

MINUTES OF THE MEETING OF THE LICENSING SUB COMMITTEE B HELD ON THURSDAY, 16TH FEBRUARY, 2017, 19:00.

PRESENT:

Councillors: Vincent Carroll (Chair), David Beacham and Toni Mallett

Also present:

Officers

Daliah Barrett (Licensing), Khumo Matthews (Legal), and Philip Slawther (Clerk)

Applicants

Mr Atil Patel

Mr Robert Jordan (Agent)

Responsible authority representatives

Monica Ukandu (Public Health)

Deborah Millward (Public Health)

Mark Greaves – Metropolitan Police

ATIL KIRAN PATEL, SEJALS NEWSAGENT, 271 PARK LANE LONDON N17 0HU.

1. FILMING AT MEETINGS

The Chair referred Members present to agenda item 1 as shown on the agenda in respect of filming at this meeting, and Members noted the information contained therein.

2. APOLOGIES FOR ABSENCE

None.

3. URGENT BUSINESS

None.

4. DECLARATIONS OF INTEREST

None.

5. SUMMARY OF PROCEDURE

NOTED the procedure summary for Licensing Sub-Committee hearings, pages 1-2 of the agenda pack), which the Chair introduced drawing attention to the four licensing objectives

6. ATIL KIRAN PATEL, 271 PARK LANE LONDON N17 0HU.

RECEIVED the application for the premises licence as detailed on pages 8 to 22 of the agenda pack.

a. Licensing Officer's Introduction

The licensing officer, Daliah Barrett, introduced the application for a new premises licence for the supply of alcohol off the premises, referring to the documents in the agenda pack.

NOTED that the premises had operated as a newsagent but now sought the ability to sell alcohol. Enforcement Officers visited the premises in October 2016 following reports that unauthorised alcohol sales had taken place. A subsequent warning letter was sent to the premises and a follow up visit found no alcohol being sold from the premises. The premises licence application was submitted following the follow up visit. The Committee was advised that the matter was previously listed for hearing in January but was postponed due to the applicant being unable to attend.

NOTED that the applicant was going to be the DPS but did not hold a Personal Licence. The matter had been through the 28 day consultation period and that representations from Public Health and the Metropolitan Police were received and were attached at appendix 2 of the report. The agent acting on behalf of the applicant requested that a sample of emails be made available for the Committee to show why the Public Health representation was not accepted, this was included at appendix 3 of the agenda pack.

In response to a question from the Committee regarding the credibility of the training and operation manual that was submitted, Ms Barrett advised that the proposed document included the relevant information but that the test was the extent to which the applicant understood its contents and implemented the procedures contained therein.

b. Police Representation

NOTED the representation by Mark Greaves on behalf of the Metropolitan Police, including that:

On 3rd November 2016 the premises was visited by Haringey Council Enforcement Officer Charles Buckle; it was found that alcohol was on display without a licence (as per photo exhibit MG1). Mr Buckle informed the member of staff present, a Mr Anil Patel that no alcohol sales were allowed and to remove all alcohol on display. Mr Buckle also noted that there was also a large quantity of other assorted alcohol being stored in the back room.

The premises was also visited under a Metropolitan Police London wide operation dealing with test purchasing of knives to underage people on 23rd January 2017 and failed the test purchasing by selling a Stanley knife to an underage Police Cadet

making no attempt to ascertain their age by requesting identification. This matter was subject to further enforcement action by the Trading Standards Team.

Whilst the sale of knives was not a licensable activity, the sale of any age restricted products to underage young people showed that there was insufficient management control at the premises. This lack of control undermined the licensing objectives coupled with the fact that the premises were found to be selling alcohol without a licence for a period of time prior to applying for a licence shows that the management was not 100% robust in ensuring compliance with legal requirements.

The Committee considered that this was a particularly serious matter as the area of Northumberland had ongoing issues with anti-social behaviour and gang related problems. Police requested that the application be refused.

Mr Jordan sought clarification as to whether his client was the person alleged to have made the underage knife sale. Mr Greaves responded that he was not present during the visit but whoever was working that evening was the person who sold the knife. Mr Jordan also commented that the representation received stated that a Mr Anil Patel was present during the visit on 3rd November but that his client was Mr Atil Patel.

** Clerks note – the Committee adjourned for a short period to consider a subsequent late piece of evidence submitted from Haringey Trading Standards. The Committee agreed that the late evidence submitted by Haringey Trading Standards would not be admitted. The Committee reconvened at 19:35.**

c. Representations from Monica Ukandu, Public Health Officer, Haringey Council

NOTED the representation by Monica Ukandu on behalf of Public Health, including that: The premises had failed to give enough careful consideration as to how they would uphold the licensing objectives, particularly in relation to the prevention of crime and disorder, public safety and protecting children from harm. Haringey experienced some of the greatest levels of alcohol related problems in London. The premises was located on the Park Lane Area of Northumberland Park, one of the most deprived areas in Haringey and the UK. In addition, the Committee was advised that Haringey's alcohol treatment service HAGA was situated 300m away from the premises. The application to sell alcohol as well as the proposed opening hours of until 01:00 could undermine the effectiveness of the treatment centre as well as contributing to crime and disorder.

NOTED that Northumberland Park ranked 1st out of 19 wards in Haringey for income and employment deprivation which both had proven links to alcoholism. Furthermore, Northumberland Park ranked 2nd out of 19 wards for ambulance callouts to assaults; 2nd out of 19 wards for possession of drugs; 1st for instances of criminal damage and 1st for night time violent disorders. Alcohol exacerbated the likelihood of night time violence and domestic abuse offences and increasing the availability of alcohol in the area would have an adverse effect on the prevention of crime and disorder.

In regards to public safety, Public Health advised the Committee that in 2015, 44 alcohol related ambulance callouts were reported within 500m of the premises and that these contributed to increased pressure and costs to the NHS. The impact of high strength beers and ciders was also a major concern in the more deprived wards and it was they felt had contributed to a rise in street drinking and anti-social behaviour.

The Committee was advised that there was a primary school within 500m of the premises and that this raised concerns in relation to the licensing objective of protecting children from harm. Beyond contributing to the normalisation of alcohol for school children visiting the premise, the applicant had not satisfactorily demonstrated how they intended to safeguard children and prevent underage sales. Public Health recommended that; due to their failure to show how they would uphold the four licensing objectives, a number of conditions be attached to the licence if a licence was granted.

The proposed conditions were:

- Challenge 25 policy to be enforced.
- A clear and detailed record of any refusals to be logged and be made available on request.
- Alcohol sales to be restricted to midnight Sunday-Thursday and midnight on Friday and Saturday; as per Haringey's Statement of Alcohol Licensing Policy 2016-21.
- Alcohol to be covered when it is not on sale.
- Alcohol to be displayed/stored at the back of the premise.
- No promotional sales or materials.
- No super strength alcohol above 6.5% ABV is to be sold.

d. Applicant's response to the representations

NOTED the representation by Mr Jordan on behalf of the applicant, including that: In response to the conditions proposed, the applicant had concerns with being able to keep alcohol at the back of the store and had been advised that he could discuss this further at the Committee hearing. Ms Barrett advised that in an attempt to mediate with the agent she had suggested that keeping spirits behind the counter and that other alcohol was kept in a lockable fridge or cabinet. However, the onus was on the applicant to come back to the Committee with conditions that were agreeable to him. Mr Jordan also raised concerns that a number of the other conditions were not specific enough, and in his opinion were unenforceable; such as how to define 'promotional materials' and no sales of super strength alcohol seemed to suggest all alcohol above 6.5% ABV.

The applicant advised that he was not responsible for managing the store and bore no responsibility for the outcome of the visits undertaken on either the 3rd November 2016 or 23rd January 2017. However he was looking to assume control of the store from his father but would only do so if a premises licence was granted. Mr Jordan also reiterated to the Committee that his client had submitted a training and operation manual which set out how he would ensure that he fulfilled his duties as a responsible retailer.

In response to clarification sought from the Committee, the applicant advised that he was only prepared to take over management of the premises if a licence was granted in order to increase revenue levels. The applicant also advised that he worked elsewhere and only had limited contact with the store; furthermore he was unaware that alcohol was previously being sold.

Mark Greaves advised the Committee that he visited the premises in January to test the CCTV system used in the store and that whilst undertaking that visit the applicant was present. Mr Greaves also advised that when asked about the operation of the equipment, the father stated that the applicant could operate the CCTV.

The Committee expressed consternation with a lack of clarity as to who was in charge of the store previously, particularly during the inspection visits on 3rd November 2016 and 23rd January 2017. Mr Greaves reiterated that regardless of who was responsible for managing the store, alcohol was found for sale without a licence and that a knife was sold to an underage person, therefore the applicant needed to adequately outline how he proposed to mitigate against further management failings and how he would uphold the licensing objectives.

In response to a query from the Committee, the applicant advised that he was not aware whether there was a premises licence holder working at the store. Ms Barrett advised that as far as she was aware there was no premises licence holder registered at the address. In response to a question from the Committee, Ms Barrett advised that it was not usual for a person to apply for a premises licence and then acquire a business and to then identify a Designated Premises Supervisor.

Following further questions from the Committee, the applicant agreed to the revised conditions to the licence as per the email correspondence that was submitted to the Committee and included at appendix 2 of the agenda pack. The revised conditions included; that no single cans of alcohol would be sold; no beer, lager or cider to be sold which is over 6.5% ABV, and agreed to the alcohol being covered outside of the hours of licensed sale.

20:15 the Committee retired to make decision. Returned 20:45hrs.

DECISION

The committee carefully considered the application for a new premises licence, the representations of the Police, Public Health, and Licensing Authority as responsible authorities, the representations made by the Applicant and his representative, the Council's Statement of Licensing Policy and the Licensing Act 2003 s182 guidance.

Having heard the parties' evidence, the Committee resolved to refuse to grant the application for a new premises licence.

The committee heard evidence that the premises had previously sold alcohol without a licence and was of the opinion that public safety and the risks to public health, in an area of acute alcohol problems, would be exacerbated if a licence was granted for a

premises that showed little sign of willingness to work with the licensing authority in limiting the risks associated with the unlicensed and unregulated sale of alcohol.

In addition the licensing sub committee heard that the premises had previously been engaged in the unlawful sale of a bladed article to a minor. This was a serious matter which in the opinion of the committee showed that the licence holder and those associated with the premises would have insufficient regard to the need to protect children from harm.

The applicant's evidence to the committee was that he had no prior involvement with the premises and was only going to become involved with the premises once a premises licence had been granted. The committee did not consider this evidence as credible, particularly since the applicant had by his own admission no current involvement financial or otherwise with the premises. The committee's view was that once licensed, the premises would not require any further involvement from the applicant.

The committee's view was that there was a significant risk that those currently operating the premises, and who had already demonstrated disregard for the licensing objectives, would be in a position to employ a Designated Premises Supervisor and continue trading without the applicant's involvement once a licence was granted.

The applicant was very vague in response to matters put to him at the licensing sub committee hearing and seemed to be unable to answer basic questions regarding the level of his involvement with the premises, the use of CCTV and whether he had previously met the Police at the premises unequivocally.

The evidence put before the committee regarding which members of the applicant's family had been involved in particular incidents was at best vague and not credible.

In all the circumstances, the committee was not satisfied that licensing objectives relating to the protection of children from harm and prevention of crime and disorder were unlikely to be upheld if a licence was granted.

The committee only made its decision after having heard all the parties' representations and considered that its decision to refuse a premises license was appropriate and proportionate

7. ITEMS OF URGENT BUSINESS

N/A

CHAIR: Councillor Vincent Carroll

Signed by Chair

Date