

## Licensing Sub-Committee Report

Subject of hearing: **CMYK, 105-109 The Broadway, Wimbledon, SW19 1QG – Review Hearing following imposition of Interim Steps**

Date: **20 December 2022**

Time: **11.30am**

Venue: **Zoom**

- 1. Special Policy Area (premises licences and club certificates)**
  - 1.1 The premises are not in the special policy area.
- 2. Type of hearing and powers of the sub-committee**
  - 2.1 The sub-committee is required to:
    - a) Under Section 53C, determine the application by taking such of the steps set out below as it considers appropriate for the promotion of the licensing objectives.
    - b) Under Section 53D, consider any interim steps that have been taken, consider any relevant representations and whether the interim steps are appropriate for the promotion of the licensing objectives, and determine whether to withdraw or modify the interim steps
  - 2.2 In making their determination the sub-committee must have regard to the Licensing Act 2003, the licensing objectives, guidance issued by the Secretary of State and Merton's Licensing Policy.
  - 2.3 Review of premises licence: s53C
    - (i) To modify the conditions of the licence
    - (ii) To exclude a licensable activity from the scope of the licence
    - (iii) To remove the designated premises supervisor
    - (iv) To suspend the licence for a period not exceeding three months
    - (v) To revoke the licence.
  - 2.4 Interim Steps: s53D
    - (i) To modify the conditions of the licence
    - (ii) To exclude the sale of alcohol by retail from the scope of the licence
    - (iii) To remove the designated premises supervisor
    - (iv) To suspend the licence

### **3. Hearing papers**

- 3.1 The applications, notices and representations for determination by the sub-committee are contained in the hearing bundle (attached) together with any relevant existing licence. This includes any documents which must be sent to any of the parties to the hearing under Regulation 7(2) and Schedule 3 of The Licensing Act 2003 (Hearings) Regulations 2005. This bundle has been issued to all parties to the hearing and forms part of this report.

### **4. Legal advice to the sub-committee**

- 4.1 A legal officer appointed by the South London Legal Partnership will attend the hearing to advise the sub-committee on statutory provision and legal matters.

### **5. Licensing Officer comments**

- 5.1 This matter arises from a Summary Review application made by the police on the grounds of serious crime or serious disorder, and received by the Licensing Authority on the 25th November 2022.
- 5.2 On the 29th November the Licensing Sub-Committee considered interim steps as required under Section 53B, and suspended the Premises Licence with immediate effect. In addition, the Sub-Committee removed the DPS and removed the sale of alcohol from the licence.
- 5.3 The application was consulted on as required under the Act, and the consultation period ended on 9th December 2022.
- 5.4 During the consultation period no relevant representations were received by the Licensing Authority.
- 5.5 At the time of this report, the Licensing Authority has not received any submission from the Licensing Holder regarding the Review Application or the Interim Steps.
- 5.6 The current Premises Licence showing the permitted licensable activities is attached with the papers before the Sub-Committee
- 5.7 The Premises Licence has been in force since November 2005, and was transferred to the current Licence Holder (Webbs Leisure Ltd) in May 2022. The Designated Premises Supervisor was varied at the same time.
- 5.8 Following receipt of the Summary Review Application, the Licensing Authority received notification of an intention to surrender the Premises Licence on 28th November 2022. The sole director of the Licence Holder, Mr Lawrence Webb, was initially unaware that someone had attempted to surrender the Premises Licence, and therefore it was not accepted as notice of surrender being given by the Licence Holder. The Licence Holder has since indicated that he does wish to surrender the licence, and has been asked to surrender the licence directly or give written confirmation of who is authorised to do this on behalf of the company, but neither has been received.
- 5.9 Licensing Officers concerns on this point are:

- a) if a licence is not surrendered by the Licence Holder in accordance with the Act, (or can later be shown to be the case), then the licence has not lapsed and it remains valid.
  - b) a surrendered licence may be reinstated by a transfer application at any time within 28 days of surrender, and consent of the previous Licence Holder would not required in these circumstances
  - c) the potential last date for reinstatement of the licence would fall after the last date when the Summary Review must be determined by
- 5.10 Licensing Officers therefore exercised caution with ensuring that the Licence was properly surrendered, and with consideration to a transfer application having been received during the last Review application as explained below.
- 5.11 In April 2022, the Licensing Authority received a Review Application from the Police, and this was determined by the Licensing Sub-Committee in June 2022. At the hearing, the Sub-Committee heard that after the Review application was submitted, there was now a new Licence Holder (Webbs Leisure Ltd) and a new management team in place as a result of the May 2022 Transfer. The Sub-Committee was also informed that the new (current) Licence Holder has no connection to the previous owners.
- 5.12 At that hearing in June 2022, the Sub-Committee modified the hours on the licence to reduce hours to Midnight at weekends, and attached additional conditions of:
- a) All agency staff to be vetted before attending the venue for work.
  - b) Polycarbonates to be introduced throughout the venue for all drinks.
  - c) Increase the security at the rear entrance by 1 SIA door supervisor.
- 5.13 The June 2022 decision was initially appealed to the Magistrates Court, and later withdrawn before it was heard by the Court.
- 5.14 Prior to this year, the main history of the Premises Licence is summarised as follows:
- a) 2005 - Licence granted with times of 2am Sunday to Thursday, and 3am Friday & Saturday
  - b) 2011 - Summary Review determined - DPS removed, hours reduced to 2am all days, and conditions added
  - c) 2012 - Variation to increase hours to 3am - refused by Sub-Committee
  - d) 2018 - Variation to increase hours to 3am - granted by Sub-Committee. This application was at the time of the re-branding of the premises to CMYK
  - e) There has been a total of 5 Transfers and 6 DPS variations since 2005
- 5.15 Any determination the Sub-Committee makes under Section 53C of the Act will not have effect until after the end of the appeal period, or if an appeal is made, until that appeal is disposed of.

- 5.16 Under Section 53D of the Act, the Sub-Committee is required to consider the interim steps previously taken. If the Sub-Committee determine that Interim Steps should continue to apply, those interim steps shall have effect until the decision made under Section 53C comes into force.

**For enquiries about this hearing please contact**

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## Parties to the hearing

This document forms part of the notice of hearing.

The following are parties to the hearing having submitted relevant applications, notices or representations under the statutory provisions indicated:

<b>Review Applicant</b>
Metropolitan Police
<b>Licence Holder</b>
Lawrence Webb, Webbs Leisure Ltd
<b>Statutory Authorities</b>
None
<b>Interested Parties</b>
None