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LICENSING SUB-COMMITTEE

25 JUNE 2015

(2.30 pm - 4.25 pm)

PRESENT Councillor Jeff Hanna, (in the Chair),
Councillor Joan Henry and
Councillor Jill West

ALSO PRESENT Sgt Peter Sparham - Metropolitan Police.

For Eastern European Food:
Dobroslav Vasilev – Designated Premises Supervisor
Iglia Lyubenova – Company Director
Debra Silvester, Licensing Services Agency representing D
Vasilev

For FND:
Mudassir Aslam – Designated Premises Supervisor
Muhammad Ashahid - Director

Guy Bishop - Legal Advisor,
Stephen Beedell - Licensing Officer,
Hilary Gullen - Democratic Services Officer

1 APPOINTMENT OF CHAIR (Agenda Item 1)

Councillor Jeff Hanna was appointed to the Chair

2 APOLOGIES FOR ABSENCE (Agenda Item 2)

No Apologies for absence were received

3 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 3)

No declarations of Pecuniary Interest were received

4 EASTERN EUROPEAN FOOD, 51 LONDON ROAD, TOOTING, SW17 9JR (Agenda Item 4)

Mr Vasilev gave the statement of application, highlighting his ten years' experience, how he understands the issues involved in holding a premises licence, how he had agreed a number of conditions with the Metropolitan Police, and how street drinkers would not be attracted to the premises due to the alcohol for sale being below 5.5% ABV. There would be posters on display for Challenge 21, and that his two members of staff were experienced and would have training.

In response to questions relating to Cllr Kirby's email, Debra Silvester responded that the area was not a special policy area and Mr Vasilev assured the Panel that he would keep the immediate area around his premises litter free. Mr Vasilev also commented that some neighbours had told him that drug taking happened behind the

shop, so he had closed the area off. Mr Vasilev said there was no appreciable street drinking or alcohol related debris in the area in response to a member's question.

The applicant did not want to add anything further in summary.

During the closed session, Guy Bishop gave advice relating to the Licensing Act 2003 particularly referring to paragraph 9.43, decision making and the Thwaites case.

The decision of the sub-committee, was to not grant the licence.

The Licensing Sub-Committee provided the following reasons in deciding to refuse this premises licence application:

- There were serious concerns over crime and disorder and antisocial behaviour in the postcode as listed in the Metropolitan Police written representation (page 31 of the agenda pack). The Licensing Sub-Committee had to consider the representation from the Metropolitan Police, showing that there was significant crime and disorder issues in the area around the premises which cited that there were 33 crime reports for this area for the period 21st May 2014 to 21st May 2015 alone, involving 8 theft related offences, 5 burglaries, 2 robberies, 3 public order offences, 1 racially aggravated public order offence, 6 assaults, 5 criminal damage offences, 1 racially aggravated harassment allegation, and 2 drug related offences.
- Licensing Sub-Committee was concerned with the Applicant's response to questions, which indicated a lack of knowledge of the problems in this area.
- There was evidence from the Ward Councillor of alcohol related problems in the area involving street drinking and drinking debris.
- The Licensing Sub-Committee had noted the cumulative impact of another off licence in this area that had reached saturation point with the licensed outlets in the area.

From this evidence, it was the Licensing Sub-Committee's view that the granting of this application would exacerbate existing problems in the area and would not promote the licensing objectives.

5 FND LTD, UNIT 23, 55-59 WEIR ROAD, SW19 8UG (Agenda Item 5)

No negotiation had taken place.

The applicant presented details of his business, and how it takes orders from residents and businesses for food over the phone. The business lists the address, phone number, name and order details for each person and then the order is delivered to their address. There is no access to the business premises for children or members of the public and CCTV is installed. The applicant also explained that he wanted to sell alcohol, as many customers asked for this, and some custom was lost because they could not provide it. It was his intention to only sell alcohol with food. Following questions from Sgt Sparham, and a brief adjournment for checking by the licensing officer, it transpired that the applicant did not have the requisite licence for delivering food. It was accepted that this was an 'honest' error and came from confusion after visits/dialogue with Environmental Health.

Guy Bishop explained that the application, as applied for, was not for late night refreshment, and that food could only be sold to 11pm.

In response to questions about the delivery drivers, the applicant said that the drivers were trained in Health and Safety, underage training for identification and which types of identification were appropriate and how to record challenges. The applicant also explained that around 80% of orders were paid for by card, the rest in cash. The applicant stated there would be a maximum of four drivers at any one time, and usually only two. Drivers were trained and retrained at six monthly intervals, and there was a plan of training. The drivers understood that suitable forms of ID were valid passports, driving licences or European ID cards. Every driver carried a challenge log book, which was checked, and if there had been no entries for a period of around two weeks, the Designated Premises Supervisor would provide further training for the driver. The business currently took the last orders at 1.30am, with delivery ending at 2am. The application ran to 3am to cover any delays at the end of the service period. The vehicles used were motorbikes and cars and drivers were paid hourly, so were not under any pressure to accept orders if they were in any doubt about a customer's age.

In response to questions about possible conditions, the applicant stated that they wanted to continue to take some cash on delivery orders, and that they would like to be able to sell beer, wine and some spirits to give customers more choice.

Sgt Peter Sparham expressed concern over driver safety and safety around the premises. Carrying cash makes the drivers vulnerable to confrontation and therefore that paying at the point of ordering was safe and responsible for the drivers.

Sgt Sparham reiterated that sales could not go beyond 11pm and that the applicant needed to get the late night refreshment license sorted out.

The panel went into closed session at 4pm.

The legal officer gave general advice relating to proportionality and conditions around the issues raised.

The decision was as follows:

The Licensing Sub-Committee determined that the application for a new Premises Licence to FND Ltd be granted subject to conditions offered, the six conditions sought by the Metropolitan Police (with amendments to conditions 1 and 5) and further conditions imposed by the Licensing Sub-Committee. The Conditions are as follows:

Extracted/Offered Conditions

1. There shall be no consumption of alcohol on the premises.
2. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
3. There shall only be deliveries of alcohol and food from the premise and no collections shall be permitted from the premises.

4. There shall be no public access to the premises.
5. There shall be no access by children to the premises.

Metropolitan Police Conditions

1. Alcohol shall only be supplied if it is ancillary to food. The cost of alcohol is to be no more than double the cost of the food ordered.
2. All sales of alcohol for delivery must be paid for at the time of ordering.
3. A record of orders will be kept which will include the customer's full details and that the Challenge 25 policy was explained to them. This log will be made available to Police and Council Officers on request
4. The delivery of alcohol will only be made to a residential or business address. The delivery of alcohol shall not be made to a person in a public place.
5. The person taking the order and/or making the delivery must ensure that the recipient is 18 years of age. A check will be made by the delivery person to ensure the person accepting the delivery has the debit/credit card used for the purchase and if they appear to be under 25 years of age, photographic ID shall be required before the alcohol is handed over.
6. All staff will receive documented training in relation to the relevant sections of the Licensing Act 2003. This shall be repeated every 6 months. Records of training shall be kept and made available to the Police or Council Officers on request.

The Licensing Sub-Committee conditions

7. Alcohol sales shall be limited to wine and beers only.
8. There shall be no supply of alcohol after 23.00 on any day*.
9. That no beer above 5.5% ABV is sold No beers or lagers of 5.5% ABV (alcohol by volume) or above shall be sold by the Premises Licence Holder.

*This application did not include any application for late night refreshment, so food deliveries can only be provided up to 23.00 until a variation is granted to allow late night refreshment up to the end of the hours set out above. This means that due to the condition on food being ancillary to deliveries of alcohol this Premises Licence is only operational up to 23.00 until such variation is granted.

The reasons for the decision were as follows:

- a) The Licensing Sub-Committee was particularly concerned for the safety of the delivery drivers and compliance with the Licensing Act 2003 in respect of deliveries and to avoid underage sales.

- b) The Licensing Sub-Committee was particularly concerned with the Licensing Objective of Protection of Children from Harm and had to impose conditions to prohibit underage sales of alcohol.
- c) The Licensing Sub-Committee was also very concerned to protect the public in promoting the Licensing Objectives of Public Safety, Preventing Crime and Disorder and Preventing Public Nuisance by not granting the sale of stronger spirits and strong beer.
- d) The Licensing Sub-Committee imposed the conditions above to ensure the premises licence promotes the objectives of the Licensing Act 2003, which it considered were appropriate and proportionate.