LICENSING SUB-COMMITTEE

Tuesday 28 March 2017 at 7.00 pm

MINUTES

PRESENT: Councillor Michelle Agdomar, Councillor Fred Cowell and Councillor Liz Atkins

APOLOGIES: Councillor Linda Bray

ALSO PRESENT: Councillor Martin Tiedemann

1 ELECTION OF CHAIR
MOVED by Councillor Fred Cowell, SECONDED by Councillor Liz Atkins

RESOLVED: That Councillor Michelle Agdomar Chair the meeting.

2 DECLARATION OF PECUNIARY INTERESTS
None.

3 LICENSING APPLICATIONS FOR THE GRANT / REVIEW OF A PREMISES LICENCE
The Chair informed the Sub-Committee that application 3c would be adjourned.

3a PREMIER FOOD AND WINE, 112 BRIXTON HILL LONDON SW2 1AH (BRIXTON HILL)

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a review of a premises licence. The Sub-Committee’s attention was drawn to chapters 2, 3, 9, 10 and 11 of the Statutory Guidance, and to Sections 1, 5, 6, 7, 8, 10, 11 and 19 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 6.1 of the report on page 11 of the agenda papers.

The Licensing Officer confirmed:

- Trading Standards had submitted an application for a review following an allegation that a person who did not have the right to work in the UK was working at the premises.
The review was based on the licensing objectives of the prevention of crime and disorder and public safety.

Nine representations had been received in support of the review application.

Five representations had been received from local residents against the review application.

Additional information from the premises licence holder had been circulated.

In response to questions from Members, Trading Standards Officer, Mr Bernard Conmy informed the Sub-Committee that:

- Having held further discussions with the premises licence holder’s representative, a series of amendments and conditions had been agreed between the parties.

- As the premises operated on a 24 hour basis, the extant operating hours were already outside the policy hours. The responsible authorities had proposed amendments to the hours of licensable activity as follows: 09:00 – 23:00 Monday to Thursday, 09:00 – 01:00 Friday – Saturday and 09:00 – 23:00 on Sundays.

- Whilst the premises licence holder was broadly agreeable to these amendments they wanted the terminal hour for the sale of alcohol on Friday-Saturday to be set at 02:00 rather than 01:00.

- The premises had undergone an enforcement visit on one occasion at 03:00 and a person who did not have the right to work in the UK had been found working on the premises at that time. This was a serious matter and the Sub-Committee could consider revoking the licence on the basis of this single incident alone.

- There was support for the review application from local residents and a local councillor.

- To address the problems that had occurred at the premises, a reduction of the hours of licensable activity was a suitable and proportionate response.

- A further condition was proposed so that shutters or an appropriate covering of alcoholic beverages would be used during the times when the sale of alcohol was not permitted.

In response to questions from Members, Mr Robert Gardner, Licensing Manager, informed the Sub-Committee that:

- He had submitted a representation and had suggested amendments to hours of licensable activity partly due to representations that had been made by residents regarding the problems in the area and the public nuisance and public safety issues that had been raised. Although a terminal hour for the sale of alcohol of 01:00 had been proposed for Friday and Saturday, he confirmed that he would not find a terminal hour of 02:00 hours on those days objectionable.

Presentation by interested parties

Henry Umeh, Community Safety Officer, informed the Sub-Committee that:

- Given the seriousness of finding people working on the premises who did not
have the right to work in the UK, the Sub-Committee could revoke the licence.

- He felt that if the Sub-Committee was not minded to revoke the licence, then it should consider amendments and conditions.
- He was satisfied with the proposed reduction in operating hours.

