



Licensing Sub-Committee Report

Item No:

1

Title of Report:

Superway Express
344 Kennington Lane London SE11 5HY

Applicant:

Robert Gardner Licensing Manager

Application Type:

Premises Licence (review application)

Application Date:

16th March 2017

Ward:

Princes

Premises Type:

Policy Context:

Lambeth Statement of Licensing Policy 2014 - 2019

Report Author:

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Contact Details:

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Application Summary:

This is an application for a Premises Licence review application following a Closure Order as required by S.167 Licensing Act 2003. The order was issued after agreement between the Police and the Premises Licence Holder at Camberwell Magistrates Court on 24th February 2017. The council was formally notified on 16th March 2017.

Consultation Information:			
Department(s) or Organisation(s)	Consulted (Y/N)	Date Response Received	Comments summarized in report (Y/N)
<u>Internal</u>			
Health & Safety Section	Y		
Noise Service	Y		
Social Services	Y		
Licensing Service	Y		
Planning	Y		
Trading Standards	Y		
<u>External</u>			
Fire Authority	Y		
Police Licensing Unit	Y		
Health Authority	Y		

Policy implications:
<p><i>Licensing Objectives (chapters 5 to 9, pages 12 to 20 of the policy)</i></p> <p>The Licensing Objective(s) engaged by this application is/are; The Prevention of Crime and Disorder</p> <p><i>Complaints, Representations and Licensing Reviews (chapter 19, pages 26 to 28 and 29 of the policy)</i></p> <p>19.6 Representations must relate to particular premises for which a premises licence is already held and must be relevant to the promotion of the licensing objectives.</p> <p>19.8 The licensing committee, in determining a review, may exercise the range of powers given to them to promote the licensing objectives.</p> <p>19.10 The Authority will seek to establish the cause or causes of the concern and remedial action will be targeted at such causes. Any action will be proportionate to the problems involved.</p> <p>19.15 Where reviews arise and the Licensing Authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that the revocation of the licence- even in the first instance - will be seriously considered (Amended Guidance, paragraph 11.27). Revocation also remains an option if other licensing objectives are being undermined.</p>

1. Application

- 1.1 Following a Police application to Camberwell Magistrates Court for a Closure Order under on 24th February the Anti-Social Behaviour, Crime and Policing Act 2014, the Court accepted an agreed application from the parties and imposed an order. The handwritten order demanded that for period of three months from 25th February 2017 until 24 May 2017 between the hours of 04:00 to 12:00 , the premises should not supply or display for supply any drinks containing alcohol. The Acts quoted below demand that following a closure order the Court must notify the Licensing Authority and further that the Licencing Authority must review the licence within a certain period.
- 1.2 Section 80(9) of the Anti-Social Behaviour, Crime and Policing Act 2014, provides that the, "...court must notify the relevant licensing authority if it makes a closure order in relation to premises in respect of which a premises licence is in force."
- 1.3 Section 167 of the Licensing Act 2003 provides:
- (1) This section applies where—
 - (a) a magistrates' court has made a closure order under Section 80 of the Anti-social Behaviour, Crime and Policing Act 2014, or the Crown Court has made a closure order on appeal under section 84 of that Act, in relation to premises in respect of which a premises licence has effect, and
 - (b) the relevant licensing authority has [accordingly received a notice under section 80(9)... of that Act,
 - (2) The relevant licensing authority must review the premises licence.
 - (3) The authority must reach a determination on the review no later than 28 days after the day on which it receives the notice mentioned in subsection (1)(b).
- 1.4 Regulation 37 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42)states:
Review of premises licence following closure order
37. In the case of a review of a premises licence under section 167 (review of premises licence following a closure order), within the period of one working day starting on the day after the day on which the relevant licensing authority received the notice under section 165(4) from the magistrates' court, the relevant licensing authority shall give to the holder of the premises licence and each responsible authority notice in writing of
- (a) the review;
 - (b) the dates between which [responsible authorities and any other persons] may make representations relating to the review to the relevant licensing authority;
 - (c) the closure order and any extension of it; and
 - (d) any order made in relation to it under section 165(2).
- 1.5 The Licencing Authority was notified by the Court on 16th March 2016 but the notice was grossly incorrect as the details of the handwritten order (signed by the District Judge and the parties) were not accurately reproduced. Nevertheless it was determined that due to the passage of time Licencing Authority would accept the service of the Order and launch the review process. The Police have notified the Court that of the incorrect notice.

