

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Tuesday 13 September 2022 at 10.00 am

PRESENT: Councillor Margy Newens (In the Chair)
Councillor Jane Salmon
Councillor Charlie Smith

OFFICER SUPPORT: Charlotte Precious, legal officer
Steve Warby, legal officer
Richard Kalu, licensing officer
Wesley McArthur, licensing officer
Ray Moore, trading standards enforcement officer
P.C. Ian Clements, Metropolitan Police Service
Tim Murtagh, constitutional officer

1. ELECTION OF CHAIR

The clerk opened the meeting.

Councillor Jane Salmon nominated Councillor Margy Newens 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 none.

5. **DISCLOSURE OF INTERESTS AND DISPENSATIONS**

There were none.

6. **LICENSING ACT 2003: PRESCO FOOD AND WINE, 133-135 SOUTHAMPTON WAY, LONDON SE5 7EW - TRANSFER OF PREMISES LICENCE AND VARIATION OF DESIGNATED PREMISES SUPERVISOR**

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

The applicant's legal representative addressed the sub-committee. Members had questions for the applicant's legal representative.

The officer from the Metropolitan Police Service addressed the sub-committee and called the trading standards enforcement officer as a witness. Members had no questions for the Metropolitan Police Service officer.

The trading standards enforcement officer addressed the sub-committee. Members had questions for the trading standards enforcement officer.

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

The meeting adjourned at 11.15am for the sub-committee to consider its decision.

The meeting reconvened at 11.36am and the chair advised everyone of the decision.

There were two decisions.

Re Transfer of Premises Licence

RESOLVED:

That the application made by Soho Sweets (UK) Limited to transfer the premises licence under s.42 of the Licensing Act 2003 in respect of the premises known as Presco Food and Wine, 133-135 Southampton Way, London, SE5 7EW is refused.

Reasons

This was an application to transfer the premises licence under s.42 of the Licensing Act 2003.

The licensing sub-committee heard from the applicant's representative who informed the members that on 21 July 2022 Soho Sweets (UK) Ltd applied to vary the DPS and transfer the premises licence in respect of the premises known as Presco Food and Wine, 133-135 Southampton Way, London, SE5 7EW. Neither the applicant nor the proposed designated premises supervisor was able to attend. No application to adjourn the hearing was made.

The applicant's representative referred to the passage of time since the issues with a previous premises licence at Costcutter, 257/259 Southwark Park Road, which involved Mr Agha Sayed Safi, the proposed DPS, and Mr Waheed Allahgul, Ms Sahar Allahgul's husband and eight years had since passed.

Mr Sayed Safi had obtained his own personal licence and undertook to do the course in order to better understand his responsibilities and how alcohol licensing worked. It was not known when he had obtained his personal licence. It was submitted that it would be unfair for the 2014 matter to still have an effect on Mr Sayed Safi.

The applicant's representative stated that Waheed Allahgul had no involvement in the transfer application, nor the company. It was only being run by his wife. No instructions were able to be advanced by the applicant's representative as to the period of time when the business was operating without a licence and neither the applicant nor the DPS were in attendance to address concerns in respect of this.

The representative for the Metropolitan Police objected to the transfer of the licence and stated they had received no response to their representation. An officer from Southwark Council's trading standards team was called as a witness. The officer explained the application had similarities to one that was refused in September 2020 concerning Cruson Local Food, 26 Camberwell Church Street, as well as to the premises Costcutter, 257/259 Southwark Park Road. In 2014, Soho Sweets (UK) Ltd had a sole director, Sahar Allahgul. This was the same with Cruson Local Food. Trading Standards previously visited Cruson Local Food a number of times and discovered a litany of issues such as counterfeit products and the sale of age-restricted products such as tobacco, but staff members were not trained in preventing sales to minors. When questioned, the staff at this premises said their boss was Waheed Allahgul. It was contended Mr Allahgul used his wife's name to avoid his history.

When the premises licence for Costcutter was revoked in 2014, the licence holder was Agha Sayed Safi, the proposed DPS for Presco Food and Wine. It was believed Mr Sayed Safi was the brother-in-law of Waheed Allahgul who was previously the DPS for Costcutter. It was explained that, whilst the issues occurred eight years ago, it was serious and a large quantity of duty unpaid alcohol and some counterfeit alcohol was discovered. No invoices or proof of purchase were provided as to where any of these items came from.

Just as in 2020, it transpired Mr Allahgul was the actual owner even though the

licence was in Mr Sayed Safi's name. The latter also told officers at the time that he had been absent from the premises for 4 and half years.

It was submitted that there was an ongoing pattern with the individuals, the positions they held changed and companies were used to try and disguise names, but the same problems and failure to comply with conditions continued to occur. The Metropolitan Police considered the granting of the applications would undermine the licensing objectives and further crime and disorder would follow.

The sub-committee noted that eight years is a long time. Whilst this did not mean a premises or individual could never be trusted again, similar problems had occurred in 2020. Whilst each application should be considered on its own merits; however, without evidence to the contrary, the sub-committee found the evidence given by Mr Moore compelling. There was recent history and consistent evidence of wilfully disregarding the licensing conditions and licensing objectives.

The licensing sub-committee was not satisfied by the arguments put forward by the applicant's representative, that this premises did not involve Mr Allahgul and that it would be run in a different manner. Without the presence of the applicant and the proposed DPS, the committee were not able to hear how Ms Allahgul and Mr Sayed Safi had learned their lessons and have a better understanding and appreciation of the licensing objectives to ensure similar problems will not reoccur.

It is on this basis the application was refused. In making this decision the sub-committee had regard to the relevant notice and considered this decision was appropriate for the promotion of crime prevention objective.

Appeal rights.

The applicant may appeal against any decision:

1. To impose conditions on the licence
2. 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.

Re application to vary the designated premises supervisor

RESOLVED:

That the application made by Soho Sweets (UK) Limited to vary the designated premises supervisor (DPS) under s.37 of the Licensing Act 2003 in respect of the premises known as Presco Food and Wine, 133-135 Southampton Way, London, SE5 7EW is refused.

Reasons

This was an application to vary the designated premises supervisor (DPS) under s.37 of the Licensing Act 2003.

The licensing sub-committee heard from the applicant's representative who informed the members that on 21 July 2022 Soho Sweets (UK) Ltd applied to vary the DPS and transfer the premises licence in respect of the premises known as Presco Food and Wine, 133-135 Southampton Way, London, SE5 7EW. Neither the applicant nor the proposed designated premises supervisor was able to attend. No application to adjourn the hearing was made.

The applicant's representative referred to the passage of time since the issues with a previous premises licence at Costcutter, 257/259 Southwark Park Road, which involved Mr Agha Sayed Safi, the proposed DPS, and Mr Waheed Allahgul, Ms Sahar Allahgul's husband and eight years had since passed.

Mr Sayed Safi had obtained his own personal licence and undertook to do the course in order to better understand his responsibilities and how alcohol licensing worked. It was not known when he had obtained his personal licence. It was submitted that it would be unfair for the 2014 matter to still have an effect on Mr Sayed Safi.

The applicant's representative stated that Waheed Allahgul had no involvement in the transfer application, nor the company. It was only being run by his wife. No instructions were able to be advanced by the applicant's representative as to the period of time when the business was operating without a licence and neither the applicant nor the DPS were in attendance to address concerns in respect of this.

The representative for the Metropolitan Police objected to the transfer of the licence and stated they had received no response to their representation. An officer from Southwark Council's trading standards team was called as a witness. The officer explained the application had similarities to one that was refused in September 2020 concerning Cruson Local Food, 26 Camberwell Church Street, as well as to the premises Costcutter, 257/259 Southwark Park Road. In 2014. Soho Sweets (UK) Ltd had a sole director, Sahar Allahgul. This was the same with

Cruson Local Food. Trading Standards previously visited Cruson Local Food a number of times and discovered a litany of issues such as counterfeit products and the sale of age-restricted products such as tobacco, but staff members were not trained in preventing sales to minors. When questioned, the staff at this premises said their boss was Waheed Allahgul. It was contended Mr Allahgul used his wife's name to avoid his history.

When the premises licence for Costcutter was revoked in 2014, the licence holder was Agha Sayed Safi, the proposed DPS for Presco Food and Wine. It was believed Mr Sayed Safi was the brother-in-law of Waheed Allahgul who was previously the DPS for Costcutter. It was explained that, whilst the issues occurred eight years ago, it was serious and a large quantity of duty unpaid alcohol and some counterfeit alcohol was discovered. No invoices or proof of purchase were provided as to where any of these items came from.

Just as in 2020, it transpired Mr Allahgul was the actual owner even though the licence was in Mr Sayed Safi's name. The latter also told officers at the time that he had been absent from the premises for 4 and half years.