In response to questions from Members, Trading Standards Officer, Mr Conmy informed the Sub-Committee that:

- The incident whereby an individual had been found to be working on the premises who did not have the right to work in the UK had taken place at 03:00 in the morning. The early hours of the morning was a time-period when premises licence holders typically did not expect to be visited by enforcement officers. If the hours of licensable activity were to be reduced, it would also reduce the chances of the premises licence holder employing workers who did not have the right to work in the UK.
- Some of the issues with the premises had been discovered due to a specific Police project being undertaken in the borough. A reduction to the premises hours in terms of licensable activity would assist in addressing the problem relating to illegal workers working at the premises.

Councillor Martin Tiedemann informed the Sub-Committee that:

- He was aware that some residents who lived near the premises valued the business as its opening hours provided a sense of security for those out in the area late at night.
- He was aware of a wider concern regarding anti-social behaviour issues such as street urination and waste left in the area due to people dispersing from the late night establishments located in the area.
- The longer the premises was open, the later people would be inclined to leave the area.

Presentation by the premises licence holder

Mr Nigel Carter, the premises licence holder’s representative and a second representative of the premises licence holder informed the Sub-Committee that:

- They had proposed conditions to remedy the issue of potential illegal workers working at the premises:
  - Firstly, the premises licence holder would operate a full digital HR management system where all relevant documents would be stored for each individual member of staff. Secondly, the premises licence holder would work with People Force International or other similar agency and carry out checks on the Home Office website to verify identification, visa and right to work documents. Thirdly, no new member of staff would be able to work at the premises (including any trial period) unless they have provided satisfactory proof of identification and the right to work in the UK. Finally, all documents for members of staff would be retained for a period of 12 months post termination of employment and would be made available to Police, immigration or licensing officers on request.
In response to questions from Members, Mr Carter and the premises licence holder’s additional representative informed the Sub-Committee that:

- The premises licence holder would install and maintain a comprehensive CCTV system. The system would cover all entry and exit point from the premises and be capable of allowing the Police to be able to perform frontal recognition of customers who enter the premises. Images recorded would be retained for a minimum of 31 days and would be both date and time stamped.

- The premises licence holder was in Pakistan as his sister had been taken ill.

- Incidents of anti-social behaviour had decreased in the area. One person who lived above the premises who had submitted a representation noted a decrease in anti-social behaviour in the immediate area. A further representation that could be found in the agenda papers also noted a decrease in anti-social behaviour in the area.

- One of the representations found in the agenda papers documented that premises staff had refused the sale of alcohol to some customers and had been threatened with abuse as a result.

- There was a wider problem in the area regarding prostitution and drug dealing and these issues were not entirely related to the premises having a 24 hour premises licence.

- The review application was not similar to the case of East Lindsay v Abu Hanif. There was no evidence that the person found working at the premises who did not have the right to work in the UK had been paid.

- The proposed hours put forward by the premises licence holder, which included the sale of alcohol 09:00 – 02:00 Friday-Saturday, would cut hours of licensable activity by 64 hours per week and would address issues relating to street drinking late at night.

- Another premises located in the area, The White Horse, was open until 03:00 on both Friday and Saturday nights. Patrons of The White Horse would not be able to leave The White Horse after 02:00 and be able to buy alcohol from Premier should the proposed amendment be approved as the premises would not be able to sell alcohol after 02:00.

At this point in the proceedings, the Licensing Officer informed the Sub-Committee that the terminal hour for the sale of alcohol for the premises according to Lambeth’s policy was 23:00 Monday to Sunday. However, the Sub-Committee noted that the existing hours of licensable activity for the premises were already outside the policy hours.

The applicant’s representative, Mr Carter, stated that the premises had been granted a 24 hour licence in March 2006. Since that time, the premises had not been prosecuted or subject to review and this was commendable for a premises which held a 24 hour premises licence.

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 from Mr Carter, the premises licence holder’s second representative, Mr Conmy, Councillor Tiedemann and Mr Umen. 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 impose amendments and
RESOLVED: To grant the review application and impose amendments and conditions to the premises operating schedule.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the review application and to impose the agreed amendments and conditions to the premises operating schedule detailed below. The Chair confirmed that written notification of the decision would be sent in due course. The Chair explained that documents had been received from Mr Conmy and Mr Carter seeking to address the crime and disorder objective and concerns regarding illegal workers found at the premises. The condition relating to having shutters at the premises to cover alcoholic drinks during the period in which alcohol would not be sold would be implemented as a condition. Adequate wording of the condition would be prepared in due course. Full reasons for the decision would also be sent in due course.

Amendments:

The hours of licensable activity would be:

09:00 – 23:00 Monday to Thursday
09:00 – 02:00 Friday and Saturday
09:00 – 23:00 on Sunday.

Conditions:

1. The premises shall operate a proof of age scheme (minimum Challenge 25). Under such scheme, the only forms of acceptable identification will be photographic identification cards, such as driving licenses, passports or proof of age cards bearing the “PASS” mark hologram. This list of approved identification may be amended or revised from time to time in accordance with guidance issued by the Secretary of State or with the Police and Lambeth Council.

2. Signage advertising the aforementioned proof of age scheme shall be prominently displayed throughout the premises with a particular emphasis on the alcohol display area and checkout locations.

3. All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act, specifically with regard to age-restricted sales and the refusal of sales to persons believed to be under the influence of alcohol or drugs. Induction training must be completed prior to any sales being made by an individual and company refresher training shall be proved at least every six months. All such training is to be fully documented and signed by not only the employee but the person delivering the training. Training records shall be kept at the premises and made available upon request to either Police Officers or authorised Officers of Lambeth Council.

4. An incident log or logs shall be maintained and kept at the premises; the logs shall record the following: a) crimes reported, b) complaints received, c) incidents of disorder, d) seizures of weapons or drugs, e) faults with the CCTV system, f) alcohol refusals, g) visits from relevant authorities or emergency services. Such log/s shall be available to a Police Officer or Officer of Lambeth Council upon request.

5. The premises licence holder shall install and maintain a comprehensive CCTV system. The system shall cover all entry and exit points from the premises and be
capable of allowing the Police to be able to perform frontal recognition of customers who enter the premises. Images recorded shall be retained for a minimum of 31 days and shall be both date and time stamped. Recordings shall be made available upon request to the Police or an Officer of Lambeth Council. The premises licence holder shall ensure that at all times when the premises is open, there is a staff member working in the store who is conversant with the CCTV system.

6. The premises shall not sell ales, beer, lager or cider or similar above 6.5% abv (alcohol by volume).

7. Any cans or bottles of ales, beers, lagers, cider or similar will be sold in a minimum of 4.

8. There will be no sales of bottles of “white cider” with an ABV of 6/5% or higher, from the premises.

9. No paper or plastic cups will be kept behind the counter and they are not to be sold or given away with alcohol.

10. The Licensing Holder will join the Lambeth Business Crime Reduction Partnership.

11. The premises shall display signage which informs customers of the presence of the CCTV system and that recording is in operation.

12. No open vessels containing alcohol shall be allowed off the premises.

13. The premises shall have a written fire risk assessment with firefighting equipment regularly serviced and in date.

14. All display units for alcohol will have lockable shutters/screens. At the end of permitted hours for the sale of alcohol, the shutter/screen shall be closed and locked and shall not be unlocked again whilst the premises is open until the start of permitted hours on that day or the following day.

15. The premises licence holder would operate a full digital HR management system where all relevant documents would be stored for each individual member of staff.

16. The premises licence holder would work with People Force International or other similar agency and carry out checks on the Home Office website to verify identification, visa and right to work documents.

17. No new member of staff would be able to work at the premises (including any trial period) unless they have provided satisfactory proof of identification and right to work.

18. All documents for members of staff would be retained for a period of 12 months post termination of employment and would be made available to Police, immigration or licensing officers on request.

