

MINUTES OF THE LICENSING (HEARING) SUB-COMMITTEE

HELD ON WEDNESDAY 15 SEPTEMBER AT 2.30PM

APPLICANT: Markandu Thiyagarajah
PREMISES: One Stop Food & Wine, 8 Minories, London, EC3N 1BJ

Sub-Committee:

Michael Hudson (Chairman)
John Fletcher
Karina Dostalova

Officers:

Town Clerk – Polly Dunn
Comptroller and City Solicitor – Frank Marchione
Markets & Consumer Protection - Peter Davenport, Rachel Pye

Given Notice of Attendance:

Applicant:

Markandu Thiyagarajah (Owner, One Stop Food & Wine)
Himani Bhargava (representative of the Applicant)

Making representation:

Mr Folabi Ogunkoya (local licensed premises business owner)
Mr Alexander Lewis (employee and witness of Mr Ogunkoya)
Mr Paul Holmes (Licensing Officer, City of London Police and witness of Ms Samnani)

Apologies:

Ms Shelina Samnani

Licensing Act 2003 (Hearings) Regulations 2005

A public Hearing was held at 2.30pm to consider the representations submitted in respect of an application to vary the premises licence in respect of One Stop Food & Wine, 8 Minories, London, EC3N 1BJ the Applicant being Mr Markandu Thiyagarajah.

The Sub-Committee had before them the following documents:

- i) Hearing Procedure
- ii) Report of the Director of Markets & Consumer Protection
- iii) Appendix 1: Copy of Application
- iv) Appendix 2: Current Premises License
- v) Appendix 3: Representations from Other Persons
 - a) Shelina Samnani
 - b) Folabi Ogunkoya
- vi) Appendix 4: Plan of Premises

vii) Appendix 5: Map of subject premises together with other licensed premises in the area and their latest terminal time for alcohol sales. This material was tabled at the hearing due to technical difficulties.

1. The Hearing commenced at 2.35pm.
2. At the commencement of the Hearing, the Chairman stated that all written representations had been read by the Sub Committee and requested that there was not a repetition of the submitted representations.
3. The Chairman invited the Applicant to introduce the basis for the application and set out their case.
4. At the commencement of the Hearing, Ms Hamani confirmed that Mr Markandu Thiyagarajah had requested an amendment of their application, to extend the hours of off sales to 2am (revised from 4am.)
5. The Chairman gave Mr Ogunkoya an opportunity to make their representation. Mr Ogunkoya explained that there was limited footfall in the area at 12-2am other than individuals frequenting other late-night venues, including his bar. Mr Ogunkoya felt that should the application be successful, there was an increased likelihood that customers would choose to purchase, and consume, large quantities alcohol from One Stop Food & Wine before entering his premises. The act of drinking ahead of entering a venue, often in large quantities, was described as “pre-loading” throughout the remainder of the hearing.
6. Should customers be tempted to drink large volumes of alcohol shortly before entering his premises, Mr Ogunkoya believed that he and his staff would be less able to exercise their duty of care. This was because a customer’s true level of intoxication would not be detectable if consumed shortly before entry. Additionally, Mr Ogunkoya did not feel it was responsible for customers leaving his establishment to have the opportunity to purchase more alcohol for consumption outside, in the road and surrounding area. It was his view that this would lead to increased littering and possible disorderly behaviour. Mr Ogunkoya articulated a concern about customers pre-loading in cars.
7. In response, Ms Hamani questioned whether the level of crime and disorder in the area would increase as a result of the granting of this single application, given the sale of alcohol was available until 2am (or later) at a number of other nearby premises.
8. Mr Ogunkoya noted that the nearby establishments referred to were hotels. It was the view of Mr Ogunkoya that people would not choose to pre-load in a hotel or other on-sale premises. This was because the act of pre-loading was largely driven by the cost of alcohol, which was higher in on-sale venues than off-sale.
9. Ms Hamani reiterated that the Applicant had chosen to amend the application for a closing time of 2am.

10. The Chairman thanked Mr Ogunkoya for his submission then asked Paul Holmes for his statement. Mr Holmes briefly explained that the City of London Police had intended to submit a representation but due to a technical issue, the email did not reach the designated inbox by the required time and therefore could not be included. Members of the Sub Committee encouraged the Force not to leave representations to the last minute in order to avoid such a problem in future.
11. Mr Holmes explained that the other nearby late licenses were on-sales, which gave the respective license holders greater control and responsibility over the consumption of alcohol purchased at their premises. He sought clarification from the Applicant on what the target market was for sales at 12-2am. Mr Holmes then went on to read communications between the City of London Police and the Applicant. Within these exchanges, the Applicant and their representative stated that One Stop Food & Wine would sell food, drinks, snacks and alcohol, with alcohol sales being “vital” to the business’ income. He continued to quote that: “without alcohol sales, the business would be forced to close down”. Whilst Mr Holmes was not able to provide evidence of how additional late-night alcohol sales would contribute to crime in the immediate area, given his knowledge and experience of disorder caused by people pre-loading, it was Mr Holmes’ view that there would be an increase in responsibility for other businesses to manage additional anti-social behaviour and violence as a direct result of the granting of this application. Mr Holmes concluded by stating that there had never been an issue with this premises under current licensing arrangements.
12. Ms Hamani responded by stating that there would be a low level of alcohol sales at 12-2am.
13. Ms Dostalova clarified the closing time of Mr Ogunkoya’s business as 4am, with alcohol sales stopping at 3am. On Thursdays the business closed at 12am. Ms Dostalova noted that pre-loading could happen at other nearby late night off-licenses in the area and took the opportunity to thank Mr Ogunkoya for the steps he had taken to be a responsible license holder.
14. Mr Fletcher highlighted Mr Ogunkoya’s comment about pre-loading in cars and asked where customers parked. Mr Ogunkoya confirmed that the resident spaces and single yellow lines on that road permitted free parking at that time of the evening/early morning. Mr Fletcher also asked whether customers would pre-load in the Three Lords pub but Mr Ogunkoya explained that it would be unusual and that, unlike the Three Lords pub, One Stop Food & Wine was visible from the queue to his establishment and acted as an ‘advertisement’ to pre-load.
15. Mr Fletcher enquired as to whether, in the opinion of the Police, the extended opening hours of One Stop Food & Wine would directly cause an increase in bad behaviour. Mr Holmes acknowledged that one could never know this for certain until something happened, but in his experience of working in similar areas, it would be likely. At this point Mr Holmes also suggested that there may be occasions that customer’s at Mr Ogunkoya’s business may leave to drink from One Stop Food & Wine and then return. This would be an added burden for Mr Ogunkoya and his staff who currently did not permit the consumption of alcohol sold at their premises

outside the establishment. Lastly, he noted that the Three Lords pub attracted a very different clientele to Mr Ogunkoya's business and therefore it would be unlikely for potential customers to pre-load there.

16. Mr Ogunkoya was worried about the possible impact on residents who lived further along Minories.
17. Following a query from the Sub Committee Mr Ogunkoya confirmed that his primary concern about the revised application was the temptation for his customers to pre-load. Mr Hudson asked why there was a heightened concern for pre-loading at 12-2am. Mr Ogunkoya explained that 80% of his customers arrived at his premises between 12-1am. He also suggested that there was no appetite for customers to pre-load for lunch or dinner time.
18. At this point the Applicant confirmed a willingness to close the premises at 12am on Thursdays, in line with the closing time of Mr Ogunkoya's business. Ms Hamani stated that they intended to be responsible license holders that would sell low volumes of alcohol. The impact of alcohol sales on crime needed to be the responsibility of all license holders in the area, not just by One Stop Food & Wine.
19. A question was raised about the Applicant's knowledge of the late-night levy, which the Chairman decided was not relevant to the application and was disregarded.
20. A discussion was had between the Applicant and Objectors about the previous submission of the Applicant to the City of London Police about the reliance upon alcohol sales. Suggesting a contradiction to their statement during the hearing, that claimed the volume sold would be very low.
21. The Chairman invited the Sub Committee to ask any remaining questions. Karina Dostalova confirmed with the Applicant that no complaints about the premises had been made to date; she also confirmed that the primary motive for this application was to increase revenue following the impact of Covid-19 on sales over the past 18 months. John Fletcher wished to know whether the Applicant had experience of intoxicated customers and whether they had considered any additional policies or measures to deal with them – Ms Hamani explained that there would be additional security over the extended hours, additional CCTV inside and outside the premises, and that they would not sell alcohol to intoxicated customers. The Chairman received the agreement of the Applicant that it did not take the sale of that much stock for a customer to get drunk. The Applicant estimated that during the proposed extended hours, 20% of their business would be alcohol sales. It was their hope that the sale of alcohol would drive up sale of other goods (food etc.). The Applicant confirmed they operated the 'Challenge 25' system in order to prevent the sale of alcohol to underaged customers.
22. The clerk to the hearing read out an email submission from Shelina Samnani, in which she explained: "The stance that does not change for us as landlords as reducing [the proposed opening hours] by 1.5hrs will not make the situation of fights and breaking/damaging our properties any better. And it would set precedence for other Alcohol sellers to start applying to trade the same hours in the surrounding area."

23. The Applicant provided a summary of their case, formally confirming their amendment of their application for off-sales to 2am. They also offered to cease sales at 12am on Thursdays. Alcohol sales would be low in volume and the Applicant intended to be respectful of neighbouring residents and businesses. As a further mitigation against pre-loading, Ms Hamani suggested that the price of alcohol would closely match the costs at nearby businesses, including Mr Ogunkoya's.
24. Paul Holmes highlighted that of the neighbouring late night venues, none were solely off-sales. From a policing perspective, he felt that the later opening hours of One Stop Food & Wine would cause more problems regardless of whether it ceased trading at 2am or 4am. These difficulties and additional responsibility would consequently fall to other nearby businesses.
25. The Chairman thanked all attendees for their comments and explained that a written decision letter would be sent to all parties within five working days by email only.
26. The Sub Committee retired at 3.34pm and considered the application and carefully deliberated upon the representations submitted in writing and orally at the Hearing by those making representations and the Applicant.

The meeting closed at 3.34 PM

Chairman

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