

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Tuesday 21 January 2020 at 12.30 pm at Room G06 - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Sunny Lambe
Councillor Adele Morris

OFFICER SUPPORT: Debra Allday, legal officer
Jayne Tear, licensing responsible authority officer
Ray Moore, trading standards officer
P.C. Ian Clements, Metropolitan Police Service
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: STAR ONE SUPERMARKET, UNITS 1 & 2 NORTHCHURCH, DAWES STREET, LONDON SE17 2AQ

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 3.31pm for the sub-committee to consider its decision.

The meeting reconvened at 3.39pm and the chair advised all parties of the decision.

RESOLVED:

That the application made by Rajenthiran Pratheepan and Janani Pratheepan for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Star One Supermarket Unit 1 & 2 Northchurch, Dawes Street, London SE17 2AQ be refused.

Reasons

The reasons for the decision are as follows:

The representative for the applicant outlined the premises licence application and stated that the premises was for the sale of general groceries and alcohol. The hours sought were for opening hours Monday to Sunday from 06:00 to 23:00 and off sales of alcohol Monday to Sunday from 06:00 to 23:00.

A bundle of documents was also produced by the applicant addressing the objections received in respect of this application. Looking through the documents, the applicant failed to address trading standards concerns and accepted the history of the premises, which had nothing to do with the applicant.

The representative advised that the application needed to be considered afresh. In responding to the police they advised that the applicant was in the process of having the lease to Unit 1 & 2 Northchurch, Dawes Street transferred. Delays had been experienced with the council's property department, albeit the council's legal department had only been instructed to look into the transfer of the lease in December 2019.

The applicant's representative advised that licensing as a responsible authority also referred to the lack of transfer of the lease. The representative for the applicant also emphasised that previous revocation and refusals had no connection whatsoever to the application the licensing sub-committee had before it. None of the individuals referred to by the responsible authorities have any connections with this application.

Concerning the visit on 13 November 2019, there was no adverse evidence that would

support a rejection of this application.

The licensing sub-committee heard from trading standards who outlined the history of the premises and objected to the application based on the prevention of crime and disorder licensing objectives. Trading standards originally brought a review for the premises when it was known as KG2P. At the review application on 23 April 2018 the licensing sub-committee revoked the license. This decision was appealed by the then premises license holder who also attempted to transfer the license to his brother. The police objected to the transfer of the license and that application was withdrawn just prior to the licensing sub-committee hearing. The appeal in respect of revocation decision was subsequently withdrawn.

Following this, a new premises licence was received from the previous premises license holder's brother who was known to Kingston and Sutton shared environmental services, and whom has a spent previous conviction for selling counterfeit vodka that was injurious to health from an off license trading in Esher, Surrey.

Southwark's trading standards team, licensing team and the police visited the premises at 1 & 2 Northchurch, Dawes Street, SE17 2AQ on 11 September 2018. On the date of this visit the previous premises license holder (and owner of the business) was present in the shop. Alcohol remained on the shelves. As of 11 September 2018, no premises licence was in place. The previous premises license holder confirmed that his brother had applied for a new premises license for the business.

When the current applicant applied for this new premises license, trading standards found that the lease to the premises remained in the name of the previous license holder (whose licence had been revoked) even though the current applicant was running the business at the premises. An unsigned sub-lease was produced which allowed the previous licence holder to unilaterally take back control of the business. The business management agreement between the applicant and the previous licence holder was provided, which gave the current applicant less than two years with a unilateral exit clause.

Trading standards also advised that they visited the premises on 13 November 2019. An overstayer, who did not have the right to work in the UK, was in charge of the shop. He then produced a counterfeited UK visa card. A handwritten wages book (signed by the applicant) was seized. Upon examination, employees were working up to 90 hours per week. The wages book showed staff were being paid under the minimum wages (between £5.00-6.00 per hour) contrary to the National Minimum Wages Act 1998 and working hours in excess of those permitted by the Working Time Regulations 1998.

The licensing sub-committee then heard from the Metropolitan Police Service who objected to the new premises licence. The officer from the police also detailed the history of the premises and took the view that there had been no material change in ownership of the premises since the licence was revoked. The licence was revoked on the grounds of the prevention of crime and disorder licensing objectives. The evidence produced by trading standards shows that there has been no change in ownership, and on this basis, the application should be refused based on the same grounds and evidence submitted in support of the review and transfer applications.

The licensing sub-committee then heard from licensing as a responsible authority whose representation mirrored that of trading standards, drawing on the history of the premises and the lack of change of ownership.

The licensing sub-committee considered all written and oral evidence concerning the

premises. The premises has had historically been mismanaged. The committee is obliged to consider each application on its own merits. The committee must be satisfied on the evidence that the premises will no longer be run irresponsibly, promoting all of the licensing objectives.

Unfortunately, the evidence before this licensing sub-committee has demonstrated a complete lack of understanding of the licensing objectives. The sub-committee was particularly concerned with the employment of illegal workers, the applicant's failure to pay his employees the minimum wage, permitting employees to work hours far in excess of the Working Time Regulations. The licensing sub-committee was also extremely concerned with the arrangements in place with employees taking advances in their pay and what appears to be a disregard of the applicant's obligations concerning tax and national insurance.

Furthermore, paragraphs 98 and 99 of Southwark's Statement of Licensing Policy provides:

- "98. This authority is concerned over the frequently observed practice of an application for a transfer of a premises licence being made following an application for a review of that same licence being lodged.
- 99. Where, such applications are made, this authority will require documented proof of transfer of the business / lawful occupancy of the premises, to the new proposed licence holder to support the contention that the business is now under new management control".

Not only dissatisfied that the applicant will promote the licensing objectives, this licensing sub-committee is also not convinced with the evidence produced by the applicant that the business is now under the new management control.

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 been 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 3.41pm.

CHAIR:

DATED: