



## LICENSING SUB-COMMITTEE

Tuesday 12 March 2019 at 7.00 pm

### MINUTES

PRESENT: Councillor Fred Cowell, Councillor John Kazantzis and Councillor Irfan Mohammed

APOLOGIES:

ALSO PRESENT:

#### **1 ELECTION OF CHAIR**

MOVED by Councillor Irfan Mohammed, SECONDED by Councillor John Kazantzis and

RESOLVED:

That Councillor Fred Cowell be elected Chair.

#### **2 DECLARATION OF PECUNIARY INTERESTS**

None were declared.

#### **3 MINUTES**

RESOLVED: That the minutes of the previous meeting held on 5 February 2019 be approved and signed by the Chair as a correct record of the proceedings.

#### **4 LICENSING APPLICATIONS FOR THE GRANT / REVIEW OF A PREMISES LICENCE**

##### **4a BAGEL WORLD, 516 BRIXTON ROAD, LONDON SW9 8EN (FERNDALE)**

##### **Presentation by the Licensing Officer**

The Sub-Committee was informed that this was an application for a new premises licence. The Sub-Committee's attention was drawn to chapters 2, 3, 8, 9 and 10 of the Statutory Guidance and Sections 5, 6, 7, 8, 9 and 16 of the Statement of Licensing Policy as the ones particularly relevant to this application. The options available to the Sub-Committee were set out in paragraph 6.2 of the report on page 27 of the agenda papers.

The Licensing Officer confirmed:

- This was an application for a new premises licence.
- The applicant was seeking late night refreshment from 23:00 -05:00 all week.
- Representations made against the application had come from the Licensing team and Public Protection.
- The application could be found on pages 29-45 of the agenda papers.
- Representations could be found on pages 57 – 82 of the agenda papers.

Mr Tony Purcell and Mr Andre Glaze, the applicants, informed the Sub-Committee that:

- They were joint owners of the premises.
- They had started the business before Christmas 2018.
- They had gone into business based on the advice given by a licensing consultant who they had hired and had spoken to at great length. The consultant had assured them that they would not have a problem obtaining a 24-hour licence. This had been based on two other premises operating in the area, both of which had 24-hour licences.
- They spent £150,000 pounds to extensively refurbish the premises.
- The money that had been spent was their life savings.
- They had carried out a survey of 500 people in the area of what they thought of the premises and the feedback provided to them was positive.
- The menu at the premises was healthy and appealing to young people.
- The premises was not selling alcohol but was selling bagels, soft drinks and patties.
- The premises had a diverse menu.
- They simply wanted to be in business.
- They had found that the bulk of the business revenue was attained after 21:00.
- The business did not get much trade from 09:00 to around after 20:00.
- The business could not survive without a 24-hour licence.
- The business had expenses that needed to be paid such as bills, wages, rent and utilities.
- The premises had not experienced any considerable trouble.
- When the business first started, security staff had been employed from 21:00 onwards. This was not cheap, but security staff would be employed from 23:00 to 05:00 if the application was granted.
- The premises would employ measures to avoid any potential trouble being caused at the premises.
- Staff will be properly trained and money had been spent on CCTV cameras.
- The CCTV cameras could be accessed on a phone internationally.
- They could not think of anything else to make the premises more secure.

- Mr Purcell was a personal license holder and had a licence for a nightclub which he ran for over ten years.
- He previously never had any issues with the Council.
- They were happy to work closely with the Police.

In response to questions from Members, Mr Purcell and Mr Glaze informed the Sub-Committee that:

- The premises opened at 09:00, but could not close late at 02:00 as it did not currently hold a licence to do so.
- They had been open after 23:00 on 31 January 2018 because they had been told by their licensing consultant that they had obtained a 21-day temporary event notice (TEN).
- They had been informed by their licensing consultant that they were allowed to stay open until 05:00 on Thursday, Friday and Saturday.
- It was important to get staff trained properly.
- Their licensing consultant had informed them they have been given a five week TEN during which time they were allowed to operate to late hours on certain days.

At this point in the proceedings, the Licensing Officer confirmed that the Licensing team had only received one notice for a TEN, for a two day event which was due to start on 9 February 2019 to 10 February 2019. This had been objected to by the Police and Public Protection and a counter-notice was served. Three further TENs had been served towards the end of 2018.

In response to further questions from Members, Mr Purcell and Mr Glaze informed the Sub-Committee that:

- One of the reasons they sought a licensing consultant was to be able to gain information on which they could rely.
- They were not Licensing officers, but were aware of their responsibility regarding the licensing objectives.
- When they paid a large amount of money to a consultant, they had expected the information provided to them to be reliable and trusted that they were allowed to open late on the days and hours that they had been advised they could do so.
- The licensing consultant had been dismissed approximately 3 to 4 weeks ago.
- The application had been made before the consultant had been dismissed.
- When they had originally started the business, they understood that the premises was allowed to be open until 23:00 and would not have breached the licensing regulations.
- The premises was open on 23 and 24 January 2019 as stated on page 62 of the agenda papers. This had occurred because they had relied on the advice of their licensing consultant.
- Under no circumstances would they open the premises in the knowledge that they were in breach of the licensing regulations. They had simply been given

instructions to open on the days that they had been open late.

- They had appointed the wrong consultant and realised the seriousness of the situation.
- They had invested heavily into the premises and did not wish for their investment to go to waste.
- They would adequately train staff and get hold of a registered qualified consultant who would be able to give them proper advice.
- It was not true that Police could not get hold of CCTV footage during an incident that had occurred at the premises. At the time, Mr Glaze had been called at 01:45 regarding the incident. Although he lived near Croydon, he had made his way down to the premises and stayed there until 15:15. He assisted the Police by retrieving a USB stick to download footage off the CCTV system and provided it to them. The assistance given to the Police helped to resolve the situation. The incident had originated outside the premises whilst the premises doors were closed and temporarily locked. Some individuals had arrived at the premises and started hitting the door from the outside whilst racially abusing a customer who was inside the premises. The customer requested the door to be opened, at which point, the customer exited and hit one of the individuals on the head. As this had happened outside the premises, the CCTV footage was able to record it.
- Staff had never been in such a situation previously. This was the only incident that had occurred at the premises. The staff were nervous and unsure of what to do and decided to call Mr Glaze. The staff had acted properly.
- They accepted that it was important for staff members working at the premises to be able to operate the CCTV cameras when required to do so. Efforts would be made to ensure that staff were properly trained.
- They were familiar with the Brixton area and understood how essential it was to have security for the protection of staff. This was something the premises would retain, particularly if the licence was granted.
- They had applied for police radio as part of the BCRP programme and this would be supplied to them.
- They did not envisage children visiting the premises after 23:00. The area had a number of clubs and wine bars and the premises would have adequate security in place.
- Staff would be trained to defuse any issues and they would work together with the security staff.
- The premises would achieve its busiest period between 21:00 and 02:00 as people would leave the clubs and other establishments nearby.
- They had recently realised that many people would still frequent the area during late hours such as until 03:00, 04:00 or 05:00.
- It was essential for the survival of the business that the premises had a 24-hour licence.
- The premises never previously had the problem of large queuing or large numbers of people frequenting the premises.
- If large numbers of people were to frequent the premises then they would

employ a queuing system. If the numbers became too large, then the number of people allowed into the premises would be restricted.

- More staff would be employed to allow for quicker service to counter large crowds that may start to develop.
- Additional staff could be appointed to work outside wearing visible outfits to clean up any litter.

### **Presentation by interested parties**

Mr Ola Owojori, Licensing Officer, informed the Sub-Committee that:

- This was an application for late night refreshment.
- The premises had come to the attention of the Licensing team as it had previously been used as an off-licence.
- During the time the premises was being refurbished, the premises was advertised as a 24-hour premises.
- The applicant had a duty to maintain due diligence as he had previously ran a nightclub and was a personal licence holder.
- A lot of money had been spent on the premises and the applicant had appeared to put profit beyond the licensing objectives.
- Prior to the premises being opened, a Licensing officer had to speak to the applicant to advise them of the licensing options they could pursue.
- An application for a licence was subsequently made in 2018, whilst it was being processed, the premises had carried on trading. This did not look well upon the applicant.
- The Licensing team did not have confidence that the premises would follow proper procedures as it had been found trading without a licence.
- In the area in which the premises was located within a town centre which was a busy area.
- Staff had already been trained and it was not clear on what further training could be provided to them.
- The applicant was asking for hours that went beyond the policy.
- There was no evidence to suggest that the applicant would be able to manage the premises appropriately.
- During the time the applicant was seeking a premises licence, meetings were held with the applicant's representative. Conditions had been proposed to the applicant's representative but they never provided a response.
- Even in the original application, there was no detail provided regarding the licensing objectives, especially the protection of children from harm.
- A premises such as this may appeal to children and therefore some measures needed to be in place to ensure the protection of children from harm.

Mr Henry Umeh, Public Protection Officer, informed the Sub-Committee that:

- He agreed with the points made by Mr Owojori.
- He was concerned that if the application was granted, the applicant would not be able to show adequate responsibility that came with the licence.
- The applicant had already demonstrated that they were prepared to operate without a premises licence in place and outside of the advice given to them by the Council.
- He had met with the applicant in January 2019 with the Licensing team to discuss the application and at the end of the meeting had informed them that they could not operate beyond 23:00 whilst the application was in progress.
- There had been incidents where the applicant had been found operating without a licence or a TEN.
- The applicant had served a notice for a TEN last month and Public Protection had objected to it.
- In relation to the incident that had occurred at the premises on 20 January 2019, had the staff been adequately trained, then the assault could have been prevented (had premises staff not opened the front door).
- If the Sub-Committee was minded to grant the application, then it should consider the conditions that had been proposed in the agenda papers.

In response to questions from Members, Mr Owojori and Mr Umeh informed the Sub-Committee that:

- Considering the location of the premises SIA qualified door staff should be appointed.
- Training courses should be provided to premises staff particularly in relation to working late hours.
- The conditions had been proposed to mitigate the risks that were likely to occur in the event that the application is granted.
- Public protection would ask for SIA security to be present after 23:00, a daily litter pick up (with the last litter pick up occurring at the terminal hour) and a clear dispersal policy.
- If there was to be queuing outside the premises then there should be clear differentiation between patrons of the premises and people generally in the area. This was to avoid obstructing the public highway.
- Assurances should be taken to ensure that patrons respected the neighbourhood.
- The date the meeting was held with the applicant's licensing consultant was on 17 January 2019. The applicant's representative was informed not to remain open outside of the already permitted hours whilst the application was in progress.

The applicant was recalled to address matters arising. In response to questions from Members, Mr Purcell and Mr Glaze informed the Sub-Committee that:

- They were happy to appoint security staff whilst the premises was operating as

outlined on page 50 and 51 of the agenda papers.

- They would be open to not serving children under the age of 18 after 23:00.
- In relation to the proposed hours on page 51 of the agenda papers, it would be most beneficial if the hours applied for on Fridays, Saturdays and Sundays be granted as most of the trade would come from clubs in the area. They would seek a terminal hour of 05:00.
- The information they had received from their licensing consultant was the reason they had opened the premises on 24 January 2019.
- After the meeting on 17 January 2019, they had asked their consultant if they were allowed to open on 24 January and were told that they were allowed to do so. They had been given misleading information.
- The consultant had served a TEN for the premises and expected it to be processed without objection because the consultant had served previous TENs in the past which had not been previously challenged.
- They were previously under the impression that the situation relating to hours of the licensable activity had been rectified. It was only until after they had opened on that weekend in January 2019 that it became apparent that they did not have a valid licence or TEN.
- Since the incident, the premises had not been open past 23:00.
- They categorically gave their assurance that they would work to uphold the licensing objectives and they had learnt a valuable lesson due to the ordeal.
- They would ensure that staff are trained.
- They had invested their life savings and had seen a downturn on the business since they had been closing earlier. The business was having trouble surviving.
- They had taken on board the points made by representations against the application.
- Mr Purcell was experienced and had ran a business before in a professional manner.
- They had made a mistake and would make things right.

At this point in proceedings, Mr Owojori informed the Sub-Committee that they could consider offering the applicant a trial period.

### **Adjournment and Decision**

At 8.09pm, the Sub-Committee withdrew from the meeting together with the Legal adviser and clerk to deliberate in private. The Sub-Committee had heard and considered representations from all those who spoke.

Legal advice was given to the Sub-Committee on the options open to them and the need for any decision to be proportionate. The Sub-Committee decided to grant the application with conditions and amendments.

RESOLVED: To grant the application subject to conditions and amendments.

### **Announcement of Decision**

Members returned to the meeting and the Chair informed those present of the decision to grant the application subject to conditions and amendments.

The Sub-Committee was of the view that the application should be granted subject to conditions and amendments. Full written reasons would follow in due course.

