

## **LICENSING SUB-COMMITTEE MINUTES**

**Tuesday 30 March 2021 at 7.00 pm  
Microsoft Teams**

**Present:** Councillor Martin Tiedemann, Councillor Joshua Lindsey and Councillor Pauline George

**Apologies:**

### **1 ELECTION OF CHAIR**

MOVED by Councillor Joshua Lindsey, SECONDED by Councillor Pauline George

RESOLVED: That Councillor Martin Tiedemann be elected as Chair for the meeting.

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

None were declared.

### **3 MINUTES**

RESOLVED: That the minutes of the previous meetings held on 2 February 2021 and 2 March 2021 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 GETIR UK, ARCH 196 CARLISLE LANE, LONDON, SE1 7LH (BISHOP'S)**

##### **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 Chapter 5 (policies 1 and 8) 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 paragraphs 6.2 of the report on page 27 of the agenda papers.

The Licensing Officer confirmed:

- This was an application for the sale of alcohol for consumption off the premises from 08:00 to 00:00, Monday to Sunday.
- The premises would be open 24-hours a day, but not to members of the public.
- The representations received against application were from Licensing and three members of the public.
- There were additional submissions from the applicant including a response to the alleged breach of a Temporary Event Notice on 9 February 2021.
- Details of the application could be found on pages 29-38 of the agenda papers.
- The plan could be found on page 39 of the agenda papers.
- Representations could be found on pages 41-54 of the agenda papers.
- There were two representations that had been submitted that were not on the agenda papers. These had been sent to the applicant and following discussion, the applicant agreed to proceed with the meeting as scheduled.

### **Presentation by the applicant**

Mr Chris Nixon and Ms Sana Warriach representing the applicant, informed the Sub-Committee that:

- The business was an online retailer dealing primarily with anything one could find in a supermarket.
- Deliveries would be made from select warehouses.
- The business had other licensed premises in London and was a deliverer of consumer items largely containing anything that one could find in your local supermarket.
- The business did not have any provision for late night refreshment - just consumer items.
- The sales were completed by a bespoke app which was owned and operated by the business.
- The units are serviced by the business' own staff which hired its own delivery and operation staff.
- The business had originally applied for a 24-hour licence, but had decided to reduce the hours of operation following mediation with Police and Licensing so that the hours for licensable activity sought were from 8:00 - 00:00.
- In relation to the breach of a temporary event notice on 9 February 2021, the business was apologetic about this.
- The applicant was 'mortified' and 'embarrassed' as despite safeguards having been put in place, a sale of alcohol had occurred unexpectedly.
- The applicant wished to be up-front in addressing the issue and to apologise for it.
- The issue occurred as a result of a 'perfect storm' of human and technological error.

- The applicant was taking the issue very seriously and had performed a thorough investigation of every order from the website since it had gone live.
- The electronic system in place for sales worked in most cases. There had been one instance where the system had placed an order for sale of alcohol when it should not have done so.
- The Licensing policy did not adequately deal with the operations that the premises would undertake namely operating alcohol deliveries only with no visitation from members of the public attending.
- The business employed its own delivery drivers and did not use third-party or part-time delivery drivers.
- The business hired all its delivery drivers and had full control over both their training and employment.
- The business had site managers and the delivery drivers used e-scooters and non-motorised vehicles to make the deliveries. The applicant was committed to this and had gone to a great expense in providing those facilities in order to reduce noise nuisance.
- The business had interior waiting areas for staff to wait until an order was placed. The area was overseen by site managers who would be committed to the conditions of the licence.
- The operation of the premises would be better, more accountable and of better service to the local community with a licence.
- The Sub-Committee was invited to grant the application.

In response to questions from Members, Mr Nixon and Ms Sana Warriach representing the applicant, informed the Sub-Committee that:

- Effort had been made by the applicant to address the issue of potential breaches of the premises licence.
- The process had been reviewed in its entirety including the technological facilities and staff training.
- All preventative measures had been taken, such as alcohol being physically removed from the stock during the hours where licensable activity was not to take place.
- Areas where alcohol would be stocked would be sectioned off against the other products at the premises.
- During the hours of non-licensable activity, staff would not be able to get hold of any alcohol.
- The issue that had occurred would not happen again.
- There would be no more than 15 members of delivery staff at any one time and would only reach as many as 15 to accommodate the busy hours of 17:00–21: 00.
- The applicant would be open for the Sub-Committee to grant the application with the

condition of a maximum of 15 delivery staff. This was also the maximum capacity in the waiting area and amount of vehicles.

- Delivery staff members working late at night would be no more than two to three drivers.
- If the Sub-Committee wished to put a condition on the licence regarding the delivery of stock, then the applicant would agree to a limit on the delivery of stock to the premises between the hours of 23:00- 07:00.
- Delivery staff were contracted to ensure due diligence when making any deliveries and were trained to spot false identification documents and the Challenge 25 policy.
- Delivery staff were employed on a full-time and part-time basis. They worked 40 and 20 hours respectively.
- The business did not employ staff members with zero-hour contracts.
- The applicant would agree to a condition whereby condition 20 would be edited to ensure that deliveries would be made to a named individual inside a business or a private residence.
- When ordering from the website, the customer would have to identify a physical address in any case. The minimum order was a spend of £10.00 and the type of vehicle used to make the delivery to the address would be dependent on the health and safety of the delivery driver.
- The applicant would agree to a condition whereby all items sold would be kept on record two months after the sale had been made.
- The applicant took community consultation and engagement very seriously and was regretful of some of the issues that residents had suffered from in the past.
- A commitment would be made whereby a telephone number would be displayed on the premises that would be visible to members of the public said that they would be able to contact the site manager if there were any issues, Queries or concerns that they had.
- The applicant would always listen to residents.
- The staff are to use non-motorised vehicles, would have an internal waiting area for delivery staff and there was a process for the prevention of noise of staff members who were arriving at or departing from a delivery. All of the regulations by which employees had to act were part of the employment contract.
- The applicant had gone to considerable expense and effort to put in place systems to ensure that the licensing objectives would be upheld and therefore the application was different to other delivery companies.
- The applicant had already agreed to a condition whereby the premises would stay a delivery only business.
- The applicant would monitor complaints via an incident log and if complaints were received, the site manager would be notified and could be contacted directly.
- All drivers would employ the Challenge 25 policy. If the delivery recipient looked under 25, then appropriate age verification methods would be used to ensure that the recipient was over the age of 18.

## **Presentation by interested parties**

Ms Sarah Williams, Licensing Officer, informed the Sub-Committee that:

- There had been mediation between Licensing and the applicant since the report was published.
- There was a sale of alcohol made on 9 February 2021 which was unlicensed.
- She had no confidence that the applicant would be able to uphold the licensing objectives.
- It was unclear if the mobile app used by the business could be bypassed in some way.
- It was unclear if sales of alcohol could be included by accident during an unlicensed period or some other technological issues.
- Further assurances from the applicant was required, otherwise she would recommend that the application be refused.

In response to questions from Members, Ms Williams informed the Sub-Committee that:

- The hours of employment of staff would be relevant on the basis of the hours of licensable activity.
- It was unclear how the technical glitch had occurred at the business and assurances were required on if it was possible for staff members to perhaps bypass the application.
- There may be a risk of other products being accidentally categorised or miscategorised.
- It was difficult to monitor the premises activity in order to ensure the licensing objectives were being upheld.

At this point in the proceedings, in response to questions from Members, Mr Nixon and Ms Wariach informed the Sub-Committee that the technical glitch had occurred as a result of staff attempting to take stock of items at the premises. During that period of time, an alcoholic item became available for sale. It was a small window during which the order could have been placed and that was what happened. There would no longer be alcohol in stock until an order was placed for it. The applicant was unable to predict the future but could do as much as possible to uphold the licensing objectives. Furthermore, internal test purchasing could be carried out and records of all deliveries made could be held at the premises. In relation to how customer information was registered, once a customer account was created, a physical address had to be nominated and when an order was made, the delivery was carried out by the nearest warehouse. The operation would then be assigned, the order prepared and finally given to the driver. The driver then attends the address to make the delivery and ensures the age verification process when the delivery was made.

Mr Matthew Dunwell, resident, informed the Sub-Committee that:

- He had read the Licensing policy and took it very seriously.
- Section 5.7 of the policy referred to canvassing views of residents to develop a relationship between them before an application was made and paragraph 22.1

discussed the increase about food delivery services including alcohol delivery and he was surprised that the applicant felt that this did not appear to apply to the business.

- Given the way the application had been handled, it was unclear if the policy was important or if parts of it could be discarded very easily by the applicant.
- The applicant's response had not addressed the issue of a lack of consultation with residents.
- He wanted to thank Councillor George regarding her question about the breach of the temporary event notice.
- It was important to have committed consultation. It was unclear how important the applicants felt that the Licensing policy was.
- The applicant had stated in the response that he had sought to test the applicant. It was unfair to draw such a conclusion on his representation.
- The applicant had said that the issue was not the fact that the applicant had sold alcohol. However, this was what had occurred. The applicant had sold alcohol without a licence.
- The number of vehicles that could be parked at the premises was nine. Any more vehicles would mean that drivers will be using resident parking bays.
- Whilst the restriction of the hours and age restriction checks were welcome, it was unclear why very little had been put in place for noise nuisance.

Mr Ms Sophie Honey, resident, informed the Sub-Committee that:

- She supported the above points. She had a similar view of the Licensing policy and was concerned that no consultation had been made before the application was submitted, especially given the 24-hour proposal put forward by the applicant.
- The prevention of public nuisance was a key objective of the Licensing policy and given the lack of consultation and for taking up of resident parking bays, there could be a cumulative impact from other licensed premises operating in the same way.
- The number of hours operated by the applicant would likely cause disturbance to local residents.
- She did not feel confident that the applicant would not breach conditions given that they had a record for doing so.

In response to questions from Members, Mr Dunwell and Ms Honey informed the Sub-Committee that:

- It was important for the applicant to be able to consult with residents to understand local area and the local concerns.
- Once the notices had been submitted and put up, the application had already been made.
- Residents had not been contacted on having a discussion with the applicant.
- There was a lack of confidence that the issues raised by the application would be

addressed in a collaborative way and would have a long-term impact on the local community.

At this point in the proceedings, the Licensing Officer informed the Sub-Committee that the Licensing policy had stated that a consultation before an application was submitted was a form of good practice but there was no statutory need for such a consultation to take place before an application had been submitted.

The Legal Advisor restated a point made by the Licensing Officer during the introduction to the item that the applicant had received the representations made by residents at a late stage in the process and that this may have had a bearing on the level of engagement that might have otherwise been expected.

In response to further questions from Members, Mr Dunwell and Ms Honey informed the Sub-Committee that:

- It was important that the applicant was not able to use Deliveroo or another similar business to make deliveries at a future date.
- The ordinary hours of operation were 11:00 to 23:00. It was unclear why Licensing had agreed to 08:00 to 00:00.
- A terminal hour of 23:00 was acceptable.
- More time should be given for the applicant to be able to work and reach an agreement between all parties.
- It was not fair that the applicant would take up resident parking space to park vehicles and they should only employ the maximum number of drivers for whom they had parking space.
- The sale of alcohol during the late hours would have an effect on the public nuisance in the area.
- The applicant had the option to withdraw the application and simply sell non-alcoholic goods on a 24-hour basis.

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

- The total number of drivers would be 15 at peak times which were between 17:00 to 21:00. In the late hours the number of drivers would reduce to two or three.
- In relation to the consultation, there was a statutory period in the Licensing Act (2003) which gave the applicant 28 days to consult with residents.
- The applicant would agree to a condition whereby the maximum number of drivers would be limited to 15 at one time and that delivery drivers must exclusively be employed by the business.
- The business could accommodate 15 drivers as the business had access to parking on the outside and interior of the premises.
- The applicant had already made a large concession in not selling alcohol 24-hours a day but could not agree to a terminal hour of 23:00 as the hours proposed

by the applicant my already more than reasonable.

- The applicant would agree to a condition whereby stock would not be taken into the premises between the hours of 23:00 to 07:00 (or even 05:00).
- The applicant would agree to a condition whereby deliveries could only be made to a named individual inside the premises and that any deliveries made would be kept on file two months after the sale.
- The applicant would agree to the removal of condition 6 concerning disorder and ejection of patrons.
- The applicant would have no objection to a minimum purchase of £10.00 per order, but this was for all goods sold. Not simply for alcoholic goods.

Ms Williams informed the Sub-Committee that she agreed to the proposed conditions.

### **Adjournment and Decision**

At 8:43pm, 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 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 subject to the conditions.

RESOLVED: To grant the application subject to conditions.

### **Announcement of Decision**

Members returned to the meeting and the Chair informed those present of the decision to grant the application with conditions as outlined out in additional papers and agreed at the meeting between all parties. After having heard all the representations, the Sub-Committee felt that it was confident in being able to grant a licence which stepped outside the hours as outlined in the Licensing policy.

The meeting ended at 8:57pm.

CHAIR  
LICENSING SUB-COMMITTEE  
Tuesday 20 April 2021

**Date of Despatch:** Friday 9 April 2021  
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