

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 14 February 2019 at 10.00 am at Room G06 - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Sunil Chopra
Councillor Adele Morris

OFFICER SUPPORT: Debra Allday, legal officer
Wesley McArthur, licensing officer
P.C. Ian Clements, Metropolitan Police Service
Ray Moore, trading standards officer
Jayne Tear, licensing responsible authority
Andrew Weir, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: A FAMILY CONVENIENCE STORE, 161 RYE LANE, PECKHAM, LONDON SE15 4TZ

The licensing officer presented their report. Members had no questions for the licensing

officer.

The applicant and their representative addressed the sub-committee. Members had questions for the applicant and their representative.

The trading standards officer addressed the sub-committee. Members had questions for the trading standards officer.

The Metropolitan Police Service representative addressed the sub-committee. Members had questions for the police.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had questions for the licensing officer.

All parties were given five minutes for summing up.

The meeting adjourned at 11.50am for the members to consider their decision.

The meeting resumed at 12.13pm and the chair advised all parties of the decision.

RESOLVED:

That the application made by Mr Amanuel Fissehaye for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as A Family Convenience Store, 161 Rye Lane, London SE15 4TL be granted as follows:

- **The sale of alcohol to be consumed off the premises**
 - Monday to Sunday from 10:00 to 00:00 (midnight)
- **Opening hours of the premises**
 - Monday to Sunday from 08:00 to 00:00 (midnight).

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in Section M of the application form, the conditions agreed with trading standards, the Metropolitan Police Service, licensing as a responsible authority and public health during the conciliatory process and the following additional conditions agreed by the sub-committee:

1. That no beers, lagers or ciders exceeding 5.5% ABV with the exception of Dragor Stout (7.5% ABV) and Guinness Foreign Extra (7.5% ABV) shall be displayed or sold.
2. That no more than 20% of the retail display area shall be used for the display of alcohol.

Reasons

The reasons for the decision are as follows:

The representative for the applicant advised the licensing sub-committee that the premises would be a convenience “one stop” shop. It was accepted that the premises was located in the Peckham cumulative impact policy (CIP) area, but the hours sought were now with those detailed in Southwark’s statement of licensing policy as the applicant had agreed to amend the application so that the sale of alcohol commenced at 10:00. The premises would open at 08:00 and until 10:00 all alcohol would be held behind locked doors so the public could not access it.

The applicant had also submitted a comprehensive operating schedule which complied with the licensing objectives and therefore, there would be no cumulative impact. The sale of alcohol would not exceed 20% of the overall income of the premises. The applicant did have another premise approximately five doors away at 151a Rye Lane, London SE15 4TL but this premises specialised West Indian foodstuff. Because of the very limited beers, ciders and lagers at these premises, it was proposed that the applicant would surrender this licence. Regarding the breaches witnessed at 151a Rye Lane, there had been no further incidents since those in 2015. In addition, the applicant had offered to not sell beers, ciders or lagers in either single can sales or above a maximum of 5.5% ABV. The applicant did however seek permission to sell less than a handful of named items that exceeded this 5.5% ABV limit.

The licensing sub-committee heard from an officer from the council’s trading standards team who referred to the applicant’s operation at 151a Rye Lane, London SE15 4TL and that a considerable number of breaches of various legislation had been witnessed for which the applicant accepted a caution. The trading standards officer also referred to the applicant being prosecuted at Camberwell Green Magistrates’ Court where he was convicted on 3 September 2018 and received a fine for offences under Section 34(1)(a) and Section 157 Environmental Protection Act 1990 demonstrating further regulatory breaches committed by the applicant.

The officer also referred to the Peckham CIP as detailed in Southwark’s statement of licensing policy, where there is a presumption against the grant of a licence and the sub-committee need to justify departing from the CIP policy. It was the officer’s view that the applicant had failed to rebut the presumption not to refuse the application and if the application were granted, it was likely to add to the existing cumulative impact.

The licensing sub-committee heard from the representative for the Metropolitan Police Service who referred to the Peckham CIP. The representative also referred to the applicant’s other premises licence at 151a Rye Lane, London SE15 4TL and the breaches of various legislation witnessed there whilst the applicant was responsible for the premises operation. It was the Metropolitan Police Service contention that the proposed operation was likely to add to the cumulative impact of licensed premises in the locale and that taking into account the Peckham CIP the application should be refused.

The licensing sub-committee noted that the environmental protection team had withdrawn their representation.

The licensing sub-committee noted the content of the representation from public health who were unable to attend the meeting. In particular the representation outlined the negative impact that the high numbers of licensed premises had in the area.

The licensing sub-committee were initially unimpressed with the application, given the history and breaches that had been witnessed and were concerned that there would be a negative impact to cumulative impact. However, having heard from the applicant and his representative, there was sufficient justification to divert from the Peckham CIP. There had

been an amendment to the application, so that the sale of alcohol would commence at 10:00 and the sale of alcohol would not exceed 20% of the overall sales at the premises. It was also noted that there had been no licensing offences since 2015.

Importantly, concerning the issue of cumulative impact, the applicant's representative gave an undertaking to surrender the licence to the Family Carnation Supermarket, 151a Rye Lane, London SE15 4TL prior to the commencement of the premises licence to A Family Convenience Store, 161 Rye Lane, London SE15 4TL.

The licensing sub-committee were therefore satisfied that the applicant had demonstrated that there would be no impact on cumulative effect as provided in paragraphs 137-140 of Southwark's statement of licensing policy.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

Appeal rights

The applicant may appeal against any decision:

- a. To impose conditions on the licence
- b. To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that

- a. The licence ought not to be granted; or
- b. That on granting the licence, the licensing authority ought to have imposed different or additional conditions to the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

The meeting ended at 12.16 pm

CHAIR:

DATED: