

Decision Maker: GENERAL PURPOSES AND LICENSING COMMITTEE

Date: Tuesday 11 July 2017

Decision Type: Non-Urgent Non-Executive Non-Key

Title: LICENSING SUB COMMITTEE HEARING OUTCOMES

Contact Officer: Paul Lehane, Head of Food Safety, Occupational Safety and Licensing
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Chief Officer: Nigel Davies Executive Director of Environment & Community Services

Ward: (All Wards);

1. Reason for report

To update Members of General Purposes and Licensing Committee on the outcomes of hearings undertaken by the Licensing Sub Committee.

2. **RECOMMENDATION(S)**

Members are asked to note the report.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Licensing of premises under the Licensing Act 2003 provides for the protection of children from harm and the Gambling Act 2005 aims to protect children and vulnerable adults from harm or exploitation.
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Corporate Policy

1. Policy Status: Existing Policy: The Council adopted a Statement of Licensing Policy under the Licensing Act 2003 for the period 2016 to 2021. We also adopted a policy in relation to the Gambling Act 2005 covering 2016-2019. Members of the Licensing Sub Committee use these policies as a framework when making decisions on individual applications.
 2. BBB Priority: Children and Young People Excellent Council Safe Bromley Vibrant, Thriving Town Centres Healthy Bromley Regeneration:
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Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Public Protection and Safety Portfolio Budget
 4. Total current budget for this head: £1.963m
 5. Source of funding: Existing Revenue budget 2017 / 2018
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Personnel

1. Number of staff (current and additional): Licensing Team - Two licensing officers and 3.5 fte admin.
 2. If from existing staff resources, number of staff hours:
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Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Not Applicable:
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Procurement

1. Summary of Procurement Implications: not applicable.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): The Councils licences approx. 900 premises for the sale of alcohol, issues about 1000 TENs a year, has over 3000 personal licence holders and 50 Gambling premises,
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

- 3.1 Councillor Ian Payne was appointed Chairman of this Committee in May 2017 and requested that the decisions made by Licensing subcommittees are regularly report for Members information and to allow for discussion and learning.
- 3.2 The General Purposes and Licensing Committee (GP&L) are responsible for overseeing a wide range of licensing and permitting schemes. Officers have delegated authority to deal with non-contentious applications, but where relevant representations are received against any application, or where an application may be refused or subject to conditions it must be referred to a licensing subcommittee for a public hearing and determination.
- 3.3 General Purposes and Licensing committee delegate the responsibility for determining individual applications to a Sub Committee. Subcommittees are made up from any three Members of the GP&L Committee.

Since May 2017 a licensing subcommittee has met on three occasions

Review of the Licence - Capital Wines 21 Penge Lane Penge SE20 7DU – 25 May 2017

- 3.4 The Review of the licence for Capital Wines was brought by Trading Standards following an underage sale in December 2016.

The Subcommittee decided to suspend the licence for two weeks and imposed 6 conditions

- That the premises adopts the “challenge 25 scheme” whereby any person that appears under 25 years of age has to prove they are 18 or over by providing identification bearing their photograph, date of birth and a holographic mark and/or ultraviolet feature. Examples of appropriate identification include Passport, Photo card driving licence, military ID and proof of age card bearing the PASS hologram. (Protection of Children from harm)
- The Premises Licence Holder shall ensure that a bound paper refusals register or electronic refusals register is maintained and kept on the premises and that this shall be immediately made available to Police or Council Officers on request. Refusal register records shall be held for a minimum of 12 months. (Protection of Children from harm)
- The refusal register shall be inspected on a regular basis (at least weekly) by the DPS and signed by the DPS that they have checked the register. (Prevention of Crime & Disorder)
- Signage of the ‘challenge’ 25 policy shall be prominently displayed on the premises. (Protection of Children from harm)
- All staff who sell alcohol to the public shall complete the prevention of underage sales online training provided by the Chartered Trading Standards Institute and Virtual College (or a similar training by another provider) by 17th August 2017 or within 12 weeks of their first appointment at the premises, if the appointment was after that date. Records of the training and of the certificates confirming successful completion of the training will be kept and made available to Police or Council Officers on request. (Prevention of Crime & Disorder)
- CCTV cameras / system must be in working condition, in use and recording at all times that licensable activities are taking place. The system must be maintained to ensure it is always fully operational. The images recorded must be of good evidential standard, allow for facial recognition of suspects, be able to record in all lighting conditions and be capable of being downloaded and supplied on request to either an Authorised Officer of the Council or a

Metropolitan Police Officer. The recordings should be kept for a minimum of 31 days.
(Prevention of Crime and Disorder)

Review of the Licence – The Wine Shop 75 Cotmandene Crescent Orpington BR5 2RA 25 May 2017.

- 3.5 This was also a Review of the licence brought by Trading Standards following an underage sale in March 2017. The hearing was adjourned and the subcommittee published the following reasons.

‘The Sub-Committee considered an application made by Mr Rob Vale of the Trading Standards division for a review of the premises licence on the grounds set out in the application and in particular in respect a test sale made on 14TH March 2017. The test sale was to 15 year old and 16 year old female volunteers who purchased one bottle of Bulmer’s Wild Blueberry and Lime cider, one bottle of Bulmer’s Crushed Red Berries and Lime cider and a packet of Mayfair cigarettes. The test purchase followed a visit to the shop on 31st January 2017 by a Senior Customer Protection Inspector who gave advice about the sale of age restricted products and provided an underage sales information pack. A letter had also been sent to the premises giving information about a training opportunity and giving notice that an underage volunteer would visit the premises in the future and attempt to make a test purchase of an age restricted product.

The premises licence holder and the designated premises supervisor is Mr Rajeshkumar Ramaswamy. He did not attend the Review hearing. Instead, Mr Nick Singh attended who said he was the owner of the business. Mr Singh advised that Mr Ramaswamy’s wife was unwell and he accordingly had asked him to attend. Mr Singh advised that there were 3 staff including himself and Mr Ramaswamy who ran the business. The test sale had been made by Mr Bal Baria who was no longer employed at the premises. Although Mr Baria said there was not a refusals register and unable to find any training records, Mr Singh said these did exist although he did not bring them to the hearing. Although Mr Baria said he would be working on his own all that evening (a condition on the premises licence required two staff members whenever alcohol sales extend beyond 19.00 hours) Mr Singh said there were sufficient members of staff for two persons to be present.

We were not satisfied that sufficient measures had been put in place to ensure sales of age restricted products to underage persons would not take place in the future and felt that the evidence may also reveal a lack of compliance with licence conditions. Although we were satisfied that Mr Ramaswamy had received notice of the hearing, we felt he should be given a further opportunity to address the Sub-Committee and put his side of the matters.

We accordingly adjourned the review hearing to a date to be notified by the Council, ask that Mr Ramaswamy attend with the refusals log, the training records and be prepared to demonstrate that the licence conditions are being complied with’.

The Hearing was reconvened on 28 June. At the time of writing this report we are waiting formal approval of the final decision to add conditions to the licence. Details of these will be reported verbally at the meeting.

Temporary Event Notice (TEN) Langtrys / Bridge Bar High Street Beckenham – Objection by Metropolitan Police. 14 June 2017

- 3.6 The Police objected to a TEN for Langtrys / Bridge nightclub to 04.00 am on 18 June on the basis that it would undermine the crime and disorder objective.

Police believed the excessive hours asked for in this TEN would have allowed increased opportunity to drink and as a result greater levels of drunkenness with the strong likelihood that there would be a detrimental impact on the licensing objectives. Dispersal of patrons would inevitably be a problem as travel options in this area are extremely limited, this could result in conflict as patrons struggle to get home.

3.7 Members considered

- the Crime and Disorder licensing objective,
- the Council's Statement of Licensing Policy 2011 – 2016,
- Guidance issued under the Licensing Act 2003,
- Written and oral representations by the licence holder for the Event,
- Written and oral representations by the Metropolitan Police

And decided to grant the application for a TEN giving the following reasons

3.8 This is an application for a single Temporary Event Notice at the premises for an additional 2 hours opening beyond the current 2am limit for the cessation of licensable activities. The Metropolitan Police objected on the ground that the operating of the premises in accordance with the Temporary Event Notice would undermine the Crime and Disorder objective.

3.9 The Police highlighted the likely impact on the incidence of violent crime and disorder of a venue emptying after customers had been drinking alcohol for an additional 2 hours. Reference was also made by the police to crime statistics in the area known as the Beckenham Triangle, in which the premises are situated.

3.10 Police agreed that the premises were well run, but that, notwithstanding this, the fact remained that an extra 2 hours of drinking time was likely to fuel trouble, particularly in an area where public transport options are limited and police resources are very stretched.

3.11 The licence holder's representative confirmed that this is a single application, which follows other TENS in April and May, to which police objections were withdrawn. The April Temporary Event in particular was identical to the current proposal, and, after the withdrawal of police objections, had gone ahead without incident. The sub-committee's attention was drawn to the steps proposed (including the adoption of all current licence conditions) in order to mitigate the impact on the Crime and Disorder objective. It was confirmed that there would be no entry after 1am, in order to avoid migration problems. In addition, a letter of support from a local taxi company was produced, detailing arrangements to be in place at the time of the event to aid dispersal of customers, and confirmation that customers leaving in the early hours would be channelled out of the premises via the door which does not open onto the main trouble point of the High Street.

3.12 In the circumstances, the sub-committee decided that it was fair and proportionate to allow the Temporary Event to proceed as the licence holder had demonstrated that they had taken sufficient steps to mitigate any adverse effect on the Crime and Disorder objective.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

4.1 Under the Licensing Act 2003 there are four licensing objectives, one of which is 'the protection of children from harm'. Vulnerable adults and children are given protection under the Gambling Act 2005 through the licensing objective of "protecting children and other vulnerable adults from being harmed or exploited by gambling. In making decisions Members must promote these objectives.

5. POLICY IMPLICATIONS

- 5.1 The Council is required to prepare statements of licensing policy under both the Licensing Act 2003 for alcohol, regulated entertainment and late night refreshment, and under the Gambling Act 2005.
- 5.2 These policies provide a framework along with the Acts and other statutory guidance for Members when determining applications.

6. FINANCIAL IMPLICATIONS

- 6.1 Decisions by Members sitting on a Licensing Sub Committee can be challenged by way an appeal to the Magistrates Court, or exceptionally to the High Court. This carries a risk of legal costs but these cannot be quantified.

7. LEGAL IMPLICATIONS

- 7.1 Members are exercising a quasi- judicial administrative function when determining applications as a Licensing sub Committee. Hearings are open to the public and must be fair. In making decisions Members need to be mindful of the legal requirements relating to the particular licensing regime, official guidance and the Councils own policies. Decisions can be formally challenged.

Non-Applicable Sections:	PERSONNEL IMPLICATIONS / PROCUREMENT IMPLICATIONS.
Background Documents: (Access via Contact Officer)	Licensing Act 2003. Section 182 Guidance issued under the Act, Gambling Act 2005 and guidance issued by the Gambling Commission. The Councils statements of Licensing Policy adopted under both acts ,