

# **MINUTES OF THE LICENSING SUB-COMMITTEE HELD ON MONDAY, 14 OCTOBER 2024, 7:00PM – 8:30PM**

**PRESENT:** Councillors Anna Abela (Chair), Barbara Blake and Nick da Costa

## **1. FILMING AT MEETINGS**

The Chair referred to the filming of meetings and this information was noted.

## **2. APOLOGIES FOR ABSENCE**

Apologies had been received from Councillor Kaushika Amin, Councillor Barbara Blake was substituting in her place.

## **3. URGENT BUSINESS**

There was no urgent business.

## **4. DECLARATIONS OF INTEREST**

There were no declarations of interest.

## **5. SUMMARY OF PROCEDURE**

The Chair provided a summary of the procedure for the meeting.

## **6. APPLICATION FOR APPLICATION FOR A VARIATION OF AN EXISTING PREMISES LICENCE AT ROWANS, 10 STROUD GREEN, LONDON N4 (STROUD GREEN)**

This application was withdrawn from the agenda.

## **7. APPLICATION FOR A REVIEW OF A PREMISES LICENCE AT CAMBRIDGE OFF LICENCE, 36 GREAT CAMBRIDGE ROAD, TOTTENHAM, LONDON, N17 7BU (WHITE HART LANE)**

### **Presentation by the Licensing Officer**

Ms Daliah Barret, Licensing Team Leader, informed the Sub-Committee that:

- The application had been submitted by Trading Standards, on the basis of prevention of crime and disorder and the protection of children from harm.
- The main matter involved a number of incidents or visits to the premises where Trading Standards had carried out inspections accompanied by the Metropolitan Police. Officers had discovered illicit tobacco on the majority of the visits.

- Mr Ozer Duman was both the premises licence holder and the designated premises Supervisor (DPS).
- The premises currently allowed the sale of alcohol from 08:00 to 23:00 each day for consumption off the premises.

### **Presentation by the review applicant**

Mr Murthy Balakrishnan and Ms Felicia Ekemezuma, Trading Standards Officers, informed the Sub-Committee that:

- Training Standards found it necessary to submit the review application because on four occasions, the premises was told not to stock or sell foreign cigarettes.
- Foreign cigarettes had a health warning in a foreign language, so people buying the cigarettes could not read them.
- The price of the cigarettes was lower than the ones which were duty paid.
- On 3 January 2024 January, a test purchase was carried out on the premises as part of a London wide operation. An individual was able to purchase a 20 pack of cigarettes. This was followed up on 19 March 2024 when Trading Standards carried out an inspection, using a dog handler and a dog especially trained to sniff out illegal cigarettes.
- The officers went to the premises, showed their powers of entry and the dog handler carried out his search at the counter. A lot of cigarettes were found at the premises.
- The licence holder was asked if he had any illegal cigarettes to which he had said 'no'. When some was found, the licence holder appeared to have a bag full and had advised that they were for his personal use.
- The dog and the dog handler moved into the stockroom where they found some hidden in a microwave. Officers seized the cigarettes.
- The total amount of illegal cigarettes found was 1,180 cigarettes and seven pouches of hand rolled tobacco.
- The business had a history of non-compliance with local authority officers.
- On 27 April 2022 the premises was subject to a proactive visit. A colleague had found that the premises stocked electronic cigarettes which had a bigger tank size than was lawful to be sold in the UK. On that occasion a friendly warning was given and premises staff was asked to remove them and was also advised him not to stock or sell or sell any non-duty paid or foreign cigarettes.
- On another date, an officer visited the premises and found some illegal cigarettes hidden in an empty whiskey box. The licence holder was given a warning and a warning letter was sent.
- A set of questions was sent to the licence holder to answer or to explain why he had the items in stock. It was an opportunity for the licence holder to advise where he had obtained the items and why he stocked them. The licence holder never responded.

In response to questions, Mr Balakrishnan, and Ms Ekemezuma informed the Sub-Committee that:

- The London wide operation was called Red Snapper, where an operative was sent to different boroughs with specific premises picked out for inspection.
- The premises had been given two previous warnings in the past.
- The premises was a member of a responsible retail scheme. Every year or mostly every year, officers carried out compliance visits. The visit involved reinforcing the message to be a good retailer. Licence holders were asked if they had any illegal

- cigarettes and the licence holder always said that he did not. The licence holder was also given a pack of what he should and should not do.
- Trading Standards would be taking forward a prosecution for illegal cigarettes stocked in the premises but due to being short staffed, it was not clear when this would happen.
  - When visits were made, the shop assistant was present at the premises, not the licence holder.
  - It was possible that the actions undertaken at the premises had been of an employee and not the licence holder, but he was certain that this was not the case as a letter was sent to the licence holder and no response had been provided.
  - The licence holder was present on the premises when visits were made in January 2024 and April 2022. The licence holder was not present during the visit on 19 March 2024.
  - It was likely that staff members at the premises had identified themselves as the licence holder himself.

### **Presentation by the premises licence holder**

Mr Hassan Omar, representative for the licence holder and Mr Ozer Duman, licence holder informed the Sub-Committee that:

- The situation would not have happened if certain things had been in place.
- On the several occasions, visits had been made and the licence holder was not present on the premises and was not aware of any of the alleged activities taking place at the premises. The licence holder's employees had been dishonest to him. For example, claiming to be the licence holder when they were not.
- Appointing a new DPS was something that the licence holder was happy to take on board.
- The licence holder had been in business for a long time and it was his livelihood. A loss of this would be distressing and catastrophic.

In response to questions, Mr Omar and Mr Duman informed the Sub-Committee that:

- The premises had two employees. These employees been working at the premises for about a year. The reason the employees were still employed was due to the licence holder not being aware of the problem. He should have been aware of it. Within the last three months, the licence holder had made many changes including those suggested in the review application.
- In relation to letters received by the licence holder on 3 May 2022 and on 13 October 2022, these letters had been received and it was silly not to reply to the letters. The licence holder was not aware of the letters having been sent.
- The licence holder had not received all the documents sent to him.
- The signed document on page 75 of the agenda papers was not signed by the licence holder himself.
- The licence holder was aware of vapes having been spotted as part of an inspection and he had signed a document regarding the vapes.
- The licence holder was present at the premises three to four days a week after 17:00. He had not seen any of the cigarettes and it was possible that the employee was hiding them.
- Training was given to employees, the previous employee had businesses and previous experience in the job role.

- The licence holder took the review application seriously. An attempt was made to change the DPS but this could not be completed as the licence had come under review. The licence holder was trying to find new employees and would ask that the licence not be suspended.

In response to a question from the Sub-Committee, the Licensing Officer stated that a form to change the DPS had been submitted but had been refused as the name of the previous DPS was missing. The form was sent back and the licence holder was also informed that the premises was subject to review. Two separate forms were submitted on 2 September 2024 and 5 September 2024. The person being nominated was Mehmet Erdemioğlu. The individual had a personal licence.

In response to further questions, Mr Omar and Mr Duman informed the Sub-Committee that:

- The nominated DPS had been in the licensing trade for around 20 years, was very experienced and was the licence holder's brother-in-law. The individual was a responsible individual.

To summarise, Mr Balakrishnan stated that the review had been submitted because the licence holder seemed like a trader that persistently did not uphold the licensing objectives. The premises was situated in a parade where there were other shops who had previously complained to the officers inspecting them that it was unfair to be law abiding traders, when another licence holder was undercutting the sale of cigarettes by selling cheap and dangerous cigarettes. As the Council investigated and carried out various test purchases, it was established that the licence holder was selling illegal cigarettes. It was also dangerous as the cigarettes sold were not marked in English rendering the health warnings as meaningless. It also caused financial damages the Chancellor of the Exchequer by selling a cigarette at about between £7.00 and £8.00 when ordinary cigarettes were sold within the £15.00 range. The premises had been run without any control.

To summarise, Mr Omar stated that the situation was embarrassing for the licence holder and the premises was his livelihood. The licence holder would put an emphasis on improvement and the new nominee for the DPS would be a credible assistant. The licence holder would look after his business.

At 8:13pm, the Sub-Committee withdrew to consider the application.

RESOLVED:

The Sub-Committee carefully considered the application for a review of the premises licence for Cambridge Off Licence, the representations of Trading Standards, and the Licence holder, the Council's Statement of Licensing Policy and the s182 Licensing Act 2003 Statutory Guidance.

The Sub-Committee resolved to :

- a) Suspend the Licence for a period of 3 months,
- b) Remove the Designated premises supervisor and
- c) Impose the following conditions on the Licence Conditions
  1. The business shall adopt a "Challenge 25" policy.
  2. All staff responsible for selling alcohol shall receive regular training in the requirements of the Licensing Act 2003 and all other age restricted products stocked on the

premises including tobacco and vapes. Written records of this training signed and dated by the person receiving the training and the trainer shall be retained and made available to Police and authorised council officers on request.

3. Posters shall be displayed in prominent positions around the till advising customers of the “proof of age” required under the “Challenge 25” policy at the premises.

4. A refusals book shall be kept at the premises to record details of all refusals to sell alcohol and age restricted products. This book shall contain:

The date and time of the incident,

The product which was the subject of the refusal

A description of the customer,

The name of the staff member who refused the sale

The reason the sale was refused.

This book shall be made available to Police and all authorised council officers on request.

5. The Designated Premises Supervisor shall regularly check the refusals book to ensure it is being consistently used by all staff. They shall sign and date when inspected.

6. The Premises License Holder and Designated Premises Supervisor shall ensure persons responsible for purchasing alcohol do not take part in any stock swaps or lend or borrow any alcohol goods from any other source unless the source is another venue owned and operated by the same company who also purchase their stock from an authorised wholesaler.

7. The Premises License Holder shall ensure all receipts for alcohol and tobacco goods purchased include the following details:

I. Seller’s name and address

II. Seller’s company details, if applicable

III. Seller’s VAT details, if applicable

IV. AWRS registration number

V. Vehicle registration detail, if applicable

Legible copies of receipts for alcohol purchases shall be retained on the premises for six months and made available to Authorised Officers on request.

8. Ultraviolet light shall be purchased and used at the store to check the authenticity of all stock purchased which bears a UK Duty Paid stamp.

9. When the trader becomes aware that any alcohol or tobacco may not be duty paid, they shall inform the Council of this immediately.

10. Only tobacco products which are not on the covered tobacco display cabinet shall be stored in a container clearly marked ‘Tobacco Stock’. This container shall be kept within the storeroom or behind the sales counter.

11. Tobacco shall only be taken from the covered tobacco display cabinet behind the sales counter in order to make a sale.

12. Only tobacco and alcohol which is available for retail sale shall be stored on the premises.

13. After evidence of any legal non-compliance relevant to the promotion of the Licensing Objectives is found, the licensee shall attend a meeting, upon reasonable request, with appropriate Responsible Authorities at the Council Offices or other suitable location. This condition does not require the licensee to say anything while under caution.
14. A CCTV system should be installed and maintained which should be able to record colour footage for a period of 31 days (about 1 month) and be able to capture clear video of people's faces and shoulders when they enter the premises and cover the area of the sales counter. These images should be able to be loaded onto disc or other electronic media should a Police Officer or Authorised Council Officer require a copy. Where copies of recordings are requested, they should be provided in a reasonable time and in a format which can be viewed without specialist software. Any malfunction in the operation of the CCTV system shall be reported to the Licensing Authority within 24 hours.
15. All Staff left in charge of the premises should be trained in the operation of CCTV and the production of copies of recordings.
16. Any breakdown or malfunction of the CCTV system which is likely to prevent the recording of CCTV images shall be reported to the Licensing Authority immediately.

#### Reasons

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

The Committee were satisfied that because the Licence holder was a member of the Council's Responsible Retailer Scheme and received yearly compliance visits, he was aware of his statutory obligations and the requirements of good practice in respect of the licensed premises and sale of illegal goods.

On 27 April 2022 Trading standards found illegal cigarettes at the premises hidden in an empty whiskey box and on 12 October 2022 the premises were found by Trading Standards to be stocking illegal electronic cigarettes/Vapes The licence holder was sent warning letters on 3<sup>rd</sup> May 2022 and 13<sup>th</sup> October 2022, which he denies receiving.

Trading Standards found it necessary to submit this review application because on 3<sup>rd</sup> January 2024 a test purchase was carried out on the premises and an individual was able to purchase a 20 pack of illegal cigarettes. This was followed up on 19 March 2024 when Trading Standards carried out an inspection, using a specially trained dog, and more illegal cigarettes were found at the premises including some hidden in a microwave. A letter under caution was sent to the Licence holder on 16<sup>th</sup> April 2024 requesting information about where he bought the cigarettes and why he sold them, but he did not respond. He again denies receiving this letter.

The large number of illegal cigarettes found on 19<sup>th</sup> March (1,180 cigarettes and seven pouches of hand rolled tobacco) suggest that the license holder who is also the Designated Premises Supervisor with day to day control of the premises, should have been aware of them. The License holder advised the Committee that he is present at the premises three to four days a week after 17:00 hrs and the Committee therefore did not find it credible that he did not know about the illegal cigarettes and that he had not received the letters sent to him.

The licence holder advises that on all four occasions in 2022 and 2024 and it was his staff that were responsible for the illegal tobacco products and he suggested that they hid them from him, even though there were different staff working for him in 2022.

He admitted that the situation would not have happened if certain safeguards had been in place.

The Committee were of the firm view that the licensee has demonstrated persistent breaches of the prevention of crime and disorder licensing objective and there has been a major breakdown in due diligence. The Committee consider it appropriate to remove the Licence holder as DPS as he has not acted responsibly. It noted the Licence holder's agreement to nominate someone else and that he has someone in mind for the DPS role.

That however, is not sufficient to promote the Crime and Disorder licensing objective and the conditions above are appropriate to ensure that goods are being properly sourced and stored, that staff have proper training, keep proper records etc, so that the licensing objectives are being promoted. The licence holder indicated that since the start of the review process he is making changes but he has been unable to specify what they are apart from giving training to his employees (the same employees who he holds responsible and has indicated to the Committee that he intends to replace), and submitting an application to replace the DPS.

The Committee have decided that a 3 month period of suspension is appropriate to allow time for the DPS to be replaced, staff to be replaced and trained, and proper controls to be implemented as set out in the conditions.

The Committee seriously considered revocation of the Licence in accordance with paragraph 11.28 of the statutory guidance as illegal goods have been found on four occasions. The Licence holder's explanations for the failings that led to the review were not credible and indicate poor management of the business. The Licensing Authority's trust and confidence in the licensee's ability to comply with his obligations has broken down as a result of the persistent criminal activity.

However, it had regard to the representations made by the Licence holder and his intention to take his responsibilities seriously and put things right going forwards with the assistance of a new DPS and new staff.

The Committee thought that proportionality was very narrowly tipped in favour of a period of suspension rather than revocation. subject to far more robust conditions and new personnel.

The Committee could not stress enough how serious the lapses by the license holder have been, As well as undermining the prevention of crime and disorder licensing objective, selling illegal tobacco undermines the public safety licensing objective by posing a risk to health because the health warnings on the packets are not in English. Having carefully considered the s182 Guidance, the Committee has treated the persistent illegal activity seriously and imposes a 3 moth suspension of the licence. It hopes will also act as a deterrent to the Licence holder from allowing these breaches in future.

The Committee understands that a high proportion of the business' revenue comes from the sale of alcohol and that Christmas trade will be affected, which the licence holder says will be catastrophic. However, the suspension is proportionate and appropriate given the persistent sale of illegal tobacco products, the license holder's failure to take steps to put things right after the warnings he was given and his failure to engage with Trading Standards until the review application was made.

Informative

The Committee would like the License holder to be in no doubt that the licensing objectives have to be promoted and the Licence holder has to be actively involved to make sure that this happens. Even if he replaces the DPS, he cannot avoid his responsibilities and would risk the revocation of his licence if there was to be another review.

**8. NEW ITEMS OF URGENT BUSINESS**

There were no new items of urgent business.

CHAIR: Councillor Anna Abela

Signed by Chair .....

Date .....