

LICENSING SUB-COMMITTEE

10 MAY 2017

(10.30 am - 5.52 pm)

PRESENT Councillors John Sargeant (in the Chair),
 Councillor Pauline Cowper and Councillor Marsie Skeete

Councillor Judy Saunders replaced Councillor Pauline Cowper
for the second application (We Are The Fair Ltd)

1 APPOINTMENT OF CHAIR (Agenda Item 1)

RESOLVED: That Councillor John Sargeant be appointed Chair of the meeting.

2 APOLOGIES FOR ABSENCE (Agenda Item 2)

There were no apologies for absence.

3 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 3)

There were no declarations of interest.

4 SHARON'S OFF LICENCE, 311-313 MITCHAM ROAD, TOOTING SW17 9JQ (Agenda Item 4)

The Chair and all present introduced themselves, and the Chair outlined the procedure for the hearing.

The Legal Advisor, when asked by the Chair, confirmed that he had not given any legal advice as yet.

The Licensing Officer was asked if they had any points to raise or were aware of any discussions that had taken place, and they confirmed they were not aware of any at this stage.

The Chair then invited the Applicant to put forward their case. The Applicant was represented by Gill Sherratt of Licensing Matters, who spoke on behalf of the Director of JS Supermarkets Limited, who was in attendance.

The Applicant advised the Committee that the Application was for a variation to an existing Premises Licence that had never had any previous changes, and explained that the variation was for an extension of opening hours and alcohol sales until 2am on each day of the week. The Director had been trading for 2½ years, but had been in retail for over 20 years, and also owned another store in Carshalton. No issues had ever occurred for either store, and although the Director worked mostly at these stores, he also had a full-time manager and 4-5 part time staff.

The Applicant's representative explained that the premises was a Sri-Lankan/Asian Convenience Store, with Alcohol sales ancillary to its food sales, as the shop mostly sold groceries. It was noted that many Sri-Lankan/Asian people would want to continue shopping later at night, hence the reason for the application.

The Applicant's representative explained to the Licensing Sub-Committee that all necessary policies and procedures were in place, including that

- CCTV was operational,
- training was up to date,
- all staff were trained by the Director who also had regular training (including when changes to the law took place);
- Challenge 25 was in operation, and
- there was a refusals register.

The Applicant's representative explained to the Licensing Sub-Committee that the store did not experience any issues with street drinkers, since the shop was so specialised it did not attract them. The Applicant's representative stated that the store had a good relationship with the Police and the local people in the area.

The Applicant's representative explained to the Licensing Sub-Committee that the premises is in a Cumulative Impact Zone, but advised that she had spoken to the Police who had advised that the problems were mainly in the Town Centre and therefore the concern was over people being displaced or resorting to the premises. In light of this, the Applicant's representative had agreed and added a condition within the application that there would be no sales of beer and cider of over 6% to discourage street drinkers.

The Location had been considered by the Applicant's representative who advised the Licensing Sub-Committee that this had also been considered by the Police, as well as the style of business being mostly for groceries. Following a question from the Legal Advisor, the Applicant advised that alcohol sales made up 5% of sales.

The Applicant's representative did not believe that the application, if granted, would add to the cumulative impact. The Director was a responsible manager, with a good track record, and there were no conditions on the licence at present, nor any representations to the application from any Responsible Authority. The Applicant's representative stated that the representation received from the Councillor did not mention the Policy and referred to areas outside of the locating of the store.

The Chair invited the Committee to ask questions of the Applicant.

Councillor Pauline Cowper and Councillor Marsie Skeete asked the Applicant why they considered it necessary to open after the current time of 11pm. The Applicant responded that the point of convenience is that you can get all the products you want in one place. The Applicant stated that there is only a risk if individuals (street drinkers) went to the shop, which they did not as the shop was not selling products that attracted them. The Applicant's representative advised that the later opening time suited individuals who were out at that time for example those who worked late.

Councillor John Sargeant referred to the premises being within the Cumulative Impact Zone and asked if the Applicant could show there would not be displacement from the surrounding areas or people resorting to the premises as it would be open much later than its competitors and other premises in the Mitcham CIZ. The Applicant's representative responded that she could not show that, but that if they were displaced they would not be able to purchase the products they would want,.

Councillor Sargeant sought to understand how the alcohol to be provided between 11pm and 2am would be specifically for the Sri Lankan community (that works late at night and wishes to purchase alcohol on its way back from work). The Applicant's representative responded that a whole range of alcohol was sold at the shop, including high strength alcohol, but that the high strength drinks would be removed if the licence application was granted and that there was no Sri-Lankan specific alcohol on sale; only 2 to 3 products on sale were imported from Sri-Lankan.

Councillor Sargeant asked the applicant to clarify if the police had specifically supported the application, to which the Applicant's representative replied that there had been a number of emails between themselves and the police and that this had led to the conditions included in the application in the operating schedule. It was admitted that the Police objected to the variation to the later hours, although they had agreed conditions of a variation were granted.

Councillor Sargeant noted that there was an exemption of premium products for the 6% condition and the Applicant's representative responded that they could not ban everything, but that the cheap drinks that street drinkers would want would not be available.

The Licensing Officer confirmed that whilst the licence was similar to ones used before, she was not sure about the exemption and advised that the emails from the police might be of use. The Licensing Officer advised that the premises itself had not caused the department any issues, and repeated that one representation had been received from a Councillor who had raised concerns within their ward. The Licensing Officer also reminded the Committee that the policy did not only cover street drinking, but also litter and urination amongst other issue, so the policy was more broad than submitted. The Cumulative Impact Policy (CIP) applicable to this premises and its surrounding area included extensive evidence of the proliferation of off license premises and its consequential effect in generating street drinking and on-going drinking at home. By permitting the sale of alcohol until 2am, that would lead to drinkers resorting to the premises as a destination to buy alcohol later in the evening and early morning to continue drinking. That would result in an increase in cumulative impact, notwithstanding that the applicant is a responsible operator.

The Applicant's representative read aloud an email received from the Police which stated that with the conditions included they would "fully support the application". It was unclear whether this was because that would be a fall back position if the application were granted, to seek to impose appropriate conditions. The Applicant's representative advised the Licensing Sub-Committee that they should give weight to their interpretation of the Police position and make an evidence based decision

based on Thwaites. The Applicant's representative also made reference to the Brewdog case.

The Applicant referred to the representation submitted by Councillor Kirby and stated it was not linked to the policy referred to and therefore was not enough to justify a refusal.

The Licensing Sub-Committee withdrew into private session to make their decision at 11:02am.

The Committee reconvened at 11:47am. The Legal advisor stated that he had given advice to the Committee on the policy, the rebuttable presumption, the Thwaites case and Brewdog case.

The Chair relayed the decision of the Sub-Committee's decision and the meeting was closed at 11:51am.

RESOLVED: That the application is refused.

5 WE ARE THE FAIR LTD, MORDEN PARK OPEN SPACE, LONDON ROAD, MORDEN (Agenda Item 5)

Councillor John Sargeant (Chair) welcomed all in attendance, and all present introduced themselves to the Committee. The Chair outlined the procedure for the hearing and advised that Councillor Judy Saunders had replaced Councillor Pauline Cowper for this meeting.

The Licensing Officer advised that she was aware that there had been extensive discussions and agreements made since the publication of the agenda and suggested that the applicant state these when they put forward their case.

The Applicant was invited by the Chair to put forward their case. Michael Bromley-Martin QC spoke on behalf of the Applicant. Mr Bromley-Martin advised that the Eastern Electrics Festival had been running for 8 years and had been previously undertaken safely and successfully at Knebworth, Greenwich and most recently Hatfield House. The Festival had always grown in number and had become more and more popular. The organisers had been let down by Hatfield House at the last minute. Therefore, the proposal was to hold the Festival in Morden Park, which had a larger area than Hatfield, although it was only proposed to use a small section of Morden Park itself. The Park had good transport links, but there was no parking and Mr Bromley-Martin noted that was why the good transport links were so important. The Festival would be an all-ticketed (pre-sold) event. Mr Bromley-Martin stated that We Are The Fair, the operators, had an extremely good reputation in their field, with a strong and lengthy track record. Mr Bromley-Martin urged the Licensing Sub-Committee to read the capability statements included within the papers.

Mr Bromley-Martin advised that this would be a one day event on the 5th August from 11am to 11pm. However, licensable activities would end at 10pm, noting that this had been changed from the original application.

Mr Bromley-Martin advised that they had applied for a 20,000 person capacity, explaining that in 2016 they held a licence for up to 25,000 people with an attendance of 17,000. We Are The Fair had undertaken many other events of this kind. Mr Bromley-Martin observed that there had been no objections from any residents or Councillors, and that the Councils' Greenspaces Department were very much in favour of the application.

Referring to the representations received from the Police, the Applicant stated that this Festival had a good reputation in prevention of crime and disorder, and had experienced no difficulty other than what is to be expected when large numbers of people gather in one place. In 2016 there were 15 arrests, which Mr Bromley-Martin stated were mostly for possession with intent to supply which only became an offence in 2016.

Mr Bromley-Martin assured the Committee that they had a zero tolerance policy regarding Psychoactive substances and they were confident that they could ensure they would not be on site.

Mr Bromley-Martin advised that the question of searching had been raised by Police, and answered that there was a plan to introduce ID scanning but this would be a targeted approach as ID scanning of everyone would take more time which leads to queues and furthers the targets for potential disorder. There would be a three tier system – passive drug dogs in the queues, metal detectors, and targeted scanning - there would be 20 lanes, 2 of which would be set aside for ID scanning, as well as targeted intrusive scanning. This would work out to 1 in 20 people being ID scanned, with staff making decisions on who to scan based on a number of factors. Security would be provided by G4S, and a CCTV plan was in place and included within the paperwork.

In respect of numbers, Mr Bromley-Martin advised that the team had knowledge and experience of 17,000 attendees the previous year at Hatfield House. They advised that the viability of the event would like in the last 10% of ticket sales and this was why they had requested a capacity of 20,000. Mr Bromley-Martin noted that the Police had requested a capacity limit of 10,000 but assured the Licensing Sub-Committee that they could be satisfied that the event could take place with a figure of 20,000. The Applicant referenced the Fireworks Display held in the Park in 2016 which had 15,000 attendees, was after dark and involved a large number of children. This was contested by Responsible Authorities as not being a viable comparator.

Mr Bromley-Martin advised that in terms of alcohol sales, the intention was to have a cashless system for food and beverages including alcohol, and this would lead to reduced theft/robbery. Mr Bromley-Martin noted the Police concern that this would lead to binge drinking by people wanting to use up the money, but stated that this had not been the experience of the operators, and this was shown in the spend chart included within the paperwork.

In respect of egress, Mr Bromley-Martin stated that none of the difficulties raised by the Police had occurred in previous years, and the after parties were licenced and

organised and would take place some distance away from the event site (Kings Cross and Elephant and Castle), and stated that they believed all risks in relation to egress had been addressed within their plans.

The meeting was paused briefly between 13:14 and 13:20.

Mr Bromley-Martin referred the Licensing Sub-Committee to the Noise Management Strategy and advised that noise levels would be set at a level to be agreed with the Environmental Health department 6 weeks prior to the event. The noise from construction of the site was not anticipated to cause disruption or enough to cause a public nuisance, but would be managed with set times during the day when works would be permitted to be undertaken.

Referring again to the capacity limit, Mr Bromley-Martin advised that reducing the capacity would have financial implications and urged the Licensing Sub-Committee to be mindful of the experience of the operators, and stated it was in the interests of everyone that the event was safe, secure, crime free, disorder free but also needed to be successful; asking the Licensing Sub-Committee to grant the licence with a capacity of 19,999, stating that they were confident this could be achieved at this capacity.

The Police asked the Applicant what the refund level was on previous years from the cashless wristbands and whether that was automatic, to which the Applicant responded by saying that they had refunded £50,000 in 2016, through attendees applying online for refunds.

The Licensing Manager requested information on the licence for previous venues to which the Applicant responded that at Hatfield House, this had been run on the premises licence for that location which held a licence for 30,000 people. In 2014 there had been 12,000 attendees and 15,000 in 2015.

Mr Bromley-Martin responded in regards to questions about transport links, that Transport For London had been consulted and were satisfied they could deal with the numbers involved.

In response to questions regarding security, Mr Bromley-Martin outlined the numbers of staff and their roles, advised that all security staff would be G4S employees, that the Police assistance would be intended as a police presence outside the grounds and that the organisers had learnt lessons from previous years and so felt that the arrangements were the best they could be, given the threats we face.

PC Russ Stevens, Metropolitan Police Licensing Officer, further outlined his concerns with the event. He stated that the Police had no issues with the organisers themselves and were grateful for the changes that had been made so far in response to their concerns. However, the Police noted that they were concerned that full information was still not available given how soon the event was to take place on 5th August 2017, their concerns over the egress in the evening as many attendees would not be local and therefore would be disorientated and tired trying to get to transport links in an unfamiliar area. The Police stated that search measures the previous year

had, from what they had been told, needed improvement. Therefore they would like to see improved enforcement of the security regime and felt that 2 out of 20 lanes for ID scanning was a token effort, and insufficient. The Police stated that the CCTV plan was adequate.

The Police spoke in regards to the exit route between the event and Morden Town Centre where the public transport links were, noting that the pavement is narrow in areas, and whilst barriers had been suggested, they believed this would require the closure of one lane of London Road to ensure the safety of pedestrians. Since the Traffic Management Plan disagreed with this, the Police advised that this would need to be resolved before sign off of that plan.

Both the Police and the Chair of the Committee raised concerns regarding the Weddings taking place on the same day, and the need to address this issue.

The Police explained that there were other events going on in London on the same day, and during Summer Holidays such that there was already a strain on police resources, and reiterated that should the Licensing Sub-Committee grant the Licence they would ask not to grant with a figure of 20,000 attendees at this untested venue.

The Police Borough Commander Steve Wallace addressed the Licensing Sub-Committee advising that he had significant concerns in regards to the scale, access and ingress/egress and reminded the Licensing Sub-Committee of the costs involved to police the event.

The Applicant and Licensing Sub-Committee asked questions of the Police regarding staffing, road closures, and issues in the surrounding areas.

Michael Mulholland, London Fire Brigade spoke to the Licensing Sub-Committee of his concerns regarding access to the site and the evacuation route, especially since Fire vehicles are substantially larger in size than Police cars, and advised that there would need to be further discussions and agreements with the organisers to ensure everything was covered when the fire risk assessment was done.

Mr Bromley-Martin assured the Licensing Sub-Committee that no one was more concerned for the safety of the event than the applicant, and advised that they would be willing to undertake anything the Fire Brigade considered necessary.

All parties present were then invited to give their closing statements.

Both the Licensing Authority and the Police reiterated that whilst they were not against the event, they both felt it was ambitious to have such a large capacity for a first event, and asked that the limit be set at 10,000.

Mr Bromley-Martin spoke of the organisers' passion for holding and operating festivals, noting that they had a proven track record of holding events with numbers greatly in excess of 20,000. Mr Bromley-Martin noted that there had been no objections from any residents or Councillors to the application, and advised that in relation to ID scanning, 100% would be impractical, but that if the Police wished to

propose a level they would be happy to consider it, but that there had been no such suggestion as yet.

Mr Bromley-Martin stated that the venue was an ideal location in regards to the Borough, the space, the transport links and wished it to be the beginning of a long relationship with the London Borough of Merton.

The Committee withdrew into private session at 15:53 to make their decision.

The Licensing Sub-Committee reconvened at 17:48 to relay their decision, and the meeting was closed at 17:52.