

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Friday 5 April 2013 at 10.00 am at Ground Floor Meeting Room G01C - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Sunil Chopra (Chair)
Councillor Abdul Mohamed
Councillor Wilma Nelson

OTHERS PRESENT: Councillor Adele Morris
Richard Anderson, representative from Bankside House
Sharokh Parvin, applicant
Thomas O'Maoileoin, applicant's representative

OFFICER SUPPORT: Debra Allday, legal officer
David Franklin, licensing officer
Wesley McArthur, licensing officer
Alan Blissett, environmental protection officer
Bill Masini, trading standards officer
Andrew Weir, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The three members present were confirmed as the voting members.

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

The sub-committee were advised that the police had called for an expedited review of the premises known as Cable Club, Unit 3 Holyrood Court, London SE1 2EL. and that a late report would be tabled at the meeting. This item was accepted by the chair for the reasons set out in the report.

The chair agreed to vary the order of business to hear item 6 before hearing item 5.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003 - PAYLESS FOOD AND WINE, 174 JAMAICA ROAD, LONDON SE16 4RT

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

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

The sub-committee noted that there were no representatives from Payless Food and Wine in attendance.

The sub-committee went into closed session at 11.00am.

The licensing sub-committee resumed at 11.40am and the chair read out the decision of the sub-committee.

RESOLVED:

The council's licensing sub-committee, having had regard to the application by this council's trading standards team for a review of the premises granted under the Licensing Act 2003 to Mr Mohammed Zahour in respect of the premises known as Payless Food & Wine, 174 Jamaica Road, London SE16 4RT, and having had regard also to all relevant representations has decided it necessary for the promotion of the licensing objectives to revoke the premises licence.

Reasons

This was a hearing of an application the Southwark Council trading standards team for a review of the premises know as Payless Food & Wine, 174 Jamaica Road, London SE16 4RT. This application was made under Section 51 of the Licensing Act 2003.

The sub-committee noted that neither the designated premises supervisor (and premises licence holder), Mohammed Zahour nor a representative for him attended the review hearing.

The licensing sub-committee heard evidence from the Southwark Council trading standards team, the applicant for the review, who made the application for review based on two grounds:

1. Prevention of crime and disorder
2. Protection of children from harm.

The officer advised the committee that on 8 December 2012 the trading standards team, together with the police, attended the premises and a personal licence holder sold alcohol

and tobacco to a sixteen year old female. The sale was made by a male who was a personal licence holder. When asked, he was unable to say who owned the business and furthermore the correct business ownership details were not displayed contrary to the Companies Act 2006. With regard to the underage sale of alcohol, the male employee, failed to request ID and there is no evidence that a recognised proof of age scheme was in place. There was also no evidence that a training scheme for all staff supplying intoxicating liquor was in place. The officer was shown a refusal of sales book that had been recorded on a regular daily basis up until 27 August 2012 but there had been no refused sales recorded after that date suggesting, that the designated premises supervisor had not reviewed the refusals book since that time.

On 10 January 2013 the officer attended the premises and spoke to the same male personal licence holder. When asked, the officer was told that Mr Zahour was still in Pakistan and was not due to return for two weeks. The officer was given an address for Mr Zahour, which was in Lancashire, some 250 miles away. The officer was told that Mr Zahour attended the shop every fortnight but it was noted that there was no change to the refused sales details and the last recorded refusal was the same, 27 August 2012. Two other males were working at the premises at this time but were unable to give their names, address, identification or details of the training received.

The sub-committee were informed that the personal licence holder who was in the premises on the date of the first inspection (8 December 2012) had accepted a simple caution. However, the trading standards officer had been unable to contact Mr Zahour despite three separate visits to the premises and having left messages with staff there. The officer advised that he was given an incomplete home address for Mr Zahour and therefore was unable to write to him

The sub-committee was satisfied that alcohol was sold to a sixteen year old female contrary to the Licensing Act 2003; cigarettes were sold underage contrary to the Children and Young Persons Act 1933 (as amended) and failed to display business ownership details as required by the Companies Act 2006. This is in breach of the prevention of crime and disorder licensing objective. In addition to this, the sub-committee are satisfied that there has been a failing to comply with condition 293 of the licence requiring all staff to be trained in the aims and objectives of the licensing laws and maintaining a training record. There has also been a failing to comply with condition 826 requiring all appropriate staff to be trained in the age identification scheme, condition 840 in maintaining a refused sales book and finally condition 843 requiring a recognised training course to be established for all staff supplying alcohol, this was in breach of the protection of children from harm licensing objective.

The sub-committee is satisfied that two of the licensing objectives have not been complied with and that Mr Zahour fails to properly supervise the sale of alcohol. This is based on his continual absence from the premises, the lack of control in relation to the people working at the premises, the lack of training and failure to monitor paperwork relating to refused sales.

In reaching this decision the sub committee had regard to all the relevant considerations and the four licensing objectives.

The licensing sub-committee considered that its decision was appropriate and proportionate in order to address the licensing objectives.

Appeal rights

This decision is open to appeal by:

- 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 chief executive 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.

6. LICENSING ACT 2003 - CAFE DEL AZIZ, 5 CANVEY STREET, LONDON SE0 0YY

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

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

The environmental protection officer addressed the sub-committee. Members had questions for the applicant and his representative.

The representative from Bankside House, addressed the sub-committee regarding his objections to the application. Members had questions for the general manager.

Councillor Adele Morris, the ward councillor addressed the sub-committee. Members had questions for the ward councillor.

The sub-committee went into closed session at 3.15pm.

The sub-committee resumed at 3.55pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the application by Del Aziz Limited to vary the premises licence issued in respect of the premises known as Cafe Del Aziz, 5 Canvey Street, London, SE0 0YY be granted as follows:

Activity	Monday to Sunday
Supply of alcohol	00.00 to 03.00
Late night refreshment	00.30 to 05.00

Conditions

The following additional conditions, in addition to all mandatory conditions shall apply:

- 1) That no entry or re-entry to the premises by patrons [save for that of smokers] be permitted after 03.00 and that signs be exhibited outside the premises to this effect
- 2) Customers shall use no outside area after 23.00 other than those who temporarily leave the premises to smoke a cigarette and no more than 5 people at one any time.
- 3) No drinks shall be taken out to any outside area after 23.00.
- 4) After 23.00 intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such person as an ancillary to his meal.
- 5) A personal licence holder will be on the premises at all times after 23.00 and intoxicating liquor is being offered for sale.
- 6) That suitable notices shall be displayed and announcements made requesting people to leave the premises in a quiet and orderly manner so as not to disturb local residents.
- 7) That all outside furniture will be packed up in a quiet and orderly fashion and then covered with a canvas by 23.30.
- 8) That there be no private functions after the hour of 23.00.
- 9) That no more than 150 patrons be accommodated in the premises at any one time.
- 10) That crime and prevention notices be used to provide relevant crime prevention information to customers as deemed appropriate by management in consultation with the police.
- 11) That the details of the premises opening and closing times be clearly displayed upon the premises for the information of customers.
- 12) That no open containers may be removed from the premises and signs shall be exhibited to this effect.
- 13) That stocks of alcohol and tobacco shall only be sourced from authorised or bona-fide suppliers.

- 14) That no counterfeit products, such as alcohol, tobacco products, DVDs, CDs and other goods may be supplied from the premises either by the staff or hawkers, entering for that purpose.
- 15) That all regulated entertainment activity be removed from the licence.

Reasons

This was an application by Del Aziz Limited to vary the premises licence issued in respect of the premises known as Cafe Del Aziz, 5 Canvey Street, London, SE0 0YY.

The licensing sub-committee heard from the applicant who advised that Café Del Aziz at 5 Canvey street was one of five premises within the Café Del Aziz business, which had been operating for 10 years. Ultimately the applicant sought a 24 hour restaurant and wished to attract a customer base that worked within the leisure industry, key workers and those working shifts who did not finish their employment until the early hours of the morning. This was not an alcohol lead venue and the service of alcohol was ancillary to the sale of food with a sit down meal. The extension would produce a trickle of additional customers and it was not foreseen that there would be more than 50 covers during this extra time. During the course of the applicant's presentation, additional conditions were offered to address the crime and disorder and public nuisance set out in Southwark's statement of licensing policy 2011-14.

The licensing sub-committee heard from the environmental protection officer who stated that his representation was reflective of the applicant's bland variation application in that the application did not address issues that the proposed extension would attract nor did it address the saturation policy . The officer advised the sub-committee that there had been no direct conciliation, however, the conciliation with the police went some way to address the public nuisance concerns. The officer recommended certain other proposals (as detailed in the conditions above) and that such conditions were for the prevention of public nuisance.

The licensing sub-committee heard from the representative from Bankside House, LSE, who said that the west wall of Bankside House directly faced Café Del Aziz and that there was approximately 10 metres between the two premises. Students at Bankside House were already experiencing noise disturbance from late night premises on Canvey Street. On being questioned about this, it was accepted by the representative that the disturbance was in fact from The Refinery and not from Café Del Aziz. The representative stated that he had only had reasons to complain on one occasion about Café Del Aziz and this was during a Christmas party and when he complained the complaint was addressed immediately.

