

MINUTES OF THE MEETING OF THE LICENSING SUB COMMITTEE B HELD ON THURSDAY, 15TH SEPTEMBER, 2016, 19:00.

PRESENT:

Councillors: David Beacham, Toni Mallett (Chair) and Peter Mitchell

Also present:

Officers:

Daliah Barrett (Licensing), Khumo Matthews (Legal), and Philip Slawther (Clerk)

Applicants:

Mr Anit Patel

Mr Mpala Mufwankolo

Responsible authority representatives:

Rebecca Whitehouse (CEH Team Manager)

Derek Pearce (Enforcement Response Team Leader)

Others:

Cllr Reg Rice (Item 7 only), Henry Charge [resident] (Item 7 only).

79. FILMING AT MEETINGS

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

80. APOLOGIES FOR ABSENCE

Apologies were noted from Cllr Carroll. Cllr Mitchell attended as substitute.

Cllr Mitchell nominated Cllr Mallet to Chair the meeting. This was seconded by Cllr Beecham.

81. URGENT BUSINESS

None

82. DECLARATIONS OF INTEREST

None

83. SUMMARY OF PROCEDURE

NOTED the procedure summary for Licensing Sub-Committee hearings, pages 1-2 of the agenda pack), which the Chair introduced drawing attention to the four licensing objectives.

84. COSTCUTTER 824-828 HIGH ROAD LONDON N17 0EY

RECEIVED the application for the review of Costcutter Premises License – 824-828 High Road, London N13 as detailed on pages 3 to 31 of the agenda pack.

a. Licensing Officer's Introduction

The Licensing Team Leader, Daliah Barrett, introduced the application for a review of the Costcutter Premises License, referring to the documents contained in the agenda pack.

NOTED that the application for review of the premise license was brought by the Licensing Authority; under Sections 51 and 87 of the Licensing Act 2003. The application for review had been made on the grounds that the premises had failed to uphold the licensing conditions and the objectives of the prevention of crime and disorder and public safety. NOTED that the review had been brought against the above named premises for storage and selling of both non-duty paid tobacco and non-duty paid alcohol. In addition, the tobacco did not have the correct statutory health warnings required for the UK market. There was also evidence of alcohol being sold below minimum unit pricing level. Mr Patel was also subject to legal proceedings brought by HMRC.

b. Representations from Rebecca Whitehouse, Environmental Health (Commercial) Trading Standards Manager

NOTED the representation by Rebecca Whitehouse on behalf of Haringey Trading Standards, including that: On the 14th October 2015 officers of the Trading Standards service and HMRC carried out an inspection of the licensed premises and Mr Patel informed Trading Standards that he was the Premises Licence Holder. During the inspection 4220 cigarettes were seized together with 385.03 litres of spirits, which represented a duty loss of £5422.35.

After the visit the licence of the premises was examined and it became apparent that Mr Amit Patel was not the Premises Licence Holder as he had stated and the matter was referred by Trading Standards to the Licensing team. On 20th October 2015 after an intervention by Licensing officers the Premises Licence was transferred to Anit Patel. The explanation given by Mr Patel was that the Premises Licence was still in the name of the company which managed the business previously and that the failure to transfer the licence over was an oversight by 'head office' when the shop had been taken over. On 3rd December 2015, Mr Patel was interviewed under caution and

confirmed that the stock was his and that he ran the shop side of the business while his wife ran the post office. Mr Patel stated that the cigarettes were his and that he was using them as a promotional tool giving them away to customers. On 1st July 2016, an inspection of Mr Patel's shop was undertaken and one line of polish beer was found to be priced below minimum pricing levels.

The Trading Standards Manager advised the sub-Committee that Mr Patel had failed to sign up to the responsible retailer scheme when provided with information in both August 2014 and August 2015. Following the pursuit of legal proceedings, Mr Patel signed up to the responsible retailer scheme on 27th July 2016.

The Committee asked for clarification whether the responsible licensing scheme involved training on what was expected of a Premises Licence Holder. Environmental Health (Commercial) Trading Standards Manager responded that there was no formal training as such but that the licence holder was supplied with a significant amount of information when they signed up and that the local authority carried out significant engagement with the retailer on how to behave responsibly. The licence holder was also required to sign a statement verifying that they will comply with the relevant regulatory requirements.

Mr Patel asked whether in terms of the alcohol, the review was brought against him as a result of the items of Glen's vodka. The Committee confirmed that was the case

c. Applicant's response to the representations

NOTED the representation by the applicant, including that:

He had working in the industry all his life and was well aware of his role and responsibilities. Furthermore, this was an isolated incident. Mr Patel informed the Committee that he already used a UV light to check for counterfeit products. In relation to the non-duty paid alcohol, Mr Patel stated that the vodka was found to be genuine and it was the labels that were not genuine. Mr Patel also advised that he sold a very limited number of the bottles of Glens vodka and had likely had the stock for a long time; consequently he could not recall where he had purchased them. Mr Patel commented that in relation to this review he was also being prosecuted by HMRC for the non-duty paid alcohol.

In relation to the illicit tobacco found, Mr Patel reasserted that he was not selling the cigarettes, instead they were part of a promotion around polish food and he was giving them away to customers when they spent over a certain amount. Mr Patel advised the committee that follow up visits by HMRC had found no further incidents of storing non-duty paid goods and a follow up visit by Trading Standards Officers had only found one line of polish beer that was being sold for £1 instead of £1.10 as per minimum pricing levels. The majority of the other items found, including bottles of bitters, were left behind by a previous owner of the store.

Mr Patel informed the Committee that he had already paid £500 in duty to HMRC and stated that he had a letter from HMRC confirming this. The applicant advised that he

knew other retailers that had been found to be selling non-duty paid goods and had not been through a similar process; as a result he felt victimised.

The Committee sought clarification on nature of the promotion that the applicant described and raised concerns that the cigarettes were found in two separate locations; behind the counter and in the storeroom. The Committee also asked the applicant why he had failed to sign up to the responsible retailer scheme until the onset of legal proceedings. The applicant responded that this was a genuine oversight and that he had been pre-occupied with caring for his terminally ill father for the past 18 months.

The Committee asked the applicant where he purchased the vodka from and suggested that 385.3 litres amounted to around thirty cases, which was a significant quantity to be found storing. Mr Patel disputed this amount and suggested that there was only 22 bottles found. Mr Patel informed the Committee that he purchased all of his alcohol from four different retailers and clarified that he was unable to locate the invoices for these items. The applicant confirmed that he thought that the duty had been paid on all the alcohol found.

The Committee was advised by the Environmental Health (Commercial) Trading Standards Manager, that the UV light that Mr Patel was using appeared to be designed for checking bank notes and was unsuitable as it was not big enough to use on a bottle of vodka. The Committee considered that the amount of non-duty paid goods found would likely suggest that these items were available for sale. The Committee was advised that the offence related to the storage of non-duty paid goods and that the claim that the applicant was not selling them was irrelevant in that context.

20:15 the Committee retired to make decision. Returned 20:35hrs

DECISION

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 Revised Home Office Guidance issued under section 182 of the Licensing Act 2003.

The Committee RESOLVED to modify the conditions on the licence to incorporate recommendations 1-10 of the report from the Responsible Authority for Trading Standards, as set out in page 23-24 of the agenda pack. These conditions were:

1. The Premises Licence Holder and Designated Premises Licence Holder shall ensure that alcohol is only purchased from an authorised wholesaler and shall produce receipts for the same upon request for inspection. (An authorised wholesaler means an established warehouse or trade outlet with a fixed address and not a van or street, even if they claim they are part of, or acting on behalf of, an authorised wholesaler who provides full itemised VAT receipts).
2. The Premises Licence 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 sources unless the source is another venue owned and operated by the same company who also purchases their stock from an authorised wholesaler.
3. The Premises Licence Holder shall ensure all receipts for alcohol goods purchased include the following details:
 - i. Seller's name and address
 - ii. Seller's company details, if applicable
 - iii. Seller's VAT detail, if applicable
 - iv. Vehicle registration details, if applicable
 4. Legible copies of the documents referred to in Condition 3 above shall be retained on the premises and made available for inspection by Police and Authorised Council Officers on request.
 5. Copies of the documents referred to in condition 3 above shall be retained on the premises for a period of not less than 12 months.
 6. An ultra violet light shall be purchased and used at the store to check the authenticity of all stock purchased which bears a UK Duty Paid stamp.
 7. Where the trader becomes aware that any alcohol may not be duty paid they shall inform the Council of this immediately.
 8. All 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 store room or behind the sales counter.
 9. Tobacco shall only be taken from the covered tobacco display cabinet behind the sales counter in order to make a sale.
 10. Only products available for retail sale can be stored at the licensed premises.

The Committee took this decision because on the evidence before the Committee it was clear that activity had taken place which was inconsistent with the licensing objectives, in particular, the prevention of crime and disorder and the promotion of public safety.

The committee was satisfied that the activity which had resulted in the review application, was of a type which the guidance advises should be treated with particular seriousness. The Committee was satisfied that illicit tobacco was on the premises in quantities which would suggest that it was to be offered for sale rather than for purely promotional purposes.

The Committee concluded that there was a clear failure on the part of the Licence Holder to uphold and promote the licensing objectives of the prevention of crime and

disorder and the promotion of public safety and had acted in a manner that was inconsistent with local licensing practice.

In view of the seriousness of the matter, The Committee considered suspending the licence but felt that it would not be proportionate to do so in the circumstances. The licence holder was therefore being given an opportunity to show that in future he would comply with his licence terms and conditions.

Informative

While the Committee has decided that it would give the licence holder a further chance to show that he would comply fully with the law and his obligations as a licence holder, the Committee wished to warn the licence holder that any repeat of these activities would not be viewed favourably. The licence holder is therefore put on notice that he is required to adhere fully to the licensing conditions at all times. The Committee approached its enquires with an open mind and only made its decision after having heard from all parties.

The times the Licence authorises the carrying out licensable activities:

Supply of Alcohol

Monday to Sunday 0700 to 0000 hrs

For consumption OFF the premises only.

The opening hours of the premises:

Monday to Sunday 0700 to 0000 hrs

85. N17 LOUNGE (FORMERLY PRIDE OF TOTTENHAM) 614 HIGH ROAD LONDON N17 9TB

RECEIVED the application for the review of N17 Lounge (the Pride of Tottenham) Premises License – 614 High Road, London N17 as detailed on pages 35 to 113 of the agenda pack.

a. Licensing Officer's Introduction

The Licensing Team Leader, Daliah Barrett, introduced the application for a review of the N17 Lounge (the Pride of Tottenham) Premises License, referring to the documents contained in the agenda pack.

NOTED that the application for review had been made on the grounds that the premises had failed to uphold the licensing objectives of promoting public safety, preventing crime and disorder and the prevention of public nuisance. NOTED that the review had been brought against the above named premises in relation to a series of noise complaints from the premises over a period of time and flyers being used to advertise events beyond the permitted opening hours of the premises.

The premises had operated as a public house and night club since July 2010. The licence was granted with conditions and reduced hours than those the applicant had applied for due to concerns raised by Enforcement Response relating to noise nuisance being a likely problem for nearby residents should later hours have been granted. The reduced hours granted to the premises attracted a small number of complaints during this time. Mr Mufwankolo then applied to vary the licence in 2012; this application went through without being contested. The Committee was advised that the increase in hours lead to a series of complaints relating to noise nuisance.

The applicant stepped down as DPS 27 January 2015 and the role was taken over by Ms Basirika. Mr Mufwankolo remained as the Premises Licence Holder and carried overall responsibility for the operation of the premises. There was a subsequent transfer and DPS variation on 17th March 2015 to Lisa Nankunda. The Licensing Authority was not aware of Mr Mufwankolo not being in charge at the premises and contacted him following a series of complaints received in relation to the venue. The applicant subsequently took back the premises from Ms Nankundu and this matter was subject to a court case. The premises ceased operation for a period of weeks while the applicant attