



LICENSING SUB-COMMITTEE

Tuesday 29 October 2019 at 7.00 pm

MINUTES

PRESENT: Councillor Matthew Bennett, Councillor John Kazantzis and Councillor Irfan Mohammed

APOLOGIES:

ALSO PRESENT:

1 ELECTION OF CHAIR

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

RESOLVED: That Councillor Matthew Bennett be elected Chair for the meeting.

2 DECLARATION OF PECUNIARY INTERESTS

None were declared.

3 MINUTES

RESOLVED:

That the minutes of the meeting held on 19 September 2019 be agreed as a correct record of the proceedings.

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

The Sub-Committee decided to hear application 4c first.

4a JJ MORLYS, 9 HOPTON PARADE, STREATHAM HIGH ROAD, LONDON SW16 6EP (STREATHAM WELLS)

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 5, 6 and 14 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 pages 23 of the agenda papers.

The Licensing Officer confirmed:

- This was an application for a new premises licence.
- The applicant was seeking hours for late night refreshment until 04:00 Monday to Thursday and until 05:00 Friday to Saturday.
- The premises already had a licence for late night refreshment until 02:00 Sunday to Thursday and until 03:00 Friday and Saturday.
- Representations against the application had been made by Licensing, Public Protection and residents.

Presentation by the applicant

Mr Johan Emilamalathas, representing the premises licence holders, informed the Sub-Committee that:

- His parents had been owners of the premises since 2004.
- Applications on behalf of the premises (either a variation or new licence application) had been made on at least two occasions.
- The applicant was only applying for business hours and extended hours for Friday, Saturday and Sunday as it would help the business.
- More security cameras had been installed at the premises.

In response to questions from Members, Mr Emilamalathas informed the Sub-Committee that:

- His grandmother had died and the applicants had to go to Sri Lanka to visit and tend to the situation. On this occasion, the individual who had been given the responsibility to manage the store had not closed the premises on time. None of the machines were cooking food and only food that had already been cooked had been sold after closing time.
- He apologised on behalf of the applicants for the incident.
- The manager was no longer working at the premises and a new manager had been hired.
- Any new manager would be trained before starting to work at the premises.
- If the licence was granted, then the existing licence would be surrendered.
- The premises had installed new CCTV cameras. 12 cameras inside, two on the outside and two on the side.
- The applicants had no objections to the 25 conditions proposed from page 93 of the agenda papers.
- Patrons did not arrive at the premises in big groups. It was often only 2-3 people who would be served quickly. The premises did not have an indoor seating area for people to sit and eat. Patrons would be able to buy food and take a bus from the bus station nearby.
- A member of staff would clean the premises every two hours including the

outside area.

- The premises was not always overly messy but staff members would be cleaning the premises and the surrounding area every two hours to clean any mess.
- If there had been a mess left in the area previously, then the applicants were sorry.
- The area directly surrounding the premises was the cleanest section of the street. The kebab shop next to the premises had litter in its own surrounding area.
- The business would profit from an increase of £100 to £200 pounds per day if the licence was granted.
- The premises was busier in the night time than in the daytime. This was due to the bus stop close by which operated on a 24-hour basis. Large groups of people did not attend the premises at one time, only small but consistent numbers of patrons would attend the premises.
- If there were people causing nuisance inside or outside the premises, then they would not be served.
- No intoxicated individuals would be served.
- The premises had a sign which stated that drunk individuals would not be tolerated.
- Very few drunk people turned up to the premises even during the weekends.

Presentation by interested parties

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

- The premises already had a licence.
- The applicants had made a new application on behalf of the premises.
- Other applications had been submitted by the applicants on behalf of the premises had been refused by previous Licensing Sub-Committees.
- The premises had already been found to be trading beyond the hours of the current licence.
- The applicants had not offered any solutions on how they would more safely operate the premises with increased operating hours.
- Granting a licence would put the area at risk of public nuisance and crime and disorder. This would have an impact on the licensing objectives.
- Additional conditions had been proposed if the Sub-Committee granted the application. However, when the conditions were proposed to the applicants originally, neither the applicant nor the applicant's agent had responded to the proposed conditions.
- The applicants had proposed a condition (Condition 14) whereby premises staff would clean the area every two hours. She would propose that this condition be changed so that the area would be cleaned every 30 minutes.

Mr Alex McKenna, Secretary, Rusthall House Management Company, informed the Sub-Committee that:

- It brought him no pleasure to object to a business operating in the borough.
- He had lived near the premises in the area for 35 years.
- Originally, the business had operated without any complaints.
- Issues had arisen regarding the process which affected the residents and neighbouring residents in the area.
- He wished to thank the officers who had independently assessed the premises which showed why there was a lack of confidence in the business generally.
- An unsolicited letter to objectors from the agent of the applicant had been sent in February 2019. The letter had promised that the situation at the premises would improve.
- Residents were still suffering from rats in their back gardens.
- Extending the operating hours of the premises would exacerbate the problems that already existed in the area.
- The area already suffered from antisocial behaviour and noise nuisance.
- The Sub-Committee should refuse the application and make recommendations to the business on how to better operate in the future.

In response to questions from Members, Mr McKenna informed the Sub-Committee that:

- He doubted that a new premises licence or new conditions would make a difference to the issues caused by the premises. The same issues had been raised in the last Sub-Committee meeting concerning the premises. The Police representative at the time had raised concerns regarding the premises generally and not just one breach of the premises licence.
- Breaches of the premises licence went back to 2018. At that time, responsible authorities had said that unless things had improved at the premises, then enforcement action would take place.
- It was difficult to believe that a premises with such a poor history could have a more promising future.
- Until a period of good practice had been observed at the premises, it was difficult to have faith in the applicants.
- The applicants had already breached the existing hours of the premises licence.
- The applicants had already been refused a licence for an extension of hours in February 2019. But the concerns had been ignored by the applicant, who didn't even challenge the decision. The applicants then submitted another application in April 2019 still without having challenged the previous decision and now the applicants had submitted yet another application. This appeared to show contempt for the decisions delivered by the Licensing Sub-Committee.

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

- The newly proposed conditions would be more robust than the ones on the existing licence.
- It was the responsibility of the licence holder to ensure that they were able to understand the requirements of the licence and able to implement the conditions. However, there was a concern as to whether or not the applicants would be able to do this as they did not appear to be able to meet the conditions on the existing premises licence.
- The Licensing team only had a finite amount of resources to ensure that the licence holder was meeting conditions.
- The applicants were not really new applicants. They were existing licence holders who owned the business. They also already had a licence to operate the premises beyond policy hours.
- The Licensing team had not been able to get hold of the applicant to be able to initiate contact with them to discuss the conditions that had been proposed by the Licensing team.
- Two previous applications had been submitted on behalf of the premises.
- A meeting had been held with the applicants following breaches of the premises licence in 2018 to ensure that the conditions under licence would be complied with.
- An application had been submitted following the meeting in 2018, but this licence was not granted as the Sub-Committee felt that the applicants would not be able to uphold the licensing objectives. A further application was made three months later which was then withdrawn.
- In relation to the current application there had been no liaison or engagement from the applicants or the applicants' agent other than the documents submitted before the hearing.
- Unless the applicants were able to satisfy the Sub-Committee concerns regarding their ability to uphold of the licensing objectives, she did not have any confidence in their ability to do so.
- She recommended that the application be refused.

In in response to further questions from Members, Mr McKenna informed the Sub-Committee that:

- The area in which the premises was located in the last few years had been less of a problem.
- Residents were coming out every day sweeping the road in and around the premises as the premises staff were not cleaning it.
- The residents were cleaning the road because otherwise the food would litter the area and attract rats.
- The area that residents had to clean was quite clearly directly connected to the premises.
- Residents were taking the initiative to sweep the road prior to the Council's refuse collections.

- The applicants' agent had sent an unsolicited letter, which had no letterhead, no address or no telephone number which could be used as a means to verify who the agent was. The letter also had spelling mistakes. The document was likely contrived and had been sent out in order to impress the Sub-Committee.
- This was the third application in which residents had to provide their objections. Licensing legislation was not designed for applicants to constantly apply to obtain a licence whilst ignoring the views of those objecting to the application in the hope that the application would be granted simply by trying a number of times.
- All premises in the area benefited from the night time economy.
- Late hours would attract the after-hours patrons exiting pubs and clubs.
- There were already issues in the area of people parking outside and noise nuisance but this could only get worse with an extension of operating hours.
- It was already difficult for residents to live in the area with the premises operating the way it did and granting the licence would create a larger detrimental effect to the people living the area.
- The applicant had not engaged with residents. The letter from the agent of the applicants arrived on 5 August 2019. The letter was simply a way for the applicant to 'tick a box' to say that they had made efforts to engage with residents.
- No discussions had been held by the applicant with local residents regarding the application.
- A responsible applicant would have attempted to resolve any issues with residents and the Council.
- Most of the concerns regarding the application were related to public health issues such as hygiene and food waste.
- The licensing laws had been designed to work for objectors as well as applicants.

Adjournment and Decision

At 8:01pm, 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 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 refuse the application.

RESOLVED: To refuse the application.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to refuse the application. Full written reasons would follow in due course. The Sub-Committee wish to inform the applicants that it would be in their best interests to engage practically with residents and with the Licensing team and to ensure that if the applicants wish to come before the Sub-Committee seeking a new licence, then they would be advised to do so in a way whether had not been recent breaches in the current premises licence.

4b MANGUALDE CAFÉ, 31 LEIGHAM COURT ROAD, LONDON, SW16 2ND (STREATHAM WELLS)

This application was withdrawn.

4c PORTHILLY SPIRIT DISTILLERY, 12 WINGATE BUSINESS EXCHANGE, 64 - 66 WINGATE SQUARE, SW4 0AF (CLAPHAM TOWN)

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 5 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 pages 157 of the agenda papers.

The Licensing Officer confirmed:

- This was a new application for a premises licence.
- The application was for the supply of alcohol from 08:30 to 18:00.
- The application could be found on page 159 to 176 of the agenda papers.

Presentation by the applicant

Mr Dimitri Londos, representing the applicant, informed the Sub-Committee that:

- The premises needed a licence but would not operate as a distillery.
- The name of the premises often led people to think that the premises would be used as a drinking establishment.
- The premises would be used as an office. The business owners were also property developers.
- The business had a premises licence in Cornwall.
- The business needed the licence due to the small number of bottles (between 1-6) that would be despatched from the office between the hours stated.
- The premises would not operate as a pub.
- No member of the public would visit the private offices. Only small amounts of alcohol would be dispatched and adequate parking was already part of the business' rented office arrangements.
- A security guard would be present at the premises 24 hours a day, 7 days a week. Drinking on the premises was not permitted in any case.
- The business would be storing alcohol in larger quantities in warehouses.

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

- He was aware of the 39 conditions agreed between himself, the Police and the Licensing team.
- Not many deliveries would be made at the premises because the business

would be selling to other businesses which would buy in larger quantities. These sales demands would be dealt with using the stock from the warehouse.

- The business was a new starter and at present time, only limited amounts would be distributed from the office.

Adjournment and Decision

At 7:11pm, 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 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 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 subject to conditions set out on page 181 of agenda papers. Full written reasons would follow in due course.

The meeting ended at 8:20pm

CHAIR
LICENSING SUB-COMMITTEE
Friday 1 November 2019

Date of Despatch: Wednesday 6 November 2019

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