3b COSTCUTTER, 98 BRIXTON HILL, LONDON, SW2 1AH (BRIXTON HILL)

Before the application was considered, Mr David Dadds, representing the premises licence holder, informed the Sub-Committee that he was in discussion with interested parties to come to an agreement. The Sub-Committee adjourned the hearing at 8:18pm and reconvened at 8:47pm.

The Sub-Committee was then informed that all parties had come to an agreement.

PC Joe Farrelly, Mr David Dadds representing the premises licence holder and Mr Hazar Khan, the premises licence holder, addressed the Sub-Committee.
Mr Dadds informed the Sub-Committee that:

- The agreed proposed hours for the sale of alcohol were 09:00 - 00:00 Monday – Thursday, 09:00– 02:00 Friday and Saturday and 09:00 – 00:00 on Sunday.

- The conditions that had been agreed amongst all parties were conditions 1, 2, 3, 4, 5, 6, 9, 10, 13, 14, 16, 17 and 18 as outlined in the original agenda papers (from page 94) and the additional papers circulated at the meeting.

- Three further additional conditions had been agreed. Firstly, the premises licence holder would work with People Force International or other similar agency and carry out checks on the Home Office website to verify identification, visa and right to work documents. Secondly, no new member of staff would be able to work at the premises (including any trial period) unless they have provided satisfactory proof of identification and right to work. Finally, all documents for members of staff would be retained for a period of 12 months post termination of employment and would be made available to Police, immigration or Licensing officers on request.

- The conditions proposed had taken into account requirements that had been requested by the Police.

- If the Sub-Committee were to agree the proposed conditions, then the premises licence holder should be allowed 21 days to meet the full requirements of all the conditions.

- Staff training was already being provided at the premises so some conditions were already being met.

- From the applicant’s point of view, all parties were in agreement with the conditions and amendments proposed and all parties felt that they were appropriate and proportionate.

- Community Safety, Licensing and Trading Standards were all in agreement with the proposed conditions and amendments.

- Condition 8 on page 95 of the agenda papers would not be implemented as it was felt to be a duplication of condition 6. Responsible authorities felt that the premises would not attract street drinkers because the abv level was already low at 6.5% abv.

- The reference to high strength, beer, lager or cider would be removed from condition 18.

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

- In order to adequately fulfil proposed condition 18, contact would be made with local police teams to provide a document containing photographic identities of known street drinkers. This document would be passed on to the premises licence holder to ensure that premises staff did not sell alcohol to identified street drinkers. However, if premises staff served an individual whose photographic identity they had not received, it would not be a breach of the condition. The most appropriate way to adequately proceed with meeting the condition was to have the document delivered to the premises licence holder by hand and to obtain a signed document from the premises licence holder confirming that premises staff had seen the images of the known street drinkers.
The document would be kept on Police records.

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

- He was happy to accept all the conditions and requirements outlined above.

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

- It was not appropriate or proportionate to impose a condition regarding limiting the sale of miniature bottles. There was no evidence to suggest that such a condition was necessary. The premises licence holder felt that that customers who came into the premises and brought such products at his premises were not street drinkers.
- The premises licence holder wished for the terminal hour for the sale of alcohol to be 03:00 on Monday to Saturday. There was no evidence to justify a reduction of the terminal hour to be greater than 03:00 but he was aware that it was the Council’s intention to reduce hours for any premises operating on a 24 hour basis and therefore the premises licence holder was happy to reach a compromise.

Presentation from interested parties

Councillor Martin Tiedemann informed the Sub-Committee that:

- He was grateful to officers and all parties involved for attempting to reach a compromise.
- There had been some serious issues raised regarding this application and wider issues which had been raised by residents.
- There were issues of public nuisance in the area.
- He appreciated the work that had been put into an agreement between all parties.
- He was particularly concerned about the premises being adequately locked and shuttered which was an urgent issue and needed to be addressed.

Mr Dadds informed the Sub-Committee that someone could be brought in to fix the front door on the premises. The premises had been operating for 19 years and in the last seven years there had only been one alleged crime. There was an issue with the premises door and an incident that had occurred in December 2016 at the premises could have been avoided if the premises was more secure.

Adjournment and Decision

At 9:15pm, 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 Mr Dadds, Mr Farrelly, Councillor Tiedemann and Mr Khan. 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 impose the agreed amendments and conditions on the operating schedule.

RESOLVED: To grant the review application and impose amendments and conditions.
Amendments

The hours of licensable activity would be:

09:00 – 00:00 Monday to Thursday
09:00 – 02:00 Friday and Saturday
09:00 – 00:00 on Sunday.

Conditions

1. The premises shall operate a proof of age scheme (minimum Challenge 25). Under such scheme, the only forms of acceptable identification will be photographic identification cards, such as driving licenses, passports or proof of age cards bearing the “PASS” mark hologram. This list of approved identification may be amended or revised from time to time in accordance with guidance issued by the Secretary of State or with the Police and Lambeth Council.

2. Signage advertising the aforementioned proof of age scheme shall be prominently displayed throughout the premises with a particular emphasis on the alcohol display area and checkout locations.

3. All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act, specifically with regard to age-restricted sales and the refusal of sales to persons believed to be under the influence of alcohol or drugs. Induction training must be completed prior to any sales being made by an individual and company refresher training shall be proved at least every six months. All such training is to be fully documents and signed by not only the employee but the person delivering the training. Training records shall be kept at the premises and made available upon request to either Police Officers or authorised Officers of Lambeth Council.

4. An incident log or logs shall be maintained and kept at the premises; the logs shall record the following: a) crimes reported, b) complaints received, c) incidents of disorder, d) seizures of weapons or drugs, e) faults with the CCTV system, f) alcohol refusals, g) visits from relevant authorities or emergency services. Such log/s shall be available to a Police Officer or Officer of Lambeth Council upon request.

5. The premises licence holder shall install and maintain a comprehensive CCTV system. The system shall cover all entry and exit points from the premises and be capable of allowing the Police to be able to perform frontal recognition of customers who enter the premises. Images recorded shall be retained for a minimum of 31 days and shall be both date and time stamped. Recordings shall be made available upon request to the Police or an Officer of Lambeth Council. The premises licence holder shall ensure that at all times when the premises is open, there is a staff member working in the store who is conversant with the CCTV system.

6. The premises shall not sell ales, beer, lager or cider or similar above 6.5% abv (alcohol by volume).

7. No paper or plastic cups will be kept behind the counter and they are not to be sold or given away with alcohol.

8. No bottles of beer, lager, or cider will be opened for customers.

9. The premises shall display signage which informs customers of the presence of the CCTV system and that recording is in operation.

10. No open vessels containing alcohol shall be allowed off the premises.

11. There will be a lockable door to the premises and lockable shutters covering all
outside windows and door facing the street.

12. All display units for alcoholic beverages will be covered at those times when the sale of alcohol is not permitted.

13. There will be no sale of alcohol to persons identified as street drinkers by local policing teams.

14. The premises licence holder will work with People Force International or other similar agency and carry out checks on the Home Office website to verify identification, visa and right to work documents.

15. No new member of staff will be able to work at the premises (including any trial period) unless they have provided satisfactory proof of identification and right to work.

16. All documents for members of staff will be retained for a period of 12 months post termination of employment and will be made available to Police, immigration or licensing officers on request.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the review application and impose amendments and conditions. The Chair confirmed that written notification and the reasons for the decision would be sent in due course.

3c  LOCO, 233 COLDHARBOUR LANE, LONDON, SW9 8RR (COLDHARBOUR)

This application was adjourned.

The meeting ended at 9:30pm

CHAIR
LICENSING SUB-COMMITTEE
Thursday 13 April 2017

Date of Despatch: Wednesday 5 April 2017
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