

# **MINUTES OF THE MEETING OF THE LICENSING SUB COMMITTEE A HELD ON MONDAY, 30TH JANUARY, 2017, 7.00pm**

## **PRESENT:**

**Councillors: Natan Doron (Chair), Zena Brabazon and Clive Carter**

### **13. FILMING AT MEETINGS**

The Chair referred to agenda item 1, as shown on the agenda in respect of filming at this meeting and Members noted this information.

### **14. APOLOGIES FOR ABSENCE**

None

### **15. URGENT BUSINESS**

There was tabled information from Trading Standards containing evidence to support the review of the trading license.

### **16. DECLARATIONS OF INTEREST**

None

### **17. SUMMARY OF PROCEDURE**

The Chair continued to provide a summary of the procedure, referring to the Topic headings at section 5 of the review summary.

### **18. EURO MARKET, 12 LYMINGTON AVENUE LONDON N22 6JA**

#### **The Review**

Daliah Barratt presented an application by the Trading Standards Team for a review of the premises license at Euro Market.

A premises license was originally granted to Mr Kurdah Mustapha in April 2016, the license was subsequently transferred in September 2016 to Ms Roz Husain and a Shorish Hamza. However, it was apparent that the named individuals were managing and had control of the business as an early as July 2016. The environmental Health

Officer had carried out an inspection on the 26<sup>th</sup> of July and became suspicious of the activity and products seen in store at the time of the visit. The officers concerns were passed over to the Trading Standards officer who carried out a follow up inspection and came across illicit goods referred to in the review papers. The license holder and DPS had not engaged in the process and had failed to attend meetings to discuss these matters.

Mrs Barrett referred to the licensable activities authorised by the License:

#### Supply of Alcohol

Monday to Saturday 0800 to 2300

Sunday 1000 to 2230

Good Friday 0800 to 2230

Christmas Day 1200 to 1500 & 1900 to 2330

The designated premises supervisor was Mr Shorish Hamza.

The review of premises licenses was brought forward by the Trading Standards Team - under sections 1 and 2 of the licensing objectives – the prevention of crime and disorder, and public safety

The Sub Committee would need to give due regard to the local authority's responsibility to promote the licensing objectives.

Daliah Barratt advised that communications had been received from Ms Hussein, in relation to the review hearing, and it was agreed that Ms Hussein could speak to the information contained in the email at topic heading 15.

### **Representations**

The Trading Standards team referred to page 14 of the agenda pack which outlined the discovery and seizure of counterfeit tobacco, illicit tobacco and illicit alcohol on the 26<sup>th</sup> of July 2016 and 27<sup>th</sup> September 16. A sample of the seized cigarettes had been tested and had been found to be counterfeit. These types of cigarette often contained harmful chemicals and were an issue of public safety. The Trading Standards Team had invited Mr Kurdah Uzman to attend a recorded meeting on the 13<sup>th</sup> of September but he had failed to attend.

During a second visit to the premises on the 27<sup>th</sup> September 10 bottles of illicit vodka – with the duty not paid were found. The food registration application for the business was completed on the 4<sup>th</sup> of August 2016 in the name of KTBC limited which proved that the ownership had changed and both Mr S Hamza and Ms Hussein were the owners of the premises, at the date of second inspection. The Committee were asked

to refer to Page 18 of the pack which set out a chronology of events leading to this review. This included invitations to meetings where Mr Hamza and Ms Hussein could put forward mitigation but they had not attended any of these meetings.

The Trading Standards team advised the Committee to consider revocation of the license due to the large amount of duty evaded and the seriousness of the Trade Marks Offence in relation to the hand rolling tobacco of the license and also for the licensees' disregard for the process as they had not attended any of the meetings with Trading Standards team

If the Committee were minded to not revoke the license, Trading Standards recommended the conditions listed at page 19 to 20 be attached to the license in addition to any suspension.

In response to a question from Councillor Brabazon – Ms Hussein advised that she did not get the initial letters from the Trading Standards team. The Trading Standards team advised that they had written to Ms Hussein at her home address, about these meetings, and then had spoken to her on the phone. They then wrote again to the home address, including an apartment address. The letters were sent by first class post and not returned. Ms Hussein was invited to make representations in response to the application for review of the premises license.

Ms Hussein referred to the two HRMC inspections, but in relation to the 26<sup>th</sup> of July she and Mr Hamza were not the owners of the business at the time of this inspection and not involved in these cases.

During the inspection on the 26<sup>th</sup> of July, Ms Hussein and Mr Hamza were in the process of buying the business from Mr Uzman and had formed a company KTBC limited on the 4<sup>th</sup> of July. Mr Hamza was learning the business and on the premises when the inspection took place on the 26<sup>th</sup> of July. Ms Hussein contended that the Trading Standards team had also considered Mr Uzman the owner when they tried to make correspondence.

Ms Hussein advised that both she and Mr Hamza had taken over the business from the 1<sup>st</sup> of September so responsibility for the events that took place before this date should not be attributed to them. They were happy to provide HRMC with useful information but were being pressurised to pay a penalty which did not relate to them and they were not experienced enough to appeal and respond to this type of injustice.

At the inspection on the 27<sup>th</sup> of September, Ms Hussein and Mr Hamza accepted having ownership of the business and advised that a friend of theirs had brought the vodka to their shop, for safekeeping, for one day, and this would be taken away for use at a Birthday party. Their staff was unaware of these circumstances on the day of the inspection.

Ms Hussein had asked her friend to provide a statement confirming this, but he was afraid of these types of investigations and therefore Ms Hussein felt that she was a victim of this situation.

With regard to the non- attendance at interviews with Trading Standards, Ms Hussein explained that Trading Standards had advised her that they would record everything and film the interview . Both her and Mr Hamza were frightened that there were being treated as criminals for something which they had not done.

In conclusion, Ms Hussein advised that both she and Mr Hamza were aware that they have to comply with Trading Standards practices and license regulations while operating the business and accepted that it was their fault for accepting their friend's goods into the shop on the 27<sup>th</sup> of September and they apologised for this.

Ms Hussein assured to the Committee that both she and Mr Hamza would comply with licensing Standards and was ready to follow these with additional Standards imposed by the authority.

**Questions:**

Councillor Doron asked the Trading Standards team to set out their evidence for Ms Hussein and Mr Hamza being owners of the business before the 1<sup>st</sup> of September.

The Committee noted that application for the registration of a food business establishment had been signed by Mr Hamza on the 4<sup>th</sup> of August 2016.

KTBC Limited showed as registered with Companies House on the 8<sup>th</sup> of July.

There was a question about non attendance at meetings with Trading Standards.

Ms Hussein was distressed about going to an interview and being recording and was not aware that she was allowed legal representation in these meetings. [The Trading Standards team disputed this assertion as the letter did provide guidance on legal representation.]

Councillor Carter also sought understanding on non attendance as this would have been an opportunity for Mr Hamza and Ms Hussein to explain their innocence.

Ms Hussein advised that it was her first business, she thought that if she had not done anything wrong nothing would be recorded against her and that would not change if she attended the interview. She said she was not sure of the charge and did not understand the seriousness of the situation.

There was a question from Cllr Brabazon on purchase of the premises and if there was stock already in the shop.

Initially, Ms Hussein did not understand the question and advised that when she got the lease there was nothing and the shop was closed. Then she advised that when purchasing the shop there was stock already there.

There was a further question, seeking further clarification, about Mr Hamza and Ms Hussein being the responsible owners of the premises from the 8<sup>th</sup> of July and how the stock got there. She said she did not know and it was not her,.

Page 14 of the agenda pack was referred to, which highlighted that Mr Hamza was on the premises on the 26<sup>th</sup> of July in sole charge of the shop. The witness statement of the HMRC officer in the tabled pack on page 2 of 4 indicated that Mr Hamza was selling the counterfeit cigarettes. .

Mr Hamza contested that he was learning the business on the 26th of July and disputed the witness statement referred to.

Councillor Brabazon asked Ms Hussein if she had checked the stock when purchasing the business for valuation purposes.

Ms Hussein replied that she had checked the stock before purchase.

In summing up, the Licensing Team leader advised the Committee that the defendants had not co-operated and the license should be revoked. However if they chose to suspend the license then the additional measures should be put in place to ensure that these breaches do not happen again.

## **RESOLVED**

The Committee carefully considered the application for a review of the premises licence, the representations of Trading Standards and the licence holder, the Council's Statement of Licensing Policy and the s182 guidance.

The Committee resolved to:

- Modify the conditions of the licence to incorporate the recommendations in the Trading Standards representation set out on pages 19 and 20 of the of the Committee agenda pack.
  
- To suspend the license for a period of 6 weeks.
  
- To remove Mr Shorish Hamza as Designated Premises Supervisor

The Committee had regard to the 182 guidance with recommends that where licensed premises are being used for criminal activity such the sale or storage of smuggled tobacco or alcohol, this should be treated particularly seriously.

The Committee considered that there was a degree of doubt about whether the license holder had taken over the business at the time of the joint Trading Standards and HMRC inspection on 24<sup>th</sup> July 2016 and whether she had been fully responsible for the counterfeit and illicit tobacco products found at the premises at that time.

The Committee noted however that the current DPS Mr Hamza was in sole charge of the premises on 24<sup>th</sup> July and did not consider his explanation that he was there because that day he was training for his new role was credible. This was based on the witness statement of the HMRC officer that Mr Hamza was in sole charge and was offering the counterfeit and illicit tobacco products for sale. He admitted to knowing that he shouldn't be selling them and when the goods were seized the reason was explained to him.

By the time of the 2<sup>nd</sup> joint inspection on 27<sup>th</sup> September 2016 Ms Hussain was the license holder and Mr Hamza was the DPS. The Committee did not find credible the conflicting explanations provided by the DPS and license holder that the non duty paid alcohol was on the one hand, the property of Mr Hamza as he had said in a telephone conversation with Trading Standards and was left on the premises for his birthday party and not for sale and on the other hand, that it belonged to a friend. The alcohol was found on the display shelf and the committee were satisfied that it was being offered for sale. It concluded that on this 2<sup>nd</sup> occasion there had been a deliberate failure by the license holder and the DPS to uphold and promote the licensing objectives of the prevention of crime and disorder.

In treating the criminal activity seriously, the Committee considered removing the DPS, revoking the license or suspending it. The Committee recognised that revocation or suspension could have a serious financial impact on the license holder's business, but none the less considered it appropriate and proportionate to suspend the license for 6 weeks because the sale of the non duty paid alcohol was considered to be deliberate. Suspension was also considered as a proportionate step to act as a deterrent to the license holder to prevent the future use of the premises for criminal activity.

The Committee also decided that the DPs should be removed because he was aware at both inspections that the sale of counterfeit and illicit tobacco products and alcohol were an offence and these events related directly to poor decisions made by him. His continuation as DPS would undermine the licensing objective of the prevention of crime and disorder and public safety.

The Committee were satisfied that there had been a breakdown in the due diligence in sourcing legitimate products for sale and it was therefore also appropriate to impose the conditions recommended by Trading Standards in order to promote the licensing objectives.

It was clear to the Committee that the license holder was inexperienced and that she was not clear as to her responsibilities as license holder. It therefore recommends that during the period of suspension the license holder meets with the Licensing Officer so that her responsibilities can be fully explained to her.

Informative

Whilst the Committee decided that it would afford the license holder a further opportunity to demonstrate that she could comply with the law and her obligations as a license holder, it wants her to be aware that should there be a repetition of the activities highlighted in this review, it will take a dim view and there would be a risk that the license could be revoked.

## **19. ITEMS OF URGENT BUSINESS**

None

CHAIR: Councillor Natan Doron

Signed by Chair .....

Date .....