The Chair stated that the Sub-Committee had decided to grant the application for late night refreshment subject to the conditions set out on pages 50-51 of the agenda papers plus further additional conditions. These would include the use of door staff, a training log and the employment of SIA staff. The Sub-Committee determined to impose the hours contained in the Lambeth Licensing policy as summarised on page 51 of the agenda papers. The Sub-Committee considered that it had not heard anything that would justify it going outside the policy in this respect and determined that it was appropriate and proportionate to settle on the hours specified in the policy for this type of premises in this type of area. The maintenance of the conditions of the licence should be noted by the applicant as an essential pre-requisite for running the business and the applicant would be expected to follow the conditions. If the applicant wanted to serve a TEN or vary the licence until 05:00, a future Sub-Committee would consider the performance of the applicant in meeting the conditions on their licence.

#### **4b ZB RETAIL 24, 41 STREATHAM HILL, LONDON SW2 4TP (STREATHAM HILL)**

##### **Presentation by the Licensing Officer**

The Sub-Committee was informed that this was an application for a review of a premises licence. The Sub-Committee's attention was drawn to chapters 2, 3, 9, 10 and 11 of the Statutory Guidance and Sections 1, 5, 6, 8, 10, 11 and 19 of the Statement of Licensing Policy as the ones particularly relevant to this application. The options available to the Sub-Committee were set out in paragraph 6.1 of the report on page 86 of the agenda papers.

The Licensing Officer confirmed:

- This was an application to review a premises licence.
- The review had been submitted by the Licensing team following the employment of an individual who did not have the right to work in the UK.
- The application had initially been scheduled to be heard on 5 February 2019, but was adjourned to allow the sale of the business and the transfer of the premises licence to be completed.
- Additional information had been provided by the new premises licence holder regarding the sale of the premises.
- The new premises licence holder had also proposed two additional conditions in order to promote the licensing objectives.
- No objection had been made by the Police with regard to the transfer of the premises licence or the variation of the DPS applications and these had been subsequently granted.
- The representative for the new premises licence holder was Mr David Dadds.
- The review was being supported by the Police.
- Details of the application could be found from pages 89-132 of the agenda papers.

## **Presentation by the applicant**

- The application had been submitted subsequent to a joint visit that had been conducted with the Licensing team, Immigration and Public Protection in November 2018.
- During the visit, an individual had been identified working at the premises who did not have the right to work in the UK.
- The individual's status was checked by Immigration and was liable to be removed from the UK.
- In accordance to section 11.26 – 11.28 of the revised guidance of the Licensing Act, a review could be submitted based on the licensing objectives of crime and disorder.
- The Licensing team had originally sought revocation of the premises licence when the application was first submitted, but they had recently been informed that the premises had transferred to a new company and that there had been a change of DPS.
- The new premises licence holder had also offered additional conditions to be added to the premises licence.

## **Presentation by interested parties**

PC Eldridge informed the Sub-Committee that:

- The Police were aware of the transfer application and the change of DPS.
- They had no reason to believe that the previous holders of the premises licence were in any way related to the new premises licence holders.
- The Police were happy with the new arrangements, however they would like to add some additional conditions.

At this point in the proceedings, PC Eldridge circulated the proposed conditions to the Sub-Committee and informed that the conditions had already been circulated to all parties.

PC Eldridge informed the Sub-Committee that:

- Some of the conditions proposed included the use of CCTV for the protection of children from harm, the use of an incident log, not having certain objects behind the counter such as sharp knife or any kind of obvious potential weapon, the use of the Challenge 25 scheme, the displaying of notices informing patrons to behave in a civilised manner and the presence of a personal licence holder being present at the premises at all times.

In response to questions from Members, PC Eldridge informed the Sub-Committee that:

- She was happy with the conditions that had been proposed by the new premises licence holder.

## **Presentation by the premises licence holder**

Mr David Dadds, Mr Ali (Director of the business at the premises) and Mr Malik (Director of the business at the premises) representing the premises licence holder, informed the Sub-Committee that:

- A good response from the Sub-Committee would be to grant the review application subject to the additional conditions proposed by the premises licence holder.
- The Police had raised no objections regarding the transfer of premises licence or the variation of the DPS applications.
- There was no relationship between the previous premises licence holder and the new premises licence holder.
- The transaction that had been made between the two parties was a bona fide transaction. Evidence of the validity of the transaction had been provided.
- In relation to the comments made by the Police, it was important to note that the relevant documents concerning the application had been sent to PC Constable on 19 February 2019.
- The application before the Sub-Committee was not an application for a premises licence, it was an application for a review of a premises licence.
- Therefore, it was the duty of the Sub-Committee to consider the relevant causes of concern in order to make an appropriate and proportionate decision.
- The cause of concern in relation to the premises was that the previous owners had employed an individual who did not have the right to work in the UK.
- The issue relating to the concern had been addressed by the two additional conditions made by the new premises licence holder.
- The onus was on the Police to demonstrate with real evidence (which they did not have) why they should then propose the additional conditions that they have proposed and to demonstrate why they would be appropriate and proportionate.
- He did not have any objection if the Sub-Committee wished to update the condition concerning the CCTV.

In response to questions from Members, Mr Dadds, Mr Ali and Mr Malik informed the Sub-Committee that:

- They would agree to the proposed conditions 1, 2, 3 4 and 10.
- They would not agree to proposed condition 8.
- They would agree to proposed condition 11. This was already being implemented at the premises.
- They would not agree to proposed conditions 5 and 8 or proposed conditions 12-17.
- The Police needed to justify why their proposed conditions were appropriate and proportionate.
- There was nothing to suggest that the premises had a specific issue with street drinking. The premises was not located in a controlled impact zone.
- No evidence has been provided by the Police that the premises had any issues with street drinking.
- In relation to proposed condition 8, this condition was already being fulfilled but

there was no need to make it a formal condition.

- Technically, the premises licence holder was the company.
- The business had originally been advertised for sale and Mr Ali and Mr Malik brought the business.
- The agreement of the sale of the business had taken place before the premises had been initially visited by the responsible authorities. This was why the sale had been completed in a seemingly short period of time.
- The previous owners of the premises had retired and had wanted to do so prior to the review application having been submitted.
- Of the two directors, only Mr Ali would be actively working at the premises.
- Staff working at the premises had been appropriately checked and documented.
- The Directors would like at least one personal licence holder present at the premises at all times and staff were being trained accordingly. However, this would not be offered up to the Sub-Committee as a condition.
- CCTV would be available at the premises subject to data protection laws and regulations.

In response to questions from Members, PC Eldridge informed the Sub-Committee that:

- Street drinking was not a criminal offence, it was an antisocial behaviour offence. It was therefore difficult to provide physical evidence regarding the issue.
- It was good common sense for all parties to work in partnership.
- Having been a Police officer the last 14 years, she could confirm that street drinking was prevalent in the area. However, as it was not a criminal offence it was difficult to provide evidence relating to the issue.

In response to questions from Members, Mr Dadds, Mr Ali and Mr Malik informed the Sub-Committee that:

- Mr Dadds would not detract from his point that there should be evidence to support any conditions that were proposed to be imposed on the premises licence as a result of a review hearing on the basis of the statutory guidance (section 182).
- It was accepted in general that when applying for a new premises licence, ordinary policies and procedures would be applied. However, this was an existing premises licence with already existing conditions.
- The only additional conditions that could be applied that were appropriate and proportionate were the ones that identified causes and concerns regarding the review application.

### **Adjournment and Decision**

At 9.01pm, the Sub-Committee withdrew from the meeting together with the Legal adviser and clerk to deliberate in private. The Sub-Committee had heard and considered representations from all those who spoke.

Legal advice was given to the Sub-Committee on the options open to them and the need for any decision to be proportionate. The Sub-Committee decided to grant the review application and impose conditions.

RESOLVED: To grant the review application and impose conditions.

### **Announcement of Decision**

Members returned to the meeting and the Chair informed those present of the decision to grant the application subject to conditions and amendments.

The Sub-Committee was of the view that the application should be grant the review application and impose conditions. Full written reasons would follow in due course.

The Chair stated that of the conditions proposed by the Police, the Sub-Committee proposed to impose conditions 1, 2, 3, 4 and 5. The premises licence holder had agreed to conditions 10 and 11. The Sub-Committee felt that conditions 6 and 8 were also appropriate and proportionate as they related to, and in the Sub-Committee's determination, adequately addressed the concern or concerns which prompted the review application.

The meeting ended at 9:12pm

CHAIR  
LICENSING SUB-COMMITTEE  
Friday 22 March 2019

Date of Despatch: Wednesday 20 March 2019

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