

LICENSING SUB-COMMITTEE MINUTES

Friday 22 April 2022 at 2.00 pm

Members Present: Councillor Fred Cowell, Councillor Emma Nye and Councillor Jon Davies (Substitute)

1 Election of Chair

MOVED by Councillor Jon Davies, SECONDED by Councillor Emma Nye

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

2 Declaration of Pecuniary Interests

There were none.

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

3a Gopuff Unit 25 Zennor Road London SW12 0PS

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a variation to the current premises licence. The Sub-Committee's attention was drawn to chapters 2, 3, 8, 9, 10 of the Statutory Guidance, and to Sections 1, 3, 4, 5, 8, 16, 17 of the Statement of Licensing Policy, as the chapters and sections that were particularly relevant to this application. The options available to the Sub-Committee were set out in paragraph 6.1 of the report on page 5.

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

- This was an application to vary the current premises licence, to extend the hours of activities, the sale of alcohol off the premises to 24 hours a day, Monday to Sunday.
- The application was submitted on behalf of Fancy Delivery UK Limited.
- In attendance was Marcus Lavell, representing the applicant, accompanied by Stefanie Webb and Alexzandra Robertson-Walker.
- Representations against the application had been received from Public Protection, the Metropolitan Police, and the Licensing Authority.
- PC Dave Watson was in attendance on behalf of the Metropolitan Police.
- Keith Badrick was in attendance on behalf of Public Protection
- A representative of the Licensing Authority was not in attendance.
- Representations could be found at pages 7 to 13 of the report.

- A copy of the existing premises license could be found at pages 15 to 25 of the report.
- Representations from the authorities could be found at pages 27 to 36 of the report.
- Subsequent to the publication of the report, an additional submission had been provided by the applicant and forwarded to all Members of the Sub-Committee and responsible authorities.

Presentation by the Applicant

Mr Marcus Lavell, representing to applicant, informed the Sub-Committee that:

- The standard policy framework for traditional off-licence premises addressed issues of street drinking through limited opening hours, while Gopuff was a delivery service that did not encourage street drinking.
- Gopuff was the world's largest operator of licensed delivery services.
- Gopuff delivered to the customer's door and offered a full suite of groceries and convenience items, including licensed alcoholic beverages.
- The business currently traded until 02:00 hours for purposes of delivery but ceased delivery of alcohol at 00:00 hours.
- This site was originally owned by Johnstone's Decorating Centre and acquired by Gopuff as part of its UK expansion.
- The original trading hours agreed within the license had been purchased from the previous owners.

In response to questions from Members, Mr Lavell confirmed:

- The applicant believed that it harmed the brand if the full suite of items were not available for all hours of trading, therefore a 24-hour license was sought.
- Condition 27 on the existing licence was not necessarily the applicant's preference and they would agree to apply the standard wording regarding delivery of alcohol to residential and business addresses.
- Gopuff was not a delivery service for house parties and the prime hours for trading were between 17:00 to 21:00 hours, as people return from work.
- Extending the hours for the sale of alcohol did not necessarily mean an increase in these sales but greater access to these products.
- Trade between 02:00 and 08:00 hours was significantly less than 17:00 to 20:00 hours.
- 15 to 20 delivery riders worked during peak hours in busy locations and would be less during 02:00 to 08:00 hours.
- Electric bicycles and bicycles were used for delivery, and this applied across all Central London sites.
- Deliveries made to the premises were between 08:00 to 20:00 hours, which was similar to deliveries to a standard grocery store, and the delivery of fresh goods such as baked bread, may be made earlier.
- Aerial photographs show that the premises was a distance from the main road and would create minimal disturbance for residents.
- The applicant agreed to a condition to limit deliveries made to the premises, not between 22:00 to 05:00 hours.

Presentation by Interested Parties

Mr Keith Badrick, Public Protection Officer, informed the Sub-Committee that:

- The representation was submitted with regard to public nuisance.
- The difference between a grocery delivery service and 24-hour supermarket was that people were less likely to leave a party and carry the goods home, due to the convenience of having it delivered.
- Conditions 15 and 17 were considered as repetition, regarding waste collection.
- Condition 28 was considered contradictory to proposed condition 32, regarding third party delivery service.
- Conditions aimed at the prevention of public nuisance were seen to place responsibility on individual delivery riders, however, due to the convenient nature of the service, riders did not have enough time to consider the licensing conditions when carrying out deliveries, especially at the high pressure of contact at the door.
- Nuisance caused by house parties, antisocial behaviour and noise complaints were a cause of concern because of this business model, but confirmed that there had been no complaints specific to this type of delivery service.

At this point in proceedings, the Chair explained that there was an absence of a policy framework for this type of delivery service business model for groceries and convenience items, via an online platform, and that the comment was outside of the scope of the Sub-Committee hearing.

PC Dave Watson, representing the Metropolitan Police, informed the Sub-Committee that:

- Any 24-hour off-licence business created issues, be it a grocery shop or delivery service.
- This service would supply alcohol to house parties, which could encourage noise nuisance or confrontation, and supply alcohol to those after local off-licence trading hours had terminated.
- Issues of domestic violence could be caused.
- PC Watson did not believe the applicant was able to justify trading hours for alcohol between 00:00 to 08:00 hours.

Mr Marcus Lavell, representing the applicant, and Ms Stefanie Webb, Head of Corporate and Community Affairs, said:

- Condition 28 was from the existing licence and could be removed as there was no attempt to use third party delivery drivers.
- Training pertinent to the Licensing Act, specifically in regard to age-restricted sales, and the refusal of sales was provided to all staff members delivering alcohol and there was a condition within the employment contracts to comply with policy and procedure to ensure underage sales were not made.
- While it may have been a concern, in reality Gopuff had not failed a single test purchase and did not enable intoxicated persons to continue house parties or domestic abuse.
- Ms Stefanie Webb would provide her contact details with the community partners.
- Employees had to adhere business operation standards and training.
- While employees made the deliveries, they were able to constantly communicate with managers over the app.
- If a rider was not feeling safe due to the intoxication of the recipient, or antisocial behaviour, instructions were to return to the site to report the incident and contact the appropriate authorities.
- As Gopuff had launched this business recently, there had not been a significant number of refusals, but these were available if authorities requested them.

In response to questions, the applicant said:

- In cases of intoxication and antisocial behaviour, it was the customer that would be excluded from the app and the rider would not be penalised.
- The tangible number of refusals was less than 24 and underage sales made up the majority of those.
- Challenge 25 was used as the standard age verification policy.

Adjournment and Decision

At 14:57, 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 Metropolitan Police and Public Protection.

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 variation of the license, subject to the amendments as outlined below:

- Condition 28 appearing in the consolidated proposed draft conditions, which related to third party conditions, was to be removed in its entirety.
- Condition 27 was to be amended to read “all delivery orders shall be made to an individual inside a registered residential or business address”.
- Deliveries to the premises shall not be made between 22:00 and 05:00 hours.

RESOLVED: To grant the variation application, subject to conditions as outlined above.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the variation to the license and provided reasons for the decision as outlined above. The Sub-Committee had considered all the options available to them and ultimately felt that the amendments met the concerns which had been raised. The Chair confirmed that written notification of the decision would be sent in due course.

The meeting ended at 15:04

CHAIR
LICENSING SUB-COMMITTEE
Friday 20 May 2022

Date of Despatch: Tuesday 3 May 2022

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