

LICENSING SUB-COMMITTEE MINUTES

Monday 13 June 2022 at 7.00 pm

Members Present: Councillor Fred Cowell, Councillor Liam Jarnecki and Councillor Isla Wrathmell

1 Election of Chair

MOVED by Councillor Liam Jarnecki, SECONDED by Councillor Isla Wrathmell

RESOLVED: That Councillor Fred Cowell be elected Chair for the meeting

2 Declaration of Pecuniary Interests

There were none.

3 Minutes

RESOLVED: That the minutes of the previous meeting held on 10 May 2022 and 20 May 2022 be approved and signed by the Chair as a correct record of the proceedings.

5 Licensing Applications for a Summary/Expedited review under Section 53A (of the Licensing Act 2003)

5a IBEX Venue Restaurant and Hall, TDA House, Rear Part 1, 211 Clapham Road London SW9 0QH

At this point in proceedings, the Chair announced that the Metropolitan Police had submitted an application for the interim review of a premises licence at IBEX Venue Restaurant and Hall, at 211 Clapham Road London SW9 0QH.

The Licensing Authority and Metropolitan Police had withdrawn their representations supporting a review of the licence and the Sub-Committee agreed that in determining the matter, there would be no further action taken in regard to the review.

RESOLVED: To take no further action to review the application for this licence.

4 Licensing Applications for the Grant / Review of a Premises Licence

At this point in proceedings, the Chair informed those in attendance that item 4b, Theatro, 69-71

Westow Hill London SE19 1TX, had been adjourned to a later date with consent of all parties.

4a Getir Unit 9 Bessemer Park Industrial Estate 250 Milkwood Road (Herne Hill 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, 3, 4, 8 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 of the report on page 24.

In response to questions from Members, the Licensing Officer confirmed:

- This was an application for a new premises licence, submitted by Getir UK Limited to allow online delivery from Bessemer Park Industrial Estate, 250 Milkwood Road.
- The applicant was seeking authorisation for the sale of alcohol for consumption off the premises from Monday to Sunday, 00:00 to 00:00.
- This was to operate as a 24-hour licence, but members of the public were not permitted access during this time.
- The applicant operated other premises across the Borough and had authorisation to sell alcohol on other sites.
- The hours currently permitted for the sale of alcohol for this site were between 08:00 to 00:00.
- In attendance representing the applicant were Chris Nixon, Rob Santos, Gabriel Prava and Annabel Strutt.
- Eight representations had been received against the application from the Licensing Authority, a local Councillor and six residents, based on the licensing objectives of prevention of public nuisance, public safety and protection of children from harm.
- In attendance representing the Licensing Authority was Ms Bina Patel.
- Ward Councillor Jim Dickson was also in attendance to make a representation against the application.
- The applicant had sent an additional submission subsequent to the publication of the report and this had been shared with the Sub-Committee and all relevant parties.
- Correspondence from a resident in response to the applicant had also been shared with members subsequent to the publication of the report.

Presentation by the Applicant

Mr Chris Nixon, Compliance Manager, informed the Sub-Committee that:

- As a business, Getir was an online shop selling convenience offer and groceries and the applicant sought to extend that to alcohol.
- Goods were stored in a warehouse and delivered to the customer's door, with no public access to the site.
- Customers had to download the Getir app and provide a verifiable delivery address.
- Delivery staff waited onsite in a designated waiting area and were either on the premises or out for delivery.
- Recognise drunkenness
- In respect to the representations received, the applicant appreciated the concerns

related to 24-hour operation in residential areas, yet this was close to the customer base and disruption from delivery staff was minimal.

- Getir was not alcohol-led, but convenience-led business and operated across the UK.
- Only 3 to 2 percent of sales were for alcoholic beverage.
- Delivering to people's homes and not public spaces was thought to promote public safety as this did not contribute to street drinking and dissuaded antisocial behaviour.
- Certain representations were not seen as relevant to the Licence Objectives, such as planning, highways and road traffic law.
- Mediation with the Licensing Authority had been successful and additional conditions had been agreed, however the licensable hours for the sale of alcohol should match operational hours of the premises.
- The Council's Licensing Policy was not seen to address this type of business model.

In response to questions from Members, the applicant confirmed:

- That a new condition could be proposed that delivery should only be made to a registered residential or business address, and this reinforced Condition 28, referring to street sales.
- There was a shortage of delivery drivers in the UK and Getir would preferably hire delivery staff directly but had to engage recruitment firms on rare occasions.
- Third party delivery agencies would provide their best drivers for the business to select, and this could be understood as an indirect hire as the standards, training, delivery uniform and vehicles were the same.
- Condition 14 could be amended to ensure ubiquitous training for third party delivery staff.
- Alcoholic offer was crucial for the business in line with operational hours, while sales were low at 2 to 3 percent.
- Banana and milk made up the greatest sales, and toilet roll during night-time hours.
- The Temporary Events Notices previously applied for between 23:00 and 08:00 were made as there was no appeals process for those hours. The full application had been made in consultation with Metropolitan Police.
- For the Getir businesses across the UK, approximately 95 percent of all 24-hour premises included the sale of alcohol.
- The sale of alcohol was popular between 17:00 and 21:00 then sales decreased to between one and two percent between 01:00 to 07:00.
- The business operated close to their customer base. When a premises exceeded capacity, another site would open and there were several premises already operating in Lambeth.
- There were between five and 13 delivery staff per operation.
- There had been no enforcement notices received and the applicant had accommodated any received requests.
- The management style ensured delivery staff waited inside as this complimented the business model and did not attract complaints.
- Usually, complaints were that the premises was too busy to complete orders.
- Delivery was only by electric vehicles, which did not contribute to noise nuisance or pollution.
- There was a courier complaint procedure and phone number provided to contact the manager on site and the applicant would agree to an additional condition to advertise a contact number for the specific premises for complaints..
- The applicant had not contacted the local residents of Herne Hill and Loughborough Junction directly but had undergone the consultation period and provided contact

information to be contacted at any time.

Presentation by Interested Parties

Ms Bina Patel, representing the Licensing Authority, said that:

- The Licencing Authority engaged with the applicant on proposed conditions and subsequent amendments had been made, with minor changes circulated.
- Condition 21 had not been agreed by the applicant, that orders containing alcohol may only be delivered between the hours 08:00 to 23:00.
- Mr Nixon had suggested there was little evidence for antisocial behaviours, but there was the potential for generating nuisance as delivery staff operated outside the premises.
- There had been one complaint made to the Getir premises on Carlisle Lane regarding delivery drivers, yet no further complaint had been made so this may have been dealt with.
- These types of delivery companies did often cause disturbance to residents, and this was the reason for the proposed hours for restricting the sale of alcohol.
- As a corrective point, Condition 22 within the conditions agreed should be amended to refer to Condition 18, not 20, regarding third party delivery staff.
- The restricted delivery hours had not been included within the additional submission made by the applicant.

In response to questions from Members, Ms Bina Patel confirmed:

- The hours proposed to restrict the sale of alcohol between 08:00 to 23:00 were in line with other similar establishments in the Borough, to mitigate potential public nuisance.
- The percentage of sales of alcohol between 23:00 and 08:00 were minimal, at one to two percent, but as the business operated in a residential area, it was important to restrict the sale between these hours to mitigate any potential for nuisance or antisocial behaviours.
- Due to the low sale of alcohol during those hours, there was nothing to suggest the hours could not be controlled.

Councillor Jim Dickson, Ward Councillor for Herne Hill and Loughborough Junction, stated that:

- He was present to object to the application to operate as an alcohol retailing business for 24-hours,
- Milkwood Road was populated by family homes with a high proportion of children and connecting Lowden Road, which was also a quiet residential area.
- The applicant had not engaged with local residents prior to the hearing.
- The business model of the application saw a ten-minute target for delivery meant that a quiet residential road could experience considerable nuisance from rapid delivery times.
- It was feared that as business grew, peak hours could reach after 22:30 which would contribute to nuisance, especially during summer months when residents need windows open for ventilation.
- While there were no sales of alcohol on site, noise nuisance could be generated as staff processed their orders.
- Another 24-hour licence for Gorillas also operated at Bessemer Park Industrial Estate and two licenced businesses in proximity could create problems for the area.

- Residents preferred the application be refused, but should the Sub-Committee grant the application, the strictest conditions proposed should be considered, as well as restricting numbers of staff in and around the premises.

In response to questions from Members, Councillor Jim Dickson confirmed:

- Restricting the hours for the sale of alcohol between 08:00 to 23:00 was preferable to the 24-hour licence applied for.
- Several residents wanted to speak at the hearing but were unable to attend and this should not be taken as a lessening of the representation.

In response to questions from Members, Ms Bina Patel confirmed:

- This type of business was new to Lambeth and the UK and suitable conditions should be imposed to minimise issues arising during the later hours.
- The conditions proposed by the Licensing Authority to restrict the hours for the sale of alcohol were to mitigate any potential breaches of the Licensing Objectives and there was little evidence that this would impact the business.
- Using third party delivery staff could cause various other issues.
- Lambeth had received complaints since these types of business started operating due to deliver drivers in residential areas and the Licensing Authority sought to prevent these issues without impacting too much on the business.
- Most complaints were received after 22:30.

At this point in proceedings, Mr Chris Nixon, representing the applicant, addressed the Sub-Committee and highlighted:

- In reference to the law of unintended consequences, alcohol formed a smaller part of a greater order and if the item was restricted, there would be financial detriment and consequence of denying Getir a customer.
- A premise licence application should be judged by its own merits and other premises operated by this applicant were not relevant at this hearing.
- The complaint received at the business on Carlisle Lane was investigated and did not relate to Getir.
- The licensing policy did not adequately address the business model, as no persons were allowed on site, deliveries were not made to public spaces and customers did not contribute to street drinking.
- Section 15 the licensing policy did mention delivery only businesses and raised four key points being age verification, the safety of drivers, safety of premises and public nuisance. In terms of licensable activity, the applicant had addressed all of these through the agreed conditions so as not to undermine the Licencing Objectives.
- Public Nuisance had been mitigated through conditions as staff were managed onsite and did not use combustible engines when delivering.
- The licensable activity applied for is not to operate as a delivery business but to sell alcohol and there was no evidential link between selling alcohol and undermining the objectives.
- Section 182 Guidance 9.43 stated that the authority's determination should be evidence based and proportionate to what it is intended to achieve, and there was a lack of evidence to support restricting the hours for the sale of alcohol in this case.
- The application had been considered and was supported by the policy.

In response to questions from Members, the applicant confirmed:

- There was evidence to substantiate the assumption that selling alcohol late at night contributed to antisocial behaviour in this case, while the applicant could not determine what people did privately in their homes.
- It was the responsibility of the applicant to act as a responsible retailer and the proposed conditions supported this.

Adjournment and Decision

At 20:35, 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 the Licensing Authority and Councillor Dickson.

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 following three conditions:

- Deliveries should be made to a registered residential or business address and to a person inside that address.
- Condition 14, on page 53 of the document, should be amended to reflect the fact that Challenge 25 policy should apply to everyone making a delivery on behalf of Getir.
- A telephone number and a complaint procedure to the specific premises on Milkwood Road shall be displayed clearly so that residents can raise any issues directly with premises.

RESOLVED: To grant licence subject to the three conditions as outlined above.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the licence and provided reasons for the decision as outlined above. The Chair informed those in attendance that the Sub-Committee had been mindful of the objections submitted by the Licencing Authority, local residents and ward Councillor, however, were not provide with the evidence that the sale of sale of alcohol in addition to existing offer would contribute to nuisance. The Sub-Committee had considered all the options available to them and ultimately felt that the conditions met the concerns which had been raised. The Chair confirmed the parties right to appeal the decision within twenty-one days of receiving written notification of it which would be sent in due course.

The meeting ended at 21:11

CHAIR
LICENSING SUB-COMMITTEE
Tuesday 12 July 2022

Date of Despatch: Tuesday 21 June 2022

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