It was submitted that there was an ongoing pattern with the individuals, the positions they held changed and companies were used to try and disguise names, but the same problems and failure to comply with conditions continued to occur. The Metropolitan Police considered the granting of the applications would undermine the licensing objectives and further crime and disorder would follow.

The sub-committee noted that eight years is a long time. Whilst this did not mean a premises or individual could never be trusted again, similar problems had occurred in 2020. Whilst each application should be considered on its own merits; however, without evidence to the contrary, the sub-committee found the evidence given by Mr Moore compelling. There was recent history and consistent evidence of wilfully disregarding the licensing conditions and licensing objectives.

The licensing sub-committee was not satisfied by the arguments put forward by the applicant's representative, that this premises did not involve Mr Allahgul and that it would be run in a different manner. Without the presence of the applicant and the proposed DPS, the committee were not able to hear how Ms Allahgul and Mr Sayed Safi had learned their lessons and have a better understanding and appreciation of the licensing objectives to ensure similar problems will not reoccur.

It is on this basis the application was refused. In making this decision the sub-committee had regard to the relevant notice and considered this decision was appropriate for the promotion of crime prevention objective.

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.

7. LICENSING ACT 2003: PREMIER FOOD AND WINE, 244-246 CAMBERWELL ROAD, LONDON SE5 0DP

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

The applicant's representative addressed the sub-committee. Members had questions for the applicant's representative.

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

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

The meeting adjourned at 11.57am for the sub-committee to consider its decision.

The meeting reconvened at 12.20pm and the chair advised everyone of the decision.

RESOLVED:

That the application made by premises licence holder Jeyanthan Thangarasa under section 34 of the Licensing Act 2003 for a variation of the premises licence issued in respect of Premier Food and Wine, 244-246 Camberwell Road, London

SE5 ODP be granted as follows:

Hours

Licensable activities:

Sale of alcohol to be consumed off premises

These hours to remain as they are on the existing Licence:

Monday to Sunday 08:00 – 00:00

Opening Hours

These hours also to remain as they are on the existing Licence:

Monday to Sunday 00:00 – 00:00

Conditions

The operation of the premises under the licence shall be subject to the relevant mandatory conditions, the conditions previously imposed and the following additional condition as agreed by the licensing sub-committee:

Condition 841 on the Premises Licence to be altered so that it reads: “The premises shall install a secure night time serving hatch and between the hours of 01:00 and 07:00 all sales will take place via this hatch. Members of the public will not be allowed entry to the premises during the above hours.”

Reasons

On 6 June 2022, the premises licence holder Jeyanthan Thangarasa applied under section 34 of the Licensing Act 2003 to this Council to vary the premises licence issued in respect of the premises known as Premier Food and Wine, 244-246 Camberwell Road, London SE5 ODP. The application requested that Condition 841 on the existing licence be varied so that the night-time hatch be used between 01:00 and 07:00 rather than between 23:00 and 07:00. The applicant further applied to add the provision of late night refreshment between the hours of 23:00 and 05:00 Monday to Sunday.

The applicant’s representative, who manages the premises at night-time, stated that the shop has an Oyster card machine which operates until midnight, and a Paypoint machine which operates until 01:00, and that staff and customers find it difficult to use these and operate as a late-night shop between 23:00 and 01:00 through a night-time serving hatch. The applicant’s representative said that by providing such services the shop was providing important services to the local community, and that there have never been any problems or complaints regarding the shop. She said she appreciated the hatch provided safety and security to staff working overnight and that the shop also has CCTV and a panic button installed. She also said that if the variation were granted, alcohol for sale in the store would

be covered up after midnight.

The applicant's representative withdrew the application to add the licensable activity of the provision of late night refreshment to the licence.

The Licensing Authority wasn't in attendance but had submitted further representations in advance of the hearing to say that, whilst the objections remained in respect of cumulative impact, they were in agreement with the condition suggested by the police.

The Metropolitan Police representative stated they did not object to varying Condition 841 as per the application. There were no other representations.

The Committee considered the premises to be providing a valuable service that may prove essential with the increases in energy prices. The applicant appeared responsible and conscious of the safety of staff and customers. The committee did not consider the proposed variation would add to the cumulative impact within the Camberwell area and concluded that granting this application would not negatively impact upon any of the licensing objectives.

It was on this basis that the licence variation 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 desire to contend that:

The licence ought not to be been granted; or 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.

The meeting ended at 12.24pm.

CHAIR:

DATED: