



## LICENSING SUB-COMMITTEE

Tuesday 23 July 2019 at 7.00 pm

### MINUTES

PRESENT: Councillor Linda Bray, Councillor Fred Cowell and Councillor John Kazantzis

APOLOGIES:

ALSO PRESENT:

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

MOVED by Councillor John Kazantzis, SECONDED by Councillor Linda Bray and

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

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

None were declared.

#### **3 MINUTES**

RESOLVED: That the minutes of the previous meeting held on 18 and 28 June 2019 be approved and signed as a correct record of the proceedings

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

The Chair informed the meeting that the variation application and the review application would be heard simultaneously.

#### **4a ALBA PIZZERIA (TOWN LEBANESE), 3 BEDFORD ROAD, LONDON, SW4 7SH - REVIEW (LARKHALL)**

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

The Sub-Committee was informed that an application for a review of a premises licence had been submitted. The Sub-Committee's attention was drawn to chapters 2, 3, 9, 10 and 11 of the Statutory Guidance and Sections 1 and 5 (and polices 7 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 6.1 of the report on page 19 of the agenda papers.

The Sub-Committee was also informed that an application for a variation of the premises

licence had been submitted. The Sub-Committee's attention was drawn to chapters 2, 3, 8, 9, 10, 11 and 15 of the Statutory Guidance and Sections 1 and 5 (and polices 1, 4, and 7) 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 77 of the agenda papers.

The Licensing Officer confirmed:

- A variation and a review application had been submitted under Sections 34 and 53 of the Licensing Act (2003).
- The variation application had been submitted on 16 May 2019. The review application had been submitted on 31 May 2019 by the Licensing team.
- The variation application sought to vary the hours of live music, recorded music, performance of dance and of the sale of alcohol from Monday to Sunday 12:00 to 05:00.
- The applicant also sought late night refreshment Monday to Sunday 23:00 to 05:00.
- The premises currently had a licence until 03:00.
- The Police supported the review application and had submitted a representation against the variation application.
- No temporary event notices (TENs) had been applied for by the applicant in 2018 or 2019.
- Two witness statements regarding incidents occurring at the premises on 6 July 2019 had been circulated to all parties.

In response to questions from Members, the Licensing Officer informed the Sub-Committee that:

- No TENs had been applied for by the applicant in 2018 or 2019.
- The applicant had engaged in licensable activity after 03:00 which was not lawful.

### **Presentation by the applicant**

Ms Bina Patel, Licensing Manager, informed the Sub-Committee that:

- The review was based on several failings of the premises licence holder.
- The premises licence holder was guilty of several breaches of the licence and had been found trading beyond the existing licensed hours.
- Numerous visits had been made to the premises following complaints and the premises had been found by officers to be trading beyond the hours of the licence more than once. In each of those cases, where a Licensing Officer had visited the premises, the premises licence holder had been informed that he was trading outside of its designated operating hours specified on its licence.
- She noted that the premises licence holder had applied for a variation to the existing licence, but the review application had been submitted because the

applicant had been found trading beyond operating hours.

- Despite the assistance offered to the premises licence holder, he had not cooperated and had ignored advice given to him.
- Despite the consultation period for the review application and the variation application, the premises licence holder had been found operating outside licensed hours on 6 July 2019.
- During the visit to the premises on 6 July 2019, whilst the Licensing team was speaking to the premises licence holder, another member of premises staff was seen asking patrons to leave. One patron, who was intoxicated, was still holding half a pint of alcohol at the time.
- The premises licence holder was not taking the issues relating to the premises seriously.
- The premises licence holder was not a suitable individual to hold a premises licence and was not aware of what was required of him.

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

- She would ask for the licence to be revoked.
- The premises licence holder was contacted on 1 April 2019 and further contact was made on 3, 6 and 26 April 2019. On 27 April 2019, the premises was found to be operating past the licensed hours.
- Further evidence of breaches of the premises licence was found on 10, 11, 17 and 23 May 2019.
- A screenshot on page 56 of the agenda papers suggested that the premises was operating beyond its licensed hours.
- She had thought that after the initial intervention from the Licensing team, the premises licence holder would have stopped trading past 03:00 but he was still found to be trading beyond the hours of the licence on 6 July 2019.
- The premises licence holder had a disregard for the licensing objectives.
- Full details of the incident on 6 July 2019 could be found in the additional agenda papers.
- It was likely that the applicant had operated beyond licensed hours from 1 April 2019 until the publication of the review application.
- The Licensing team had not been able to visit the premises regularly due to lack of resources.
- It was likely that the applicant had operated beyond the licensed hours during June 2019 given that the premises had operated beyond licensed hours on 6 July 2019.
- The only time she had visited the premises was on 6 July 2019 with a Licensing Officer. When she arrived at 03:30, she observed 8 to 10 people in the outside area of the premises. Premises staff recognised the Licensing Officer and started to encourage patrons to leave the premises. The Licensing Officer spoke to the premises licence holder whilst patrons were actively being evacuated from the premises. The Licensing Officer then further advised the premises licence holder that he was operating outside the licensed hours.

- No SIA staff were present at the time.

PC Eldridge informed the Sub-Committee that:

- She supported the review application and had submitted a representation against the variation application.
- The premises had a total of 13 breaches of the licence and/or complaints raised against it.
- There were high levels of intoxication in the area in addition to disorder, antisocial behaviour and crime.
- Recently, an individual had died in the Clapham area due to the ongoing issues in the area.
- The premises had breached conditions and terminal hours even after being told numerous times to follow the conditions of the licence.
- She did not feel that the conditions and the regulations of the proposed variation would be followed as the premises licence holder had not followed the regulations of the existing licence.

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

- The applicant had submitted the variation application in an attempt to retrospectively correct the breaches of the premises licence.
- Although some acceptable conditions had been submitted, the applicant had not put in a strong detailed plan of action particularly given the premises was located in a cumulative impact zone.
- If the review application had not been submitted, then the Licensing team would have sought a refusal of the variation application in any case.
- The premises licence holder had promised that he would follow regulations and would make various efforts to meet the licensing objectives but had demonstrated that he was unable to meet the existing requirements of licence.
- On 13 April 2019, the Police attended the premises at around 02:00. There were a number of patrons drinking at the premises and PC Eldridge asked to speak to the manager. One member of staff went behind the counter and said that he would call 'Mou' but would not provide his details. Whilst a member of staff tried to contact the premises licence holder, she met an SIA officer who stated that he had arrived to start work. When she pointed out that there was only one hour of trade left, he had stated that he would 'take any work he could get'. It was likely that the premises was scheduled to run beyond the terminal hour as SIA staff generally did no less than four hours of work at any licensed premises.

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

The premises licence holder, Mr Mouhannad Alkhedher and his representative, Mr Panchal, informed the Sub-Committee that:

- The premises had operated beyond the terminal hour of 03:00 but this did not necessarily mean that alcohol was being sold past 03:00. It was likely that, on some occasions, alcohol had been served past 03:00 but that on other occasions, people were simply drinking past 03:00 having brought the alcohol during the licensed hours.
- The premises licence holder would admit that he had made mistakes but felt that he could move forward from the mistakes that had been made.
- The premises licence holder had been asked by his representative to close the premises at 03:00 send his representatives pictures of the premises having closed. He performed this task with the exception of 6 July 2019.
- There had been a breach of the premises licence but the premises licence holder would be able to find a way forward from situation. The premises was a popular venue.

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

- On 6 July 2019, there was a group of about 7-8 people at the premises. They were not served alcohol after 03:00. The premises licence holder was present at the time.
- Less than 10 people were at the premises after 03:30. All patrons were served alcohol before 03:00. The last person was served at 02:53.
- The premises licence holder dispersal policy consisted of providing notice to patrons that the premises would be closing 10 minutes, 20 minutes and 30 minutes before closing time.
- Patrons were still present at the premises after 03.00 because they had not yet finished their drinks.
- At present, the licence did not have particularly robust conditions so stronger conditions had been proposed (as proposed on page 92 of the agenda papers).
- SIA staff would be appointed to work at the premises from 22:00 or 23:00 until one hour past closing time, the DPS would be trained in conflict management and an additional staff member would be appointed to ensure that any incident occurring at the premises would be adequately reported and that all records would be kept up to date.
- The premises licence holder would work with the Police to ensure that adequate compliance was in place.
- The premises was an important tourist attraction and attracted patrons who were tourists.
- Patrons turned up late in the evening sometimes after sightseeing tours.
- There were no problems with the patrons who attended the premises.

- There were no responsible authorities present at the meeting to say that there were any problems at the premises or breaches in the licence.
- There were no issues such as underage sales or public nuisance, there was simply a breach in operating hours (which was a matter that was taken seriously by the applicant).
- The premises licence holder had been advised by his representative to close at the terminal hour of 03:00 and send Whatsapp pictures as evidence to his representative on his mobile phone. The pictures had been collected and were available to the Sub-Committee for inspection.
- Proposals had been made to strengthen the conditions on the licence.
- The premises licence holder proposed a suspension of the licence for a period of one month and he would return to the 'drawing board', learn conflict management, implement proper dispersal policies and arrange for adequate conditions to be put in place.
- The premises licence holder agreed that he had broken the rules. However, there was a 'way forward' for him and the progression could be achieved if he was given a chance. The opportunity would be his last chance.
- The premises licence holder was not asking for the Sub-Committee to authorise or reward breaches of the premises licence.
- The premises licence holder's representative felt that that a suspension would help him understand the consequences of his actions as the suspension would affect him financially.
- The premises licence holder was proposing a condition whereby SIA staff would be present at the premises from 22:00 or 23:00 and would be present one hour after closing time.
- In relation to the Licensing Act, any breach of section 136 could be prosecuted. The premises licence holder was at risk of ending up in this process if he did not follow the regulations in future.
- No responsible authorities had presented at the meeting objecting to anti-social behaviour or noise issues. The objections only related to a breach of the licensing hours. There was no evidence of public nuisance.
- Any noise complaint needed to be taken in context with a similar licensed premises nearby in the area who were equally likely to be responsible for the resulting noise complaints.
- As soon as the premises licence holder's representative had heard about the breaches in the licence, the premises licence holder was immediately summoned and told about the seriousness of the breaches. Much effort had been made by the premises licence holder's representative to ensure that the premises licence holder fully understood the seriousness of his actions and the need to uphold the licensing objectives.
- The nature of the complaints were serious but the premises licence holder could work to improve and move forward. The premises licence holder was very sorry and would not argue about the complaints raised.
- The premises licence holder would not deny the issues raised but would ensure that breaches of the premises licence did not happen again.
- The Google review left by a patron of the premises had mistaken the times she

had said the premises was open.

- When the premises licence holder's representative was approached by the premises licence holder to deal with the variation application, he was not aware that the premises licence holder was in breach of operating hours.
- The premises licence holder's representative got in touch with the responsible authorities and was subsequently informed that the premises was being reviewed at it had breached the licence.
- The premises licence holder was happy to revise the drink-up policy and would consider any other policies suggested.

### **Adjournment and Decision**

At 8:11pm 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 revoke the licence and to refuse the variation application.

RESOLVED:

1. To grant the review application and revoke the licence.
2. To refuse the variation application.

### **Announcement of Decision**

Members returned to the meeting and the Chair informed those present of the decision to grant the review application and revoke the licence and to refuse the variation application.

The Sub-Committee thanked all parties in attendance. The variation application was refused as the hours sought by the premises licence holder was significantly outside policy hours for the type of premises operated by the licence holder. In addition, since the venue was within the Clapham High Street saturation zone, the application fell to be determined in accordance with the special policy within the council's statement of licensing policy regulating new licences and material variations within the area covered by the zone. The Sub-Committee considered this application constituted a material variation for the purposes of the council's special policy. The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for the variation of premises licences which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. The applicant therefore had the burden of showing that the variation sought would not contribute to the existing negative cumulative impact experienced in this location. The Sub-Committee were concerned that the applicant had failed to demonstrate an understanding of how the special policy impacted their application; propose or consider measures to mitigate that impact and articulate why they considered their application should be an exception to the policy. For the Sub-Committee to grant this application, the applicant needed to show that there would be no adverse cumulative impact resulting from its grant. The Sub-Committee was not satisfied that the applicant had discharged this burden and therefore considered that it was appropriate and proportionate to refuse the application. Regardless of the foregoing, the Sub-Committee was not satisfied that the

premises licence holder would be able to uphold the licensing objectives.

In relation to the review application, the Sub-Committee had decided to grant the review application and revoke the licence. Full written reasons for its decision would be provided in due course.

**4b ALBA PIZZERIA (TOWN LEBANESE), 3 BEDFORD ROAD, LONDON, SW4 7SH - VARIATION (LARKHALL)**

As item 3a.

The meeting ended at 8:23pm.

CHAIR  
LICENSING SUB-COMMITTEE  
Tuesday 13 August 2019

Date of Despatch: Wednesday 31 July 2019

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