A copy of the Review Application is attached as Annex A

A copy of the original Police application is attached as Annex B

A copy of the Court orders Both Handwritten ant Typed are attached as Annex C.

2. Representations:

- 2.1 Two representations have been received from the Responsible Authorities one from Trading Standards and one from the Police in support of the application for review No other representations have been received

Copies of the representations are attached as Annex D

3. Current Licence:

- 3.1 The current licence is held by Tahir Awan. The Designated Premises Supervisor is also Tahir Awan The licences authorises the following hours/licensable activities;

The Supply of Alcohol 00.00 - 00:00 Monday to Sunday

A copy of the current premises licence is attached as Annex E.

4. Background History:

- 4.1 Superway Express is a small Off Licence and Convenience Store located on 344 Kennington Lane SE11 5HY alongside a parade of shops and is near to Spring Gardens in Vauxhall.
- 4.2 The licence was transferred to Tahir Awan on the 23rd October 2015 and he became the DPS on the 24th March.2016. Tahir Awan was the DPS at the time of the application for the Order.
- 4.3 Malik Azam Awan was the DPS from the 13th June 2012 to 13th August 2014 and Zaheer Ahmed was the DPS from the 13th August 2014 to 24th March 2016.
- 4.4 The premises has been reviewed a total of three times (not including this application). The last of these reviews was heard on 18th January 2017 and it was at that review that the licence was revoked. It is understood that the Premises Licence Holder is in the process of appealing that decision. The decision notice and reasons from that review is attached as Annex F
- 4.5 The names and dates of the earlier licence holders who were subject to review are Malik Azam Awan (reviewed 27th June 2012 – conditions were added) and Mohammed Ayub (reviewed 23rd July 2014 – conditions were added).

5. Observations:

- 5.1 The parts of the Statutory Guidance (March 2015) which are particularly relevant to this application and the representations received are Chapters:
- 2 – The Licensing Objectives;
 - 3 – Licensable Activities;
 - 9 – Determining Applications;
 - 10 –Conditions Attached to Premises Licenses and Club Premises Certificates;
 - 11 – Reviews

5.2 The parts of the Statement of Licensing Policy that are particularly relevant to this application and the representations are Sections:

- 1. Introduction
- 5. The Licensing Objectives
- 6. The Prevention of Crime and Disorder
- 7. Public Safety
- 8. Prevention of Public Nuisance
- 10. Conduct of Licence Holders and DPS
- 11. Compliance with other Legislation
- 19. Complaints, Representations and Reviews

6. Conclusion:

6.1 Members are required to consider the application in light of all the relevant information. The Licensing Sub-Committee may take such steps as are appropriate for the promotion of the licensing objectives.

The options available to Members of the Licensing Sub Committee are;

- 1 - To modify the conditions of the licence
- 2 - To remove a licensable activity from the scope of the premises licence
- 3 - To remove the designated premises supervisor from the licence
- 4 - To suspend the premises licence for a period of 3 months
- 5 - To revoke the premises licence

6.2 Where the authority modifies a condition of the licence or removes a licensable activity it may provide that this takes effect for such period as it may specify (but not exceeding three months).

Appendices:

- Annex A – Application for Licensing Review
- Annex B – Police Application for order
- Annex C – Copies of Court Orders
- Annex D – Representations made in support of the application
- Annex E – The current premises licence
- Annex F – Decision Notice and Reasons 18th January 2017

Reference Documents:	
Local Government Act 1972 – Access to information documents used in the preparation of this report	<ul style="list-style-type: none"> 1 The Licensing Act 2003 (“the Act”) 2 Amended Guidance issued under Section 182 of the Licensing Act 2003 (March 2015) (“the Guidance”) 3 Lambeth Statement of Licensing Policy 2014 – 2019 (“the Policy”)