

**ROYAL BOROUGH OF GREENWICH**

**LICENSING SUB-COMMITTEE B**

**TUESDAY, 25 OCTOBER 2016 AT 6.30 PM**

**MINUTES**

**PRESENT:**

**Members:**

Councillor Mandy Brinkhurst (Chair), Councillors Don Austen and Mick Hayes

**Officers**

Licensing Team Manager and Committee Officer

**Also present:**

Jennifer Brenton, Legal Advisor

**Item**

**No.**

**1 Apologies for Absence**

There were no apologies for absence.

**2 Urgent Business**

There was no urgent business.

**3 Declarations of Interest**

**Resolved –**

That the list of Councillors' memberships as Council appointed representatives on outside bodies, joint committees and school governing bodies be noted.

#### **4 Minutes**

##### **Resolved -**

That the minutes of the meeting of Licensing Sub-Committee 'B' held on 5 October 2016 be agreed and signed as a true and accurate record.

#### **5 RaRa Food & Wine, 167 Trafalgar Road, London SE10 9TX**

##### **In attendance:**

For the Applicant

- Mr Santosh Bhandari - Applicant
- Mr Surendra Panchal - Applicant's Representative

Making Representation

- Sgt Simon Henderson - Greenwich Licensing Police
- Ms Maria Gartside - Greenwich Trading Standards

The Chair welcomed all parties and ensured that introductions were made, all papers had been received and that all parties were aware of their right to be represented.

The Sub-Committee considered an application made by Santosh Bhandari for the grant of a new Premises Licence in respect of RaRa Food & Wine, 167 Trafalgar Road, London, SE10 9TX.

The Licensing Team Manager gave an illustrated introduction to the report.

The Sub-Committee was addressed by the Applicant's Representative. He noted the history of the premises and advised that Mr Bhandari had not at any time been employed by the previous licence holder, Mr Vishnu Koirala, but had helped out at the premises on a voluntary basis whilst he was studying. He confirmed that Mr Bhandari had now purchased the premises and would take over the running of the business should the licence be granted. Further, that Mr Bhandari had acquired a personal licence and understood the licencing objectives which he would promote by:

- Introducing a Refusals Book and Incident Book
- Operating Challenge 25
- Displaying posters
- Training staff
- Maintaining a training manual

The Sub-Committee was addressed by the Applicant who explained that he would introduce CCTV and safety equipment, which was already in situ, and operate Challenge 25. He was aware of the history with Mr Koirala and he assured the Sub-Committee that Mr Koirala would not be involved with the business once he had taken over.

The Applicant's Representative was happy to endorse the proposed licensing conditions and suggested an additional condition that Mr Koirala not be involved with, or employed by, the business. He advised that this could be monitored by the use of CCTV.

The Sub-Committee enquired as to how the Applicant would manage the cumulative impact of a new licence. His Representative explained that the operating schedule and posters asking patrons to "consider neighbours" would be displayed, street drinkers would not be served and the licence holder would be present at all times during licensable hours.

In response to questions from the Sub-Committee, the Applicant confirmed that he was not related to the previous licence holder, Mr Koirala, but that Mr Koirala was related to a friend of his. His Representative advised that the Applicant and previous licence holder belonged to the same community but not to the same family. Mr Bhandari had helped out in the shop when it was run by Mr Koirala but was not paid for this help and had not been in a position of authority. He had acted as an interpreter because of Mr Koirala's difficulty with English and had not been involved when the breaches of the licencing conditions had occurred. He was not aware of underage sales but had warned Mr Koirala of "mistakes".

The Sub-Committee was addressed by Sgt Simon Henderson, Greenwich Licensing Police who strongly opposed the application on the grounds of all the licensing objectives.

He advised the Sub-Committee that the premises was still owned by Mr Koirala and there had been no communication with the authority from Mr Bhandari to address how the business would be run under his management.

It was Sgt Henderson's understanding that Mr Bhandari and Mr Koirala were related. This was corroborated when he visited the premises on 10 September 2016 and a member of staff confirmed that Mr Bhandari was the nephew of Mr Koirala. Sgt Henderson had noted this in his pocketbook at the time. Further, he was of the view that Mr Bhandari had been employed

at the shop and was more than a casual visitor since he had been present when visits had been carried out by Trading Standards.

