

MUNICIPAL YEAR 2020/21

COMMITTEE :
Licensing Sub-Committee
14 October 2020

REPORT OF :
Principal Licensing Officer

LEGISLATION :
Licensing Act 2003

Agenda – Part1	Item
SUBJECT : New Premises Licence Application	
PREMISES : Polonezz, 14 Green Lanes, London, N13 6JR	
WARD : Bowes	

1 LICENSING HISTORY & CURRENT POSITION:

- 1.1 A new premises licence (LN/201401122) was issued to Polonez Limited on 25 March 2015 without objection.
- 1.2 The named Designated Premises Supervisor (DPS) was Ms Izabella Kuziola, who held that position since the licence was first issued.
- 1.3 A copy of this premises licence is produced in Annex 1.
- 1.4 A minor variation application was submitted on 27 April 2018 at the request by Licensing Enforcement, following a seizure of illicit tobacco. The application was granted with modified conditions on 14 May 2018.
- 1.5 On 24 January 2020 an application was made by Enfield Council's Trading Standards for the review of Premises Licence LN/201401122. The hearing took place on 18 March 2020, and the Licensing Sub-Committee resolved to revoke the premises licence. The licensing report and decision for this review hearing can be found on this link:
<http://governance.enfield.gov.uk/ieListDocuments.aspx?CId=217&MId=13326&Ver=4>
- 1.6 No appeal was submitted in response to the Licensing Sub-Committee's Decision.

2 THIS APPLICATION:

- 2.1 On 20 August 2020, a new premises licence application was submitted for Polonezz, 14 Green Lanes, seeking the following licensable activities:

Activity	Proposed Times
Supply of Alcohol (off)	08:00 – 21:00 Mon – Sat 09:00 – 20:00 Sun
Opening hours	08:00 – 21:00 Mon – Sat 09:00 – 20:00 Sun

- 2.2 The applicant to be Premises Licence Holder is Mr Piotr Swis, and the proposed Designated Premises Supervisor is Izabela Kuziola Personal licence number 13/00178/LIPER.
- 2.3 At the time this application was submitted, Mr Piotr Swis, was the only named Director of Polonez Ltd , which was the former Premises Licence Holder for the revoked premises licence. Mr Swis was appointed as Director on 18 June 2020, therefore after the review. On 19 September 2020, Mr Swis resigned as Director from Polonez Ltd.
- 2.4 Three Directors of Polonez Ltd who were appointed at the time of the review resigned on 18 June 2020 and two of the same Directors were reinstated on 17 September 2020.
- 2.5 Izabela Kuziola was also the named Designated Premises Supervisor on the licence of the revoked premises licence.
- 2.6 Each of the Responsible Authorities were consulted in respect of the application.
- 2.7 A copy of the application is produced in Annex 2.

3 RELEVANT REPRESENTATIONS:

- 3.1 Metropolitan Police - No representations were received in respect of this new premises licence application.
- 3.2 Licensing Authority – Representation has been made against the application in its entirety, based on the prevention of crime and disorder licensing objector. The Licensing Authority are concerned that there is a connection with the new applicant and Designated Premises Supervisor and those involved with the business when the former premises licence was revoked. The Licensing Authority’s representation and additional information is produced in Annex 3.
- 3.3 Mr Swis has not responded to the Licensing Authority’s objection to date.

4 PROPOSED LICENCE CONDITIONS:

- 4.1 The Licensing Authority request that if the Licensing Sub-Committee is minded to grant the licence in full or in part, to apply conditions sought in Annex 4.
- 4.2 The Licensing Authority also seek an alternative Designated Premises Supervisor to be named, should the Licensing Sub-Committee be minded to grant the licence in full or in part.
- 4.3 Mr Swis has not indicated any agreement to these conditions to date.

5 RELEVANT LAW, GUIDANCE & POLICIES:

5.1 The paragraphs below are extracted from either :

5.1.1 the Licensing Act 2003 ('Act'); or

5.1.2 the Guidance issued by the Secretary of State to the Home Office of March 2017 ('Guid'); or

5.1.3 the London Borough of Enfield's Licensing Policy Statement of January 2015 ('Pol').

General Principles :

5.2 The Licensing Sub-Committee must carry out its functions with a view to promoting the licensing objectives [Act s.4(1)].

5.3 The licensing objectives are :

5.3.1 the prevention of crime and disorder;

5.3.2 public safety;

5.3.3 the prevention of public nuisance; &

5.3.4 the protection of children from harm [Act s.4(2)].

5.4 In carrying out its functions, the Sub-Committee must also have regard to :

5.4.1 the Council's licensing policy statement; &

5.4.2 guidance issued by the Secretary of State [Act s.4(3)].

Hours:

5.5 The Sub-Committee decides licensed opening hours as part of the implementation of the licensing policy statement and is best placed to make decisions about appropriate opening hours in their area based on their local knowledge and in consultation with responsible authorities [Guid 10.13].

5.6 Stricter conditions with regard to licensing hours may be required for licensed premises situated in or immediately adjacent to residential areas to ensure that disturbance to local residents is avoided. This will particularly apply in circumstances where, having regard to the location, size and nature of the premises, it is likely that disturbance will be caused to residents in the vicinity of the premises by concentrations of people leaving, particularly during normal night-time sleeping periods [Pol s.8.4].

Determining actions that are appropriate for the promotion of the licensing objectives

- 5.7 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be. [Guid 9.42]
- 5.8 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. [Guid 9.43]
- 5.9 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination. [Guid 9.44]

Review (for background information for previous review applications):

- 5.10 In reviewing a licence, the Licensing Sub-Committee will consider, and take into account, the complaints history of the premises and all other relevant information [Pol s.10.3].
- 5.11 A number of reviews may arise in connection with crime that is not directly connected with licensable activities, for example the sale of contraband goods. The Sub-Committee does not have the power to judge the criminality or otherwise of any issue. The Sub-Committee's role is to ensure the promotion of the crime prevention objective [Guid s.11.24].
- 5.12 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These include the use of the premises for the sale or storage of smuggled tobacco and alcohol [Guid s.11.27].
- 5.13 Where reviews arise in respect of these criminal activities and the Sub-Committee determines that the crime prevention objective is being

undermined, it is expected that revocation of the licence – even in the first instance – should be seriously considered [Guid s.11.28].

Decision:

6.1 As a matter of practice, the Sub-Committee should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas [Guid 9.37].

6.2 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the Sub-Committee must give appropriate weight to:

6.2.1 the steps that are appropriate to promote the licensing objectives;

6.2.2 the representations (including supporting information) presented by all the parties;

6.2.3 the guidance; and

6.2.4 its own statement of licensing policy [Guid 9.38].

6.3 Having heard all of the representations (from all parties) the Sub-Committee must take such steps as it considers appropriate for the promotion of the licensing objectives. The steps are:

6.3.1 to grant the application subject to the mandatory conditions and such conditions as it considers necessary for the promotion of the licensing objectives;

6.3.2 to exclude from the scope of the licence any of the licensable activities to which the application relates;

6.3.3 to refuse to specify a person in the licence as the premises supervisor;

6.3.4 to reject the application [Act s.18].

Background Papers :
None other than any identified within the report.

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