The licensing sub-committee heard from Councillor Morris, the ward councillor, who advised the sub-committee that Café Del Aziz had not undertaken any consultation with the local community. The area in the vicinity of the premises was not designed for a late night economy. She advised that the buildings on Canvey Street create an echo chamber sound box effect with the surrounding residential buildings, which amplifies all noise and there is no night time noise team that would address residents complaints. The ward councillor asked that if the sub-committee were minded to grant the application, then tight enforceable conditions need to be imposed.

The sub-committee recognised that Café Del Aziz is not a nightclub. It has agreed to remove all regulated entertainment and that the sale of alcohol is ancillary to the table meals. Whilst the sub-committee recognised the concerns particularly of the ward councillor and local residents, they are perceived threats and will be addressed by the preventative conditions that this sub-committee have imposed.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives.

The licensing sub-committee considered that it was appropriate and proportionate to attach these conditions in order to address the licensing objectives.

The sub-committee wished to remind the local residents that they have the right to seek a review of the licence at any time should their concerns not be addressed.

8. LICENSING ACT 2003: CABLE CLUB, UNIT 3 HOLYROOD COURT, LONDON SE1 2EL

The licensing officer advised the sub-committee that the representatives of Cable Club and the police had agreed interim steps pending the determination of the review hearing at the full hearing, scheduled for 30 April.

The legal officer advised that as per the 2013 Home Office Guidance relating to Section 53A of the Licensing Act 2003, referring to summary of review guidance, that there was no requirement for a formal hearing in order to take interim steps

The sub-committee agreed to accept these interim steps.

RESOLVED:

That the council's licensing sub-committee, having considered whether it is appropriate to take interim steps pending the determination of an application made under Section 53A of the Licensing Act 2003 by the Chief of Police for the Metropolitan Police area for an expedited summary review of the premises licence in respect of the premises known as Cable Club, Unit 3 Holyrood Court, London SE1 2EL has decided that the following conditions be placed on the premises licence as interim steps to promote the licensing objectives pending the determination of the review application at the full hearing:

Conditions

1. A fully qualified dedicated medic must be employed and at the venue at all times the licence is in operation.
2. Any person who suffers an injury or has a visible injury to any member of staff is seen and assessed by the medic prior to the injured person leaving the venue. The medic must then complete a full report and assess if the police and an ambulance are required regardless of the injured persons wishes. The report must be kept in a log and made available for inspection by all relevant authorities.
3. To ensure that all public areas are covered and that none are obscured from view,

those areas of the premises that are not covered by the CCTV (as notified by the police) shall be covered by a go pro (body) camera attached to an SIA registered security staff member.

4. SIA security will be employed by the club to a minimum of One (1) SIA to Fifty (50) guests at all times.
5. No licensable activities shall take place on Saturdays between 06.00 hours and 12.00 hours with the exception of Saturday 6 April 2013.
6. No persons shall be allowed entry after 10.00 hours on Sundays. The front shutter shall be brought down and the barriers removed from the pavement by the same time on Sundays.
7. The only egress from the premises after 10.00 hours on Sundays shall be via the rear exit situated on Holyrood Street.
8. The computer based identification entry system be upgraded to the required satisfaction of police and be operated to a standard required by police. All staff using and operating the system be fully trained in its use to a satisfactory standard.
9. A clear facial image of all persons entering the premises must be taken before entry. All persons who fail to produce ID shall be refused entry into the premises.
10. No drinks shall be served in glass or metal containers (cans) at any time, including champagne and spirits.
11. An incident log shall be kept at the premises and made available on request to an authorised officer of the council or the police, which will record the following:
 - a) All crimes reported to the venue
 - b) All ejections of patrons
 - c) Any complaints received
 - d) Any incidents of disorder
 - e) All seizures of drugs or offensive weapons
 - f) Any faults in the CCTV system, searching equipment or scanning equipment
 - g) Any refusal of the sale of alcohol
 - h) Any visit by a relevant authority or emergency service.

Reasons

This was a hearing to consider if it is appropriate to take interim steps to promote the licensing objectives upon receipt of an application by the Metropolitan Police for an expedited summary review of the premises.

The sub-committee have considered the application made by the Metropolitan Police and supplementary evidence from the police presented at this hearing.

The sub-committee have also considered evidence submitted by the premises licence

holders in relation to the application.

That the police and licence holders have compromised with each other to jointly offer the temporary conditions on the premises licence.

In considering the evidence the licensing sub-committee paid particular attention to the licensing objective of the prevention of crime and disorder and considered that this decision was appropriate and proportionate.

Appeal rights

That the premises licence holder may appeal against the decision. Any appeal must be made to the magistrate court for the petty sessions area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates court.

There is no time limit for an appeal against interim steps, however interim steps cease to have any effect on the full determination of the review application.

The meeting closed at 4.20pm.

CHAIR:

DATED: