ, 249 OLD KENT ROAD, LONDON SE1 5LU

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

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

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

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

It was noted that the environmental protection officer had conciliated prior to the hearing.

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

The meeting adjourned at 12.23pm for the sub-committee to consider its decision.

The meeting reconvened at 1.12pm and the chair advised everyone of the decision.

RESOLVED:

That the application made by Fathi Eskander for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Ahwaz, 249 Old Kent Road, London SE1 5LU be granted as follows:

1. Supply of late night refreshment for consumption on and off the premises:
 - Monday to Sunday: 23:00 to 03:00
2. Opening hours:
 - Monday to Saturday: 23:00 to 03:00

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, conditions agreed during conciliation and the following additional conditions as agreed by the licensing sub-committee:

1. That this licence shall not take effect until an acceptable dispersal policy has been submitted to the licensing department.
2. That the premises shall regularly clear the outdoor area of rubbish.

Reasons

On 4 October 2021 Mr Fathi Eskander applied under Section 17 of the Licensing Act 2003 for a new premises licence in respect of the premises known as Ahwaz, 249 Old Kent Road, London SE1 5LU.

The applicant confirmed the premises were seeking a licence to supply hot Lebanese food and drinks until 03:00. They did not seek a licence to supply alcohol. The premises has been operating for four years and has been getting increasing demand from their customers to supply refreshment past 23:00. It is located close to a coach parking bay and many long distance drivers stop there in order to rest, eat and obtain a hot drink, sometimes with their passengers. There is also free on-street parking from 19:00, which other late-night drivers seeking refreshment make use of.

The premises can accommodate 20 people at present but the applicant is intending to refurbish to increase this and create a welcoming restaurant. Until the refurbishment is complete, the applicant could not be certain how many people he will then be able to accommodate but he expects it will be between 40 to 55. In the

four years the premises has been operating, there have been no concerns with the police, they have established a strong customer base and have been rated 5 in all three hygiene inspections.

There is a garden at the back of the property but this contains a large shed that is used to store spare tables and chairs. The garden is not open to customers, even to smoke, and it will remain closed after the renovations.

The sub-committee heard from a representative of the licensing authority that Southwark's statement of licensing policy (SOLP) 2021-2026 suggests a closing time of 23:00 for premises in residential areas and that takeaways are not appropriate for such areas. Furthermore, the premises have not supplied a dispersal policy despite conciliating a condition in respect of one.

The Metropolitan Police Service also made representations in respect of the proposed hours being outside of the suggested hours within the SOLP. They raised concerns in respect of whether the premises will permit patrons to bring their own alcohol, drinking late into the night and causing noise, nuisance and possible crime and disorder.

The applicant clarified that they do not currently permit customers to bring their own alcohol to the premises and have no plans to change this. The sub-committee noted the premises agreed to create an internal policy to reflect this. A condition requiring the premises to submit an acceptable dispersal policy before the licence takes effect would assist with preventing noise, nuisance, crime and disorder late at night. It was also noted that the premises has conciliated a condition that an SIA registered security guard shall be employed to screen customer entry to the premises between 00:00 and the closing time of the premises on Thursday to Sunday.

The sub-committee noted that the environmental protection team had withdrawn their objection after extensive conditions were conciliated along with a local ward councillor. The applicant committed to not using single use plastics and demonstrated the cardboard packaging that is used instead. It was also noted the premises stated they clear rubbish from the front of the premises every two hours.

The applicant referred to a nearby premises which has a licence to provide late night refreshment until 04:00 on Fridays and Saturdays. The sub-committee made clear that each application is judged on its own merits and the licence referred to is a historic one and pre-dates Southwark's statement of licensing policies.

The sub-committee considered there to be a unique set of circumstances for this premises. It had been in business for four years without any issues, no residences are nearby and there is sufficient parking to ensure visitors won't park on residential roads. No objections have been received from residents and a comprehensive suite of conditions have been conciliated.

The premises has never permitted residents to bring their own alcohol before and

there is nothing to suggest they will now. The target customer that gave rise to this application is long-distance drivers who would not be consuming alcohol in any event. It is recommended that the premises stop preparing food for people eating in after 02:30 in order to ensure customers have sufficient time to consume their purchases before the premises closes at 03:00. It is on this basis that the application was granted.

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 desires to contend:

- a) That the licence ought not to have been granted; or
- b) That, on granting the licence, the licensing authority ought not 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.

The meeting ended at 1.18pm.

CHAIR:

DATED: