LICENSING SUB-COMMITTEE

Tuesday 4 September 2018 at 7.05 pm

MINUTES

PRESENT: Councillor Linda Bray, Councillor Fred Cowell (Chair) and Councillor Rezina Chowdhury

APOLOGIES:

ALSO PRESENT:

1 ELECTION OF CHAIR

MOVED by Councillor Linda Bray, SECONDED by Councillor Rezina Chowdhury

RESOLVED: That Councillor Fred Cowell be elected as Chair of the meeting.

2 DECLARATION OF PECUNIARY INTERESTS

None were declared.

3 MINUTES

RESOLVED: That the minutes of the previous meetings held on 2 and 14 August 2018 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

4b PRESCO FOOD AND WINE - 67 STOCKWELL ROAD LONDON SW9 9PY (STOCKWELL WARD)

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 to Sections 4, 5, 6, 7, 8, 9, 16 and Appendices 1, 4, 6, 7, 8, 9 and 10 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 5.9 of the report on page 23 of the main agenda papers.
The Sub-Committee noted that:
- This was a new application seeking the supply of alcohol from 10:00 to 23:00 Monday to Sunday.
- The premises also proposed to open to the public from 06:00 to 03:00 Monday to Sunday. A copy of the application form could be found on pages 115 to 131 of the main agenda papers.
- Two representations were received against the application from Community Safety (acting under the duties of Environmental Health) and Trading Standards. The representations were based on the licensing objectives of the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm. Copies of the representations could be found on pages 135 to 139 of the main agenda papers.
- The applicant had agreed to the suggested conditions by the Licensing Service and the Police. A copy could be found on pages 141 to 144 of the main agenda papers.

A map, plan and photographs of the premises were circulated to the Sub-Committee.

Presentation by the Applicant

Ms Arlene auf der Mauer, agent and Mr Sohrab Sherafghani, applicant, were in attendance.

Ms Mauer, agent, representing Mr Sherafghani, confirmed that:
- Mr Sherafghani would now be managing the premises.
- She had provided personal licensing training to all staff at the premises and had applied for the premises licence on behalf of Mr Sherafghani.
- Mr Sherafghani had agreed to implement all the conditions suggested by Licensing and the Police.
- She had visited the premises and had requested her client to make improvements to the layout at the premises.
- She had provided instructions to Mr Sherafghani on where notices should be displayed in the shop.
- Copies of the management agreement between Mr Abdul Ghafar (owner) and Mr Sherafghani had been supplied at the meeting. At present, it had not been signed as Mr Ghafar had been away in Saudi Arabia. On Mr Ghafar’s return, due to a death in the family, he unexpectedly travelled to Birmingham.

In response to questions from Members. Mr Sherafghani and Ms Mauer confirmed that:
- He had obtained the premises as a result of being informed about it.
- On visiting, he liked the shop and decided to purchase it.
- Although he purchased the shop from Mr Mahmood, he did not previously know him.
- He had been advised that the shop had lost its premises licence but still decided to purchase the shop.
- He previously worked as a taxi driver but found it difficult and wanted to start a new business. The shop was also located close to his home
- Mr Mahmood no longer had any connection with the premises.
- He hoped to get the agreement signed by Mr Ghafar in due course.
- On being referred to condition 41 (page 144 of the main agenda), Mr Sherafghani...
reassured the Sub-Committee that Mr Khan, Mr Naeem, Mr Mahmood and Mr Hasham would not be permitted to work at the shop.

- Ms Mauer had obtained brief information concerning issues at the rear yard of the premises. However, whenever she visited the premises, the backyard was always closed with no sign of anti-social behaviour being witnessed.
- He would ensure that staff were provided with proper training before they commenced working at the premises. Ms Mauer added that staff would receive training on a quarterly basis. All staff would be required to obtain a personal licence if they wished to work in the premises.
- CCTV was already situated at the premises but was due to be upgraded. All staff at the shop were familiar with the CCTV system.
- On being referred to conditions 10 and 11 (page 141) Mr Sherafghani stated that the conditions implied that he must comply with UK legislation and ensure that no illegal alcohol was sold at the premises.

Presentation by Interested Parties

Mr Bernard Conmy, Trading Standards Officer, Community Safety Service, said that:

- The premises had a chequered compliance history with breaches offences that ranged from possessing illicit stock, facilitating street drinking, breaches to conditions and the employment of illegal workers which led to the licence eventually being revoked.
- No evidence had been supplied to confirm that the applicant now owned the premises and that he had no connection with Mr Ghafar.
- Mr Ghafar was connected with several other problem licensed establishments in the borough and some of those licences had to be revoked including Presco Food and Wine.
- He understood the premises was leased to Mr Ghafar and then later sub-let and was unsure whether the landlord of the premises was aware of this application.
- If Mr Ghafar was still the leaseholder, then a clear connection with the previous management existed.
- He requested that the application be refused.

In response to a question from Members, Mr Conmy believed that Mr Khan, Mr Naeem, Mr Mahmood and Mr Hasham (condition 41) would still have some connection with the shop.

