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## LICENSING SUB-COMMITTEE

30 OCTOBER 2014

(3 PM TO 5.30 PM)

PRESENT Councillors (in the Chair), Councillor Tobin Byers,  
Councillor Jeff Hanna and Councillor Linda Taylor

ALSO Violetta Semyonova (applicant)

PRESENT:

Graham Hopkins, Linda Potter (GT Consulting)

Sgt Peter Sparham, Metropolitan Police

Martin Budd

Sue Cooper

Guy Bishop (Legal Officer), Elizabeth Macdonald (Licensing Officer), Susanne Wicks (Democratic Services Officer).

### 1 APPOINTMENT OF CHAIR (Agenda Item 1)

Councillor Linda Taylor was appointed Chairman of the meeting.

### 2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

No declarations were made.

### 3 SMAK, 1 COMMONSIDE EAST, MITCHAM, CR4 2QA (Agenda Item 3)

Councillor Linda Taylor opened the meeting and outlined the procedure to be followed.

All parties confirmed the accuracy of the papers circulated with regard to this application.

All parties confirmed that no resolution or further conditions had been agreed following publication of the papers.

#### Applicant

Speaking on behalf of the applicant, Graham Hopkins outlined the application. He explained that SMAK is a Polish convenience store, and the applicant would like to sell only Polish and Eastern European beers, spirits and liqueurs.

Graham Hopkins outlined Ms Semyonova's experience; she currently has a similar shop in Tolworth, and one in Sutton. She previously had a shop on Upper Green East (Mitcham) from which she moved due to the need for larger premises.

Graham Hopkins advised that the application was amended, with the hours for sale of alcohol to be:

09:00 to 22:00 (Monday to Saturday)  
10:00 to 22:00 (Sunday).

Graham Hopkins stated that many of the representations received are speculative in nature, and reminded the Sub-Committee that they should consider whether there was proper evidence referring to the Thwaites case. He advised that the applicant would like the entire premises to be licenced, but will agree to a condition that only 25% of the retail area shall be used to display alcohol at any time.

Graham Hopkins referred the Sub-Committee to the proposed conditions contained within the applications, which he said were robust, relevant and will promote the licensing objectives. He added that alcoholic drinks will be priced at a level to deter street drinkers, the prices will be kept under review and that there was no intention to sell British brands.

Graham Hopkins suggested that the Sub-Committee should attach no weight to the petition submitted as a Representation. Turning to the representation submitted by Sgt Peter Sparham, he pointed out that the Police representation had made no comment on the applicant's record in operating licensed premises. He noted that of the list of crimes detailed, only 5 or 6 had any potential link with alcohol. Furthermore, he said that it appears as though the problems are caused by a group of street drinkers who should be dealt with according to the law and were the responsibility of the Police and not the Applicant. Graham Hopkins suggested that the Police had not made a strong enough case against the application.

With regard to the representation made by Councillor Geraldine Stanford, Graham Hopkins pointed out that her view is not substantiated by any evidence. He stated that SMAK will not add to anti-social behaviour or litter.

Turning to the representation from Sue Cooper, Graham Hopkins reiterated that the applicant operated responsibly and pointed out that there are off-licences and supermarkets nearby that could be contributing to the problematic street drinkers. When invited to ask questions, Sue Cooper advised that every day she finds beer cans in her hedge, which are Eastern European brands. She asked if that supports the view that street drinkers are only consuming British brands. In response, Graham Hopkins reminded the Sub-Committee that SMAK is not currently permitted to sell alcohol but other premises in the area do sell such products, and the applicant could not be held responsible for that.

Sgt Peter Sparham, whilst noting that his suggested conditions were accepted by the applicant, asked how staff on the premises would be able to operate the CCTV. He explained that when making two visits to the premises in recent months, he was unable to communicate with the member of staff due to lack of English. Ms Semyonova advised that staff will be fully trained and able to share the CCTV with Police and Authorised Officers where required.

When questioned by Councillor Tobin Byers, Ms Semyonova confirmed that she would accept a condition not to sell British brands of alcohol.

#### Sgt Peter Sparham

When invited to address the Sub-Committee, Sgt Peter Sparham briefly outlined his representation; he advised that the crimes listed are not intended to be attributed to this premises or to the applicant. He noted that the area is not a Cumulative Impact Zone, but is an area of concern to the Police.

#### Sue Cooper

When invited to speak, Sue Cooper advised that many more than ten people signed the petition against this application, a large number of signatures were deemed invalid for reasons like half of the postcode was missing. She stated that over sixty people signed the petition. SMAK is very close to the Three Kings Pond and there is concern locally about street drinkers in the areas causing anti-social behaviour. Sue Cooper outlined the problems caused by street drinkers, including drunkenness, fighting, noise and litter. She pointed out that CCTV on the premises may be of use if an incident occurs within it, but no use at all if problems arise in the area.

#### Martin Budd

Martin Budd presented his representation, and noted his two main concerns were public nuisance, which had been covered by Sue Cooper, and the protection of children from harm. He pointed out the proximity of St Thomas of Canterbury Primary School to the Three Kings Pond and SMAK, as well as the use of the area by young families. He suggested that children could be negatively influenced by the empty beer cans and street drinkers. Martin Budd advised that, on the day before this meeting, half of the empty beer cans he observed were of Eastern European brands. He noted his concern about the impact of another licensed premises opening in the area, and suggested that price is not the only factor for potential customers, as convenience is also an issue.

Elizabeth Macdonald advised Martin Budd that his comments should be restricted to the petition he signed, that was included in the papers.

#### Licensing Officer

When asked for her comments, Elizabeth Macdonald requested that any conditions to be added to the licence (if granted) should be supplied in English and Polish. She also suggested that the counter and storage for any alcohol should be shown on the plan. There was some discussion between Graham Hopkins, Guy Bishop and Elizabeth Macdonald about whether or not the plan was compliant with Regulation 23 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, and Guy Bishop advised that a licence could not be granted until a valid plan was submitted.

Councillor Linda Taylor invited Graham Hopkins to ask questions.

When asked, Sgt Peter Sparham, whilst acknowledging the applicant's willingness to accept the suggested conditions, stated that he would not withdraw his representation, as he still had concerns about the possible impact of another licensed premises in the area.

When questioned by Councillor Jeff Hanna, Sgt Peter Sparham was unable to give greater detail of the crimes listed in the statement. He advised that an overview of crimes in the area had been given. He was unable to provide details of the nature and amount of enforcement that has taken place, but advised that due to the persistent offenders, there is an increased Police and PCSO presence in the area, who attend the scene daily.

When asked to summarise, Graham Hopkins reminded the Sub-Committee that there were only ten valid signatures on the petition submitted. He stated that the problem of street drinkers is an issue to be dealt with by the Police. He also suggested that the premises plan was valid as the counter is not a fixed structure.

The Sub-Committee retired into private session at 4.31 pm to take legal advice and make a determination.

The meeting reconvened at 5.30 pm. Guy Bishop outlined the advice he had given to the Sub-Committee; he had reminded them of the Thwaites case, and had discussed with them the basis of their decision making.

RESOLVED: That the application is refused.