The Sub-Committee was addressed by Maria Gartside, Greenwich Trading Standards, who opposed the application on the grounds of Protection of Children from Harm and Prevention of Crime and Disorder.

She advised the Sub-Committee that Trading Standards was aware of the problems at the premises in its previous incarnation as Myra Food & Wine and that Mr Bhandari had been present when breaches of the licensing conditions had occurred.

She further advised that Mr Bhandari was present at the Licensing Review Sub-Committee in May 2016 when Mr Koirali's licence was revoked. It was at this hearing that his Representative, who had also been the representative of Mr Koirali, suggested that Mr Bhandari take over the running of the premises. She put it to the Sub-Committee that the connection between the Applicant and Former Licence Holder was not as casual as that suggested by Mr Bhandari and that reference had been made to the two of them being related when a Trading Standards Officer visited the premises on 22 January 2016. The Applicant's Representative confirmed that Mr Bhandari had been present at the Review hearing to assist with translation.

The Representative for the Applicant reminded the Sub-Committee of Mr Bhandari's commitment to promote the licensing conditions and advised that the Applicant had demonstrated an understanding of the licensing objectives. He added that if the Committee was minded to approve the application, he would be happy for the hours of operation to be reduced. He was also happy to incorporate a condition regarding the non-sale of single cans to deter against street drinkers. He advised the Sub-Committee that Grandparent's rights applied in this case because the premises had been licensed before the Licensing Act came into force.

All parties, with the exception of the Legal Advisor and Committee Officer, withdrew to allow the Sub-Committee to deliberate at 7.15pm. All parties returned at 7.47pm.

The Chair read out the decision.

In reaching its decision the Sub-Committee considered the Council's statement of Licensing Policy, the Licensing Act 2003, the Regulations made there under and the Guidance issued by the Secretary of State under S.182 of that Act. In discharging its functions the Sub-Committee did so with a view to

promoting the licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

Having considered all the evidence put before it the Sub-Committee decided to **refuse** a Premises Licence under the Licensing Act 2003 in respect of:

**RaRa Food & Wine, 167 Trafalgar Road, London SE10 9TX**

The Sub-Committee's decision was based primarily on the fact that the premises are in a cumulative impact zone. The Applicant offered only the provision of signs and refusal of street drinkers in order to address this point, then offered a condition for no sale of single cans. It was considered that this was insufficient to satisfy the Sub-Committee that granting the licence would not add to the cumulative impact in the area.

The Sub-Committee further addressed the additional requirement under Licensing Policy point 10.8 that the Applicant show that the granting of the licence would have a positive impact on the licensing objectives. The onus of this is on the Applicant and the Sub-Committee felt that the conditions offered went no further than preventing a negative impact and therefore did not meet the threshold for a positive influence on the objectives. In addition the Sub-Committee maintained its concerns about the effective implementation of procedures and compliance with conditions in light of the history of the premises and the Applicant's involvement with the premises at the time that licensing conditions were breached.

The Sub-Committee specifically addressed the effect of the cumulative impact zone with the Applicant through questions and it was their view that the responses given were not sufficient to meet the requirements imposed by this.

In reaching their decision the Sub-Committee considered:

- The application and oral submissions of the Applicant and his representative;
- Written and oral representations from the Metropolitan police;
- Written and oral representations from Trading Standards;
- Written representation from the Director of Public Health.

The Applicant was given a fair opportunity to respond to all issues raised by the Responsible Authorities. The critical factor was the lack of sufficient grounds to show that granting the licence would not contribute to the

cumulative impact in the area and would have a positive influence on the licensing objectives.

The Chair announced that should the applicant or those making representations be aggrieved by the Council's decision, they have the right to appeal to the Magistrates Court. Such an appeal must be submitted to the Magistrates Court within 21 days of the date from when the appeal period is deemed to have started, which will be stated in the cover email or letter to the Notice of Decision.

The meeting closed at 7.47 pm

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Chair