LICENSING SUB-COMMITTEE

Thursday 20 August 2020 at 7.00 pm

MINUTES

PRESENT:
Councillor Fred Cowell, Councillor Martin Tiedemann and Councillor Pauline George

APOLOGIES:

ALSO PRESENT:

1 ELECTION OF CHAIR
MOVED by Councillor Pauline George, SECONDED by Councillor Martin Tiedemann
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 meetings held on 17 and 23 July 2020 be approved and signed as a correct record of the proceedings.

4 LICENSING APPLICATIONS FOR THE GRANT / REVIEW OF A PREMISES LICENCE
4a PAPA JOHNS, 82 STREATHAM HILL, LONDON SW2 4RD (STREATHAM 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 Chapter 5 (policies 1, 7 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 5.2 of the report on page 39 of the agenda papers.

The Licensing Officer confirmed:

- This was an application for a premises licence under section 17 of the Licensing
The application was submitted on 27 February 2020 by Mr Raheel Choudhary.

- The application was for late night refreshment Monday to Thursday 23:00 – 01:00, Friday to Saturday 23:00 – 02:00 and Sunday 23:00 – 00:00.
- This application received three representations from residents. These representations engaged the licensing objectives.
- Conditions had been agreed with the Licensing Authority, which could be found at Annex E, pages 77-78 of the agenda papers.
- The applicant had submitted further additional proposed conditions. These could be found in the additional papers (on page 1) which had been circulated to all parties.

**Presentation by the applicant**

The applicant’s representative, Mr Harris Sarwar, informed the Sub-Committee that:

- The premises had not been subject to building work since 7 July 2020.
- One of the objectors lived above the premises and it was important to note that all the businesses in the area used the rear entrance for various purposes.
- The premises had been given access to the rear entrance area and therefore had the right to make use of it. The business paid for it as part of a service charge.
- Conditions had been proposed to ensure that the rear door of the premises would be made redundant after 23:00 Monday to Sunday to reduce noise nuisance.
- Representations against the application had been submitted regarding the disposal of waste, but the premises did not use oil in its food production. A bin supplier came into the premises twice a week.
- Attempts had been made to contact one particular objector, including via the Licensing team, however the objector had not made contact. The objector could have telephoned the applicant, seen the applicant at the premises or contacted the applicant via email.
- He did not believe that the premises would cause nuisance to residents past 23:00.
- Retail 24 operated across the road from the premises and employed SIA security staff. The business was willing to appoint SIA security staff if necessary.
- Approximately 50 meters from the premises, a Domino’s Pizza premises had been granted a late night refreshment licence in May 2014. That particular premises operated until 01:00 on Sundays and until 03:00 on Fridays and Saturdays.
- Taking into consideration that the applicant had agreed to operate at reduced hours in comparison to other premises in the area, the premises was no threat to the licensing objectives.
- The applicant operated several branches in the Lambeth area including in Clapham Park which had a late night refreshment licence on Friday and Saturday until 05:00.
- The business had extensive experience in operating late at night.
In response to questions from Members, the applicant, Mr Sarwar, informed the Subcommittee that:

- He was happy to employ SIA security staff Thursday - Sunday from 23:00.
- He was permanently located at the premises and would be until the termination of his employment.
- He was not on the premises when it had carried on unlicensed late night refreshment. What had occurred was a miscommunication by marketing teams as regards the premises and another Papa Johns outlet in Clapham Park. The unlicensed sale had been made by an employee who was under the impression that the sale was legal.
- He had personally emailed Licensing to apologise for the premises' mistake of carrying on late night refreshment without a licence and no further issues had occurred since then. The business operated multiple stores with late night licences and what happened was a singular occurrence which was the result of a simple mistake. He had later received a call from the manager on duty that day who had worked between the premises in Clapham Park and Streatham Hill. The issue had occurred as a result of miscommunication between staff members including a senior member of the marketing team. The mistake had not occurred since.
- The issue had also been documented for future training purposes.
- The premises operated approximately 60% delivery and 40% collection for all pizzas sold at the premises.
- After 23:00, there would only be one person designated to ride a premises-owned motorbike at the premises. None of the premises-owned motorbikes made as much noise as any of the other vehicles travelling down Streatham Hill. Many of these vehicles included lorries and trucks. The motorbikes were restricted to 110 cc and had a silencer on the exhaust. The motorbikes were also fuel-efficient.
- The business did employ learner-licence drivers, but during the evenings, only the most experienced drivers would be on duty.
- The business had a platform called Cornerstone which trained staff members on safe deliveries, first-aid, health and safety and other issues.
- After 23:00, staff members would not be permitted to access the rear of the premises, unless there was a fire or electric hazard or another type of emergency of a similar nature.
- Premises staff would be allowed to take a break away from the premises or they could spend their break inside the premises as long as there was no public nuisance causing issues to residents.
- He would agree to an edit of the already agreed condition 1 on page 77 of the agenda papers to state that the opening times would reflect the nature of the late night refreshment licence and that delivery drivers would need to be made aware of the conditions of the late night refreshment licence, specifically with respect to the use of the rear entrance of the premises after 23:00 hours.
- The incident whereby premises staff had made a sale during unlicensed hours was embarrassing for the business and it was not something in which the company wished to engage.
Mr Philip Lewis, resident, informed the Sub-Committee that:

- He lived in the area near the premises.
- Like many people he was working from home on a full-time basis Monday to Friday.
- During the time the premises was involved in building work, there was constant noise on the weekends between Sunday and Monday. At times, the people working on the building were working during hours they were not permitted to work.
- He had informed the applicant’s representative that the builders were working at times that they were not supposed to, but by the time that it had been reported, the Easter holiday had finished.
- Due to him having to work from home constantly and live at home, the issues relating to the premises had a severe effect on him.
- Whenever he had telephoned the applicant’s representative, the call went to voicemail. It was unclear if his number had been blocked for one reason or another.
- He had initially had issues with antisocial behaviour taking place in front of the building as it was very close to a betting shop and not too far from the immediate residential area.
- A lot of alcohol was being drunk during the day by people congregating in the area and there was a risk that if the premises was open late into the night, people would congregate up the road buying and eating pizza and drinking alcohol.
- Since the premises had reopened in July 2020, there had been a lot of noise from staff members at the premises.
- Initially, there had been problems in relation to the parking of the motorcycles at the back of the building. However, these have been since moved to the front.
- One staff member had been observed driving his personal moped a couple of times and this had stopped recently.
- Staff could be seen making calls outside and many of the calls were on speakerphone.
- His desk was nowhere near his windows and he had double glazed windows but he could still hear conversation and music coming from staff members. The individuals causing the noise were wearing Papa John uniforms so it could be concluded that the noise was coming from premises staff.
- He had lived in the area for three years and had not experienced any other disturbances. No other premises in the area had caused any noise nuisance. However, from 12:00 – 23:00 there was disturbance in the area until premises staff left for the day.
- The issue regarding noise was suffered by other residents as well.
- The premises had been found to be operating when they were not supposed to. On one occasion, on Saturday 11 July at 23:00, he was walking past the premises with a friend and the premises was still open. Premises staff had informed him that they closed at 03:00. He was concerned at how easily the rules were being broken and
it was unclear if the applicant would be able to maintain rules sets for them in the future.

- It was not clear how effectively staff would be trained or how effective the training would be for those appointed to work at the premises.

- Recently, during the summer period, at around 19:00, members of public could be seen gathering outside the premises and premises staff were taking payments and physically handing pizzas to customers outside the premises. Customers should be taking their collections from inside the premises and not be encouraged to hang around the area eating pizza outside.

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

- He had observed staff members at the premises watching TV, making phone calls and listening to music in the back area of the premises building. During the summer months, he would like to be able to open his windows. It was not clear if the structure of the area was causing the sound to reach upwards. Perhaps it would be possible for premises staff to use the side of the area or engage in activities away from the building and not use the back area of the building after 23:00.

- The use of SIA security staff at the premises would only be useful if that individual was able to disperse people loitering in the area, ensure that there were no intoxicated individuals hanging around the area and would be able to move a group of individuals away from the premises if he or she needed to do so.

- Many of the issues arose from staff members constantly going back and forth during the day from the premises to the outside area. They were not making an effort to keep noise levels at an absolute minimum during the day. They would also make noise until the premises was closed.

- He was not usually up at 03:00. However, the antisocial behaviour generally took place by the betting shop throughout the day and this included drinking alcohol in the street.

- He had not noticed any antisocial behaviour from the Domino’s Pizza premises located close by.

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

- There were many stores that were owned by the business that did not trade past 23:00. The vast majority of premises staff were aware of licensing matters and had been appointed from another licensed premises in which they had worked that did not trade after 23:00. The store’s website did not advertise sales beyond 23:00.

- The premises would not immediately start trading during the later hours if the licence for late night refreshment was granted. The business had policies and procedures in place and would entrench them before the business started trading with the newly acquired hours.

- On average, it took seven minutes for an order to be processed.

- When the premises closed, the process of cleaning up and paperwork and other
such tasks could take up to 45 minutes in order to fully close down.

- He had never taken an order at 22:59 having worked in the business for 11 years.
- He had invited the objector (Mr Lewis) to contact him directly and the premises had a number which people could dial. He had a personal email address which residents could contact him on if there were any issues.
- The business felt that it was important to work with the community and the business did engage with the community as often as it could. It was engaged with Love Lambeth for job opportunities and the business was also committed to listening to residential and commercial neighbours.
- The premises had been vacant since February 2018 until recently.
- Residents would be able to contact premises staff in any way that they deemed fit.
- The business produced local letters that were posted through to residents in the area. Discussions had been held with commercial residents in the area and notices were put around the premises.
- Any resident was allowed to contact him and if he was not present at the premises, then the store manager or the assistant manager would be present at the premises.
- Every premises owned by the business had a log book for any incidents that occurred or if any issues needed to be reviewed. This had been done for many years.

Adjournment and Decision
At 7:58pm, 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 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.

The Sub-Committee after reviewing all the submissions decided to grant the application subject to conditions already agreed with the Licensing Authority and four additional conditions. The first condition would be that SIA security staff would be on the premises from 23:00 Thursday-Sunday as offered by the applicant. The second condition would be that the rear of the premises would be closed and off-limits during the period in which the premises was operating their licence for late night refreshment. The wording for this shall be adapted from the proposed conditions set out in the additional papers (on page 1) and agreed by the Licensing Authority with the applicant. The third condition (which was a modification of condition 1 on page 77 of the agenda papers) would be that all staff including delivery drivers would receive full training inclusive of health and safety issues, dealing with persons under the influence of drug and alcohol, premises licensing, opening hours and dealing with children and vulnerable adults. This would take place every six months. The fourth condition would be that a direct telephone number for the licence holder, manager and the DPS and would be made publicly available when the premises
was operating its licence for late night refreshments. This telephone number should be made available to residents and businesses and any issues resulting from the use of the telephone number should be remedied within 48 hours and detailed in an incident book including the action that was taken. The Sub-Committee in reaching the decision were mindful of the residents’ concerns about antisocial behaviour but was of the view that the conditions offered by the applicant and those already agreed with the Licensing Authority appropriately and proportionately addressed the substance of the concerns.

The Sub-Committee stressed that they were disappointed to see that there had been evidence of the premises illegally operating without a licence and although the Sub-Committee was mindful of the reasons as to why this had happened, it wished to remind the applicant that they were required by law to meet the licensing objectives and this fundamental issue needed to be included in any training delivered to staff. Any such issue of a similar nature could result in the licence being revoked or other actions such as prosecution. The Sub-Committee wished to warn the applicant that it was important for them to take their responsibilities as a premises licence holder exceptionally seriously and ensure that they did not violate the conditions of the licence. This would be to uphold the Licensing Act 2003 and to protect the local community. The application was granted with all the conditions agreed and proposed inclusive of the modified conditions where stated.

4b ANISA SPIRITS & WINE, 420 COLDHARBOUR LANE, LONDON SW9 8LF (COLDHARBOUR 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, 10 and 16 of the Statutory Guidance, and to Chapter 5 (policies 1, 3, 4 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 85 of the agenda papers.

The Licensing Officer confirmed:

- This was an application for a premises licence under section 17 of the Licensing Act 2003. The application was submitted on 14 May 2020.
- The application sought a permission authorising the sale of alcohol for consumption off the premises, Monday to Sunday 08:00 – 23:00.
- This application attracted representations from the Police, Licensing Authority and Public Protection, which engaged the licensing objectives.
- The Police had provided supporting information regarding the premises unlawfully selling alcohol whilst it did not hold a premises licence. This could be found on pages 3-7 of the additional agenda papers.
- The Licensing Authority were aware of three test purchases conducted at the premises which resulted in alcohol been sold by the premises, whilst it was unlicensed. A current prosecution case was underway for these offences.

Presentation by the applicant

The applicant, Ms Bozena Kurozewska, informed the Sub-Committee that:
She had taken over the premises and she was the director.

This was her first experience of managing an off licence in the UK.

The landlord of the premises had informed her that the licence needed to be transferred but had not mentioned that the licence was in someone else’s name.

She had then been visited by the Licensing Officer at the premises who had advised her to remove all alcohol on display in the premises. She had informed him that over 90% of the goods in the premises was alcohol related and it would be difficult for the business to survive on soft drinks and cigarettes as this would not cover money for the rent.

She closed the premises for 20 days and contacted the landlord. She claimed that the landlord told her that the premises should stay open and that the premises had a licence to sell alcohol.

She reopened the premises on 1 July 2020 and was then informed that the premises did not have a licence. She was surprised by this as the landlord had informed her that the premises did have a licence.

She accepted that it was up to the Sub-Committee regarding the future of the premises.

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

- She had tried to obtain a transfer of the premises licence in February 2020. She had contacted the landlord for advice but had found out later that a different person was the licence holder of the premises. She was very shocked and did not know what to do.

- She had not known previously that the premises did not have a valid licence and that a DPS was required. In order to learn about how to uphold the licensing objectives, she started to do some reading which took a lot of time. This research had been undertaken before 19 May 2020, but the premises had been open for a 28 day period and during that period, she did not know that she was not allowed to sell alcohol at the premises.

- Sulaimain Obafemi Aloko managed the business on a day-to-day basis and was not present at the time the premises had been visited by the Licensing Officer.

- She had applied for a licence to sell alcohol from 08:00 until 23:00.

- It was more convenient for her to sell alcohol from 11:00 as nobody bought alcohol at 08:00 and the premises was not even open at 08:00. She had applied for the sale of alcohol from 08:00 - 23:00 because the landlord had advised her to do so.

- She was happy to sell alcohol during the recommended hours as per the Licensing Policy.

- She was aware of the problem with street drinking, antisocial behaviour and criminality in the area. If a street drinker or an intoxicated individual tried to buy alcohol from the premises, she would inform them that they would not be served.

- She would not be operating the premises by herself. The premises would have security staff by the door to meet the crime and disorder objective. She would
ensure that any crime and disorder would be minimised especially during the weekends including Fridays and Saturdays.

- She had applied for a new premises licence as soon as she became aware that the premises did not have licence. When the Licensing Officer had informed her that the premises did not have licence, she shut the premises and was surprised to find out that the premises did not have licence.

- She would like to be able to keep the premises open if possible as the premises had just been open for the last six months and she was struggling to pay the rent.

**Presentation by interested parties**

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

- Within four days of submitting the new application, the applicant had sold alcohol on 19 May 2020, despite having already been informed that she did not have the authorisation to do so.

- There was a lack of information that had been provided in the application form on how the licensing objectives would be upheld.

- The applicant was seeking hours longer than was recommended in the Licensing Policy and the premises was located in a town centre.

- A further test purchase had taken place on 11 June 2020 and the premises was found to have alcohol on display for purchase despite the fact that the premises did not have a licence. An Officer of the Council had been able to buy alcohol at the premises whilst the premises did not have a licence.

- The applicant had previously been informed clearly that she was not allowed to display or sell alcohol.

- Two further test purchases had been made at the premises in July 2020 and on 17 August 2020.

- The evidence would suggest that there was little reason to have confidence that the applicant would be able to uphold licensing objectives and all the conditions on the licence.

- She would recommend that the application be refused.

PC Mike Constable informed the Sub-Committee that:

- The applicant had stated that she was experienced in the industry but had still broken the law as referenced in the Police representation in the agenda papers.

- The applicant had been notified on 27 April 2020 that the premises licence had lapsed and that she would have apply for a new premises licence. It did not make sense, therefore, why she would listen to the landlord who had informed her to simply submit a transfer application.

- Numerous test purchases had been made at the premises. Offences detailed included test purchases that were made on 16 July 2020 and 19 May 2020.

- It was suspicious that the applicant was not aware about the application process despite apparently having been experienced in selling alcohol. There was
considerable concern that despite being informed that she was breaking the law by selling alcohol at the premises, she appeared to be listening to the landlord who appeared to be the person in charge.

- The application was of a poor standard and what he had heard from the applicant did not fill him with any confidence that the licensing objectives could be upheld by the applicant. The applicant’s answers to the Sub-Committee’s questioning were not satisfactory.

- As he understood it, five days after the application for a new premises licence had been submitted the applicant had sold alcohol thus breaking the law.

- Granting the application would send a negative message to the area of Brixton, especially considering that there had been nothing stated in the application to outline how the licensing objectives would be upheld.

- He sympathised with the applicant that she needed to pay the rent but there were several issues in the Brixton area caused as a result of licensable activity.

- He did not have confidence in the applicant’s ability to meet the licensing objectives.

Ms Sophie Costello, Public Protection Officer, informed the Sub-Committee that:

- She held the same view as the other responsible authorities that had submitted their representations at the meeting.

- The application had been poorly written. It was brief and lacked detail.

- The applicant had not provided confidence that she had understood the objection to the application and that, in addition to the three test purchases that were made at the premises (and failed by the applicant), there was a likelihood that compliance issues would continue to occur at the premises if the application was granted.

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

- An email was sent to the applicant on 29 April 2020 from a Licensing Officer informing her that the premises did not have a premises licence and reiterated that any sales of alcohol must cease and that the applicant would have to apply for a new premises licence (which he understood was then submitted on 15 May 2020).

Adjournment and Decision
At 9:04pm, 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 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.

The Sub-Committee wanted to thank all parties and having read all of the relevant submissions and having heard the oral submissions, the Sub-Committee decide to reject the application. The submissions made by the Licensing Authority, the Police and Public Protection persuaded the Sub-Committee to take the view that the applicant did not have sufficient understanding of relevant licensing law or a relevant understanding of the area in which the applicant would operate a licenced premises. It was difficult for the Sub-Committee to have confidence in the applicant’s ability to responsibly operate a licensed premises as on 27 April 2020, notification was given to the applicant that she should not sell alcohol without a licence. Subsequent to this, three test purchases were made at the premises which demonstrated that alcohol was being sold at the premises whilst it was without a licence. Given that the applicant was clearly informed that the premises needed a licence to sell alcohol, the Sub-Committee was not persuaded to extend any leniency to the applicant regarding her situation. The Sub-Committee could not have confidence that the applicant would be able to uphold the licensing objectives and therefore concluded that it was appropriate and proportionate to refuse the application. The Sub-Committee’s decision did not preclude the applicant from applying for another premises licence however if the applicant was to make another application, then she would be advised to work with the Licensing Authority to ensure that all of the requirements needed for a premises licence and the recommendations of the Licensing Authority would be carried out in full. The applicant would also be advised to inform herself on all the requirements needed to be a premises licence holder.

4c   SN FOOD & WINE, 238 BRIXTON ROAD, LONDON SW9 6AH (VASSALL WARD)

This application was withdrawn from the agenda.

The meeting ended at 9:17pm

CHAIR
LICENSING SUB-COMMITTEE
Thursday 10 September 2020

Date of Despatch: Friday 28 August 2020
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