Mr Michael Anderson, Senior Community Safety Area Officer, said that:

- He believed the applicant knew Mr Ghafar.
- The applicant had to be coached by Ms Mauer on what to say, especially in relation to how he proposed to train staff.
- Ms Mauer would not be available at the shop 24-hours a day to provide assistance to the applicant.
- He believed the applicant would not be able to properly manage the premises.
- He felt that condition 41 could not be complied with by the applicant.

The Sub-Committee invited Ms Mauer and Mr Sherafghani back to answer some questions and the following response was made:

- She did not know Mr Ghafar. Her client had sole responsibility for running the business and not Mr Ghafar.
• He just had a business agreement with Mr Ghafar regarding purchasing the shop.

In response to a question from Members, the Legal Adviser to the Sub-Committee confirmed that assuming the applicant was agreeable, Mr Ghafar could be added onto condition 41 to be precluded from having any involvement with the operation of the premises. He could only attend the premises as consistent with the legal rights and obligations they owed each other arising from their relationship as landlord and tenant.

In response to a question from Members, Mr Conmy and Mr Anderson still had concerns with the application. The applicant appeared to be naïve and under pressure to produce rent. All other shops managed by Mr Ghafar appeared to have issues in the borough and had an extensive history of not abiding with the licensing act.

Adjournment and Decision

At 7.59 pm, the Sub-Committee withdrew from the meeting together with the legal advisor and clerk to deliberate in private.

The Sub-Committee had heard and considered representations from Ms Mauer, Mr Sherafghani, Mr Conmy and Mr Anderson.

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 for a new premises licence, subject to the additional conditions outlined on pages 141 to 144 of the main agenda papers.

RESOLVED: To grant the new application, subject to the additional agreed conditions outlined on pages 141 to 144 of the main agenda papers, with the amendment to condition 41 so as to read as follows:

41. The following named persons are to have no connection with the premises and will not be permitted to work there in any capacity: Mazar Iqbal Khan, Umair Naeem, Tariq Mahmood, Tanveer Hasham and Abdul Ghafar. Nothing in this condition shall however prevent Abdul Ghafar from attending the premises where this is consistent with the exercise of rights and obligations he owes to or is owed by the Licensee arising from their relationship as Landlord and Tenant of the premises.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the new application for a premises licence, subject to the agreed conditions on pages 141 to 144 of the main agenda papers and the amendment to condition 41. The Chair confirmed that written notification of the decision would be sent in due course.
Before commencement of the presentation from the Licensing Officer, Mr Gary Grant, Barrister for the applicant, explained that as a result of the on-going criminal investigation for the premises, he would be requesting that the press and public be excluded from the meeting in accordance with Regulation 14(2) of the Licensing Act 2003(Hearings) Regulations 2005.

In response to a question from the Chair, the Legal Adviser explained that once the report had been introduced by officers, Mr Grant could then make an application to the Sub-Committee to consider invoking Regulation 14, if he wished.

In response to a question from the Chair, the Legal Adviser explained that once the report had been introduced by officers, Mr Grant could take the necessary steps to invoke Regulation 14, if he wished.

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a review of the current premises licence. The Sub-Committee’s attention was drawn to Chapters 2, 3, 9, 10 and 11 of the Statutory Guidance, and to Sections 1, 5, 6, 7, 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 5.10 of the report on page 23 of the main agenda papers.

The Sub-Committee noted that:

- This was an application by the Metropolitan Police to review the premises licence following a Closure Order made against the premises by Camberwell Green Magistrates Court on 27 July 2018. Messrs Mazar and Zaffar Khan had jointly held the premises licence since November 2005. When the licence was granted, Mr Zaffar Khan was the Designated Premises Supervisor.
- The application was heard on 14 August 2018 and adjourned to be considered at this meeting. A copy of the Closure Order could be found on page 31 of the main agenda papers.
- Two representations had been received supporting the review, from Lambeth Licensing Department and Lambeth Metropolitan Police. The representations were based on the prevention of crime and disorder. Copies of the representations could be found on pages 33-62 of the main agenda papers.
- The premises had been previously reviewed by Lambeth Trading Standards and minutes from the hearing held on 24 June 2015 could be found on pages 75-91 of the main agenda papers.
- Mr Mazar Khan was also the licence holder and designed premises supervisor at another premises. The licence had been reviewed previously by the police and the minutes from that hearing held on 28 March 2017 could be found on pages 95-104 of the main agenda papers.
- An additional review hearing for the premises (Kwik Stop) was heard on 20 June 2017. A copy of the decision notice from the hearing could be found on pages 53-62 of the second agenda papers.
A map and photographs of the premises were circulated to assist members put the premises into context.

**Presentation by the Applicant**

Mr Gary Grant, Barrister, representing the Metropolitan Police, explained that as this review arises from matters which were the subject of an on-going criminal investigations, he invited the Sub-Committee to exercise the power to exclude the press and public from the meeting under Regulation 14(2) of the LA 2002 (Hearings) Regs 2005 in that the public interest in so doing outweighed the public interest in the hearing, or that part of the hearing, taking place in public.

Mr David Dadds, Solicitor, representing Mr Khan, confirmed that he had no objections to Mr Grant’s request.

The Sub-Committee decided that the press and public would be excluded from the meeting for the consideration of this item as the information that was to presented to the Sub-Committee involved the disclosure of exempt information and that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

Exclusion of the press and public and summary of part II proceedings

**MOVED** by the Chair and:

**RESOLVED**: That under section 100A-H of the Local Government Act 1972, the press and public be excluded for the remainder of the meeting to consider this item of business on the grounds that, for the item, it was likely that exempt information, as defined by Section 1001 and Schedule 12a of the Local Government Act 1972 and as specified by reference to the appropriate paragraph thereof, would be disclosed to them:

2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person including the authority holding that information.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

The press and public were re-admitted to the meeting to hear the decision of the Sub-Committee.

**Adjournment and Decision**

At 10:08 pm, the Sub-Committee withdrew from the meeting together with the legal advisor and clerk to deliberate in private.

The Sub-Committee had heard and considered representations from Mr Grant, Detective Riley, PC Farrelly, Mr Owojori and Mr Dadds.

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 and revoke the licence.
RESOLVED: To grant the review application and revoke the licence.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the review and revoke the licence. The Chair confirmed that written notification of the decision and full reasons for it would be sent to all parties in due course.

4c  SUPERWAY EXPRESS - 344 KENNINGTON LANE, LONDON SE11 5HY (PRINCE’S WARD)

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 to Sections 1, 4, 5, 6, 7, 8, 9, 16 and Appendices 1, 4, 6, 7, 8, 9 and 10 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 5.9 of the report on page 23 of the main agenda papers.

In response to questions from Members, the Licensing Officer confirmed:
- This was a new application for the sale of alcohol from 10:00 to 23:00 Monday to Sunday.
- The premises proposed to open to the public from 08:00 to 23:00 Monday to Sunday. A copy of the application could be found on pages 177 to 194 of the main agenda papers.
- One representation had been received from Community Safety on the grounds of the prevention of public nuisance. A copy could be found on pages 197 to 199 of the agenda papers.
- On 10 March 2018, a member of staff was found by police officers selling alcohol when there was no designated premises supervisor at the premises.
- The premises licence was revoked on 9 May 2018, when no appeal had been lodged against the decision of the Sub-Committee of 13 March 2018 after the 21 days appeal period expired.
- On 1 and 8 June 2018, further breaches of the Licensing Act were also witnessed by a Community Safety and Police Officer, when alcohol was displayed at the premises without authorisation.
- On 25 July 2018, the applicant pleaded guilty to eight offences regarding the breaches observed by Community Safety and received a conditional discharge for a period of three years and ordered to pay costs.

A map, plan and photographs of the premises were circulated to the Sub-Committee.

Presentation by the Applicant

Mr Mehboob Ali Khan informed the Sub-Committee that:
- He had obtained the premises on 14 March 2018, despite the licence being revoked on 13 March 2018.
- As a result of a burglary, the premises closed for two weeks.
- He accepted that incidents as alleged by the council and had accepted his
punishment.

- He owned two shops in Waterloo and Kennington and had 14 years’ experience of managing a premises.
- He had made a mistake selling alcohol without a personal licence but had financial issues.
- The judge had advised that if the offence was repeated, the other offences would also be taken into consideration against him.
- He wanted to be given another chance to obtain a premises licence.

In response to questions from Members, Mr Khan confirmed:

- He previously owned three licensed premises but had given one to his wife.
- He would like to be given another opportunity to sell alcohol at his premises due to financial reasons.
- He realised his mistake and this would not be repeated.

**Presentation by Interested Parties**

Mr Michael Anderson, Senior Community Safety Officer, confirmed:

- He thanked Mr Khan for accepting liability for the incidents documented in the letter supplied by Community Safety.
- An application had been made to transfer the licence to Mr Khan on 22 March 2018 and to specify him as the designated premises supervisor. However, he was observed on 20 April 2018 selling alcohol beyond the permitted hours on the licence.
- Other offences occurred on 1 and 8 June 2018 for alcohol being displayed without authorisation.
- He had no confidence that Mr Khan would adhere to the licence, as he had breached the Licensing Act on more than one occasion, which could not be considered as a mistake.

In response to a question from Members, Mr Anderson confirmed that Mr Khan had been observed selling by Community Safety at 23:23 on 20 April 2018 when the terminal hour for alcohol sales was 23:00.

**Adjournment and Decision**

At 10:32 pm, the Sub-Committee withdrew from the meeting together with the legal advisor and clerk to deliberate in private.

The Sub-Committee had heard and considered representations from Mr Khan and Mr Anderson.

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 refuse the application for a new licence.

**RESOLVED**: To refuse the application for a new licence.
Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to refuse the application. The Chair confirmed that written notification of the decision and full reasons for that decision would be sent to all parties in due course.

The meeting ended at 10.45 pm

CHAIR
LICENSING SUB-COMMITTEE
Tuesday 25 September 2018

Date of Despatch: Thursday 20 September 2018
Contact for Enquiries: Jacqueline Pennycook
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