

MINUTES OF THE MEETING OF THE LICENSING SUB COMMITTEE B HELD ON THURSDAY, 18TH AUGUST, 2016,

PRESENT:

Councillors: Vincent Carroll (Chair), Clive Carter and James Patterson

Also present:

Seven Sisters Off-Licence

Ozkan Albar – Premises Licence Holder

David Caxton – Representative

Tottenham Express

Kazim Marasli – Owner

Tasty Hutt

Osama Wagdi – Premises Licence Holder

Graham Hopkins – Representative

Daliah Barratt (Licensing), Charles Buckle (Enforcement Response), Rebecca Whitehouse (Trading Standards) and Michelle Williams (Legal)

70. FILMING AT MEETINGS

Noted.

71. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Beacham and Mallett. Councillor Patterson attended as substitute for Councillor Mallett and Councillor Carter attended as substitute for Councillor Beacham.

72. URGENT BUSINESS

None.

73. DECLARATIONS OF INTEREST

None.

74. SUMMARY OF PROCEDURE

The Chair outlined the procedure to be followed at the meeting. He advised that the agenda would be varied to take item 8 first (Tasty Hutt), and that the decisions would not be provided at the meeting, but would be provided within 5 working days of the hearing.

75. SEVEN SISTERS OFF LICENCE, 627 SEVEN SISTERS ROAD LONDON N15

Daliah Barrett, Licensing Officer, introduced the application for a review of the Premises Licence as requested by Trading Standards on the grounds of public safety and crime and disorder. The licence had been granted in November 2015, and the licence holder had been the designated premises supervisor since this time. The Licence Holder had received a caution by Trading Standards in December 2015, and conditions had been added to the licence.

Rebecca Whitehouse, Trading Standards Manager, presented the application for a review of the Premises Licence, and provided a background to the premises. In September 2014, the Licence Holder, Ozkan Albay, joined the Responsible Retailers Scheme. In June 2015, Trading Standards and HMRC discovered illicit tobacco at the premises. Mr Albay received a simple caution, as it was a first offence. A further visit found further illicit tobacco, and Trading Standards felt that this warranted a review of the licence.

David Caxton, Premises Licence Holder's representative, responded to the review application. The current licence had been in place since November 2015, and Mr Albay had been a licence holder for 17 years, with only two incidents occurring during this time. The first incident had occurred as a result of Mr Albay's brother bringing in illicit tobacco into the premises without Mr Albay's knowledge, although Mr Albay took responsibility and the caution. The second incident occurred as a result of Mr Albay allowing a customer to pay off a £200 debt with cigarettes.

In response to the Chair, Mr Caxton stated that it would not be fair to focus on the time since the premises licence had been granted in November 2015, as Mr Albay had held a premises licence for many years before then, with no incidents.

In response to questions from the Committee, Mr Albay advised that he had signed up to the Responsible Retailers scheme as he had been asked to by Haringey Council, and he did not completely understand what it was, as he thought it was a reward scheme. His premises licence training had taken place 16 years ago, in English. Ms Barrett explained that the licence would have been granted in a Magistrates Court, and grandfathered over when the legislation changed, but the law would have remained the same with regard to illicit sales.

Mr Caxton summarised the case and reminded the Committee that there had been no previous offences by Mr Albay in the whole time he had held a licence, and referred to the guidance which said that the Committee should consider revocation, rather than that they should revoke the licence.

The Committee adjourned to consider their decision.

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 page 23, point 1 of the Committee agenda pack.
- To suspend the license for a period of 1 month.
- To require the DPS to undergo DPS training in his first language before the end of the period of suspension.

The Committee had careful regard to the fact that criminal activity had taken place at the premises of a type which the guidance advises should be treated particularly seriously and noted that the licence holder had been guilty of this offence in 2015 for which a caution was administered and that the conditions of the license had been modified to address the sale of illicit tobacco. The Committee noted that on the second inspection in April 2016 there was no doubt that the illicit tobacco was on the premises and going to be sold and that the modified conditions had been breached.

The Committee considered that having committed this offence in the past the license holder would have been in no doubt that the sale of illicit tobacco was an offence and that such an offence would have put his license at risk. It concluded that there was a clear and deliberate failure by the license holder to uphold and promote the licensing objectives of the prevention of crime and disorder and public safety.

The Committee was not satisfied that the License Holder fully understood his responsibilities as DPS and considered whether he should be removed as the DPS. It decided that he should be given the opportunity to refresh the training that he had received 16 years ago and that this training should be in his first language.

The Committee considered revoking or suspending the license and recognised that a suspension of the licence could have a serious financial impact on the licence holder's business. The Committee considered that it would be appropriate and proportionate to suspend the licence for 1 month because there had been repetition of the same offence within a 10 month period, the welfare of the wider community had been put at risk in terms of the potential harm caused by such tobacco and the suspension was therefore in their interests. Given that this was the second offence and notwithstanding the relatively low value of the tobacco found at the premises, suspension was 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.

Informative

The Committee decided that it would afford the licence holder a further opportunity to demonstrate that he would comply fully with the law and his obligations as a licence holder but wanted the licence holder to be aware that should this matter come before the Committee again, it would take a dim view of any repetition of the activities highlighted in this review.

76. TOTTENHAM EXPRESS, 591 HIGH ROAD, LONDON N17

Daliah Barrett, Licensing Officer, introduced the application for a review of the Premises Licence as requested by Trading Standards on the grounds of crime and disorder and public safety. The Premises Licence had been held by Mr Salman Ekinci from November 2015 until July 2016, when he attempted to transfer the DPS to Mr Kazim Marasli, a director of the company, who was rejected on the grounds of his criminal record. A subsequent application to transfer the DPS to Ms Tonbul, although Mr Ekinci and Mr Marasli were still involved with the premises. Mr Ekinci was in charge of the premises when the Trading Standards visit was carried out in February 2016.

Rebecca Whitehouse, Trading Standards Manager, presented the application for a review of the Premises Licence. HMRC and Trading Standards had visited the premises on 24 February 2016, and had found illicit alcohol and tobacco, which equated to £884.19 of unpaid duty. The goods had been stored in places commonly equated with illicit sales, and were readily accessible within the premises to allow them to be sold. The case was being put forward for prosecution, and it was felt that a review of the licence was also appropriate.

Mr Marasli apologised for the incident, and advised that the cigarettes were for personal use and had been stored under the counter in the premises. He also told the Committee that the alcohol had been purchased from a cash and carry and he had no knowledge of it being non-duty paid.

In response to the Committee, Ms Whitehouse confirmed that Trading Standards considered that this was day to day practice for the premises because of the accessibility and availability of products, and the fact that there was no CCTV footage available when requested, which could imply that any footage would show sales of non-duty paid goods.

The Committee questioned Mr Marasli in regard to the statement made in his interview where he said that the alcohol was purchased by him in Belgium and brought back to sell, which conflicted with his statement earlier in the hearing where he said that he had purchased the alcohol at the cash and carry. Mr Marasli did not provide an answer to the Committee.

Ms Whitehouse summed up, reiterating that there had been a significant quantity of illicit goods available for sale, and Trading Standards had no confidence that the premises would confirm to the licensing objectives.

The Committee adjourned to consider the application.

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 65 and 66, points 1- 10 of the Committee agenda pack.
- To suspend the license for a period of 1 month.

The Committee noted that the account given by Mr Marasli at the hearing that the illicit alcohol had been purchased from a UK cash and carry differed from the account that he gave in his interview under caution where he admitted to having bought the illicit alcohol in Belgium. The Committee also had regard to the note on page 63 of the agenda pack of the interview of the DPS Mr Ekinici which indicated that before the inspection by Trading Standards Mr Marasli was aware that non duty paid products should not be kept on the premises. The Committee also had regard to the evidence from trading standards that the concealment of a large quantity of individual packets in the vicinity of the counter was consistent with a business trading in illicit products and using a reasonably sophisticated method to avoid detection. It also had regard to the evidence that fake UK duty labels had been attached to some of the bottles of alcohol. The Committee did not find Mr Marasli's explanation that the cigarettes were there for personal use credible and on the evidence concurred with the view of Trading Standards that it was the general day to day practice at the premises to provide illicit tobacco and alcohol for sale from the premises.

The Committee had careful regard to the fact that criminal activity had taken place at the premises of a type which the guidance advises should be treated particularly seriously and the Committee were of the view on the evidence, that there was a clear and deliberate failure by the license holder to uphold and promote the licensing objectives of the prevention of crime and disorder and public safety.

In light of its conclusions, the Committee felt that it was appropriate to impose the conditions recommended by Trading Standards in order to promote the licensing objectives of the prevention of crime and disorder and public safety.

In treating the criminal activity seriously, the Committee considered revoking or suspending the license and recognised that a suspension of the licence could have a serious financial impact on the licence holder's business. The Committee decided not to revoke the licence but considered that it would be appropriate and proportionate to suspend the licence for 1 month because notwithstanding that this was a first offence of this type, the actions of the license holder were deliberate and the welfare of the wider community had been put at risk in terms of the potential harm caused by such tobacco and alcohol. Suspension was therefore in their interests. 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 such criminal activity.

Informative

The committee decided to afford the licence holder a further opportunity to demonstrate that he would comply fully with the law and his obligations as a licence holder but wanted the licence holder to be aware that should this matter come before the Committee again, it would take a dim view of any repetition of the activities highlighted in this review.

77. TASTY HUTT (MARHABA), 443 WEST GREEN ROAD, LONDON N15

Daliah Barrett, Licensing Officer, outlined the application for a review by Enforcement Response on the grounds of public nuisance and crime and disorder. The premises had been granted a licence in October 2006 for Late Night Refreshment and the sale of alcohol. The licence holder had not been able to sell alcohol as he did not have a personal licence. At the rear of the premises was a shed which was being used by the premises as a shisha hut, and this area was not covered by the premises licence. A number of complaints had been received by Environmental Health in relation to the use of the premises, and to ward councillors regarding Anti Social Behaviour particularly at the rear of the premises. Officers had visited the premises, and had been confronted with aggressive behaviour by patrons. These issues had been reported since March 2015, and visits showed the hut was being used as a late night social club.

Charles Buckle, Enforcement Officer, presented the application for a review on behalf of Enforcement Response. A visit had been made to the premises on 3 August 2016, and found the layout of the premises to be substantially different to that set out on the premises licence. A number of noise complaints had been made, particularly in relation to noise at the rear of the premises, from the hut. A noise abatement notice had been served on the premises. Mr Buckle advised that the recommendation of the Enforcement Response team was that the licence be revoked, or suspended at the very least.

Graham Hopkins, Premises Licence Holder's representative, presented the response to the application for a review. In relation to the aggressive behaviour towards the Enforcement Officer, he confirmed that it was patrons at the premises, and that the management have barred these individuals from the premises. Mr Hopkins advised that a variation had been submitted for a change of layout at the premises. He also advised that although Mr Wagdi had no intention of selling alcohol at the premises, he did not want to remove this from the licence. In relation to the use of the hut at the rear of the premises, Mr Hopkins explained that Mr Wagdi would be applying to include this area in the premises, and that he had advised Mr Wagdi that no licensable activities would be permitted to take place there, and that noise should be kept to a minimum.

Mr Hopkins advised the Committee that Mr Wagdi was offering the following conditions – closing time of the premises to be 0030; after 2200, only a maximum of 10 customers would be permitted on the premises, and this would be monitored by a member of staff.

In response to the Committee, Mr Wagdi advised that he had built the shed in 2012, and had submitted a planning application in November 2015.

Mr Wagdi responded to further questions from the Committee: since the noise abatement notice in June 2016, he had displayed notices in the premises asking patrons to keep noise to a minimum; the television in the hut was muted after 2300;

the hut would be closed at 0030; he had provided a contact number to neighbours following the noise complaints, and not received any complaints since this time.

Mr Hopkins summed up and reiterated that Mr Wagdi had applied for planning permission for the hut, and he would chase its progress.

The Committee adjourned to consider their decision.

RESOLVED

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

The Committee resolved:

- That, as agreed with the license holder, the plan for the premises should be modified to include the shisha area and the new internal layout of the shop.
- That the conditions of the license should be modified as follows:
 1. The shisha area to close at 23.00 daily.
 2. Notices to be clearly displayed in the area requesting customers to be quiet while using the area, to leave the area quietly and not loiter in the area.
 3. After 21.00 a member of staff to be deployed in the area to monitor customer conduct, ensure customers use and leave the area quietly and that after 21.00 no more than 10 people use the area at any one time.
 4. After 21.00 a maximum of 10 people to be permitted to use the area at any one time.
 5. Notices to be displayed requesting customers to leave the area quietly, not to loiter outside and dispose of litter properly / legally.
 6. CCTV to current MPS standards to be installed and maintained which must cover the inside of the shop, frontage and the shisha area. Must include 31 days storage of images, heads & shoulders shots of those entering the premises, be capable of providing images for Police or Authorised Officers on request and staff trained to download images on request.
 7. A CCTV trained member of staff capable to be on duty when the premises are open to the public.
 8. Staff trained on induction and 6 monthly refresher training in serving customers in turn, acknowledging customers, explaining serving times, monitoring customer conduct, avoiding conflict, asking customers not to loiter outside and monitoring the shisha area.

Reasons

The Committee heard evidence that the noise nuisance had been caused by patrons using the shisha area at the rear of the premises which is not part of the license and considered that the area should be included. This was agreed by the license holder.

In order to promote the licensing objective of the prevention of public nuisance the Committee considered it appropriate to impose the conditions above. Given the close proximity of the premises and shisha area in particular to the neighbouring residential premises, the Committee considered it appropriate that the area be closed at 11 p.m. when neighbours are likely to be going to bed and the reduced use of the area and monitoring should commence at 9 p.m. when any neighbouring children could be going to bed.

The Committee takes very seriously the threat to the safety of Council Officers that occurred on 26th June 2016 when officers attended the premises in response to a noise complaint. The Committee heard evidence that the perpetrators were patrons of the business and not the license holder or his staff. The Committee takes this opportunity to warn the license holder that he is responsible not only for his staff, but also for the conduct of his patrons as linked to his operation of the license and that the Committee take a very dim view of the intimidation or harassment of its officers. The expectation is that the license holder will take all necessary steps to ensure that an incident of this nature does not occur again.

78. ITEMS OF URGENT BUSINESS

None.

CHAIR: Councillor Vincent Carroll

Signed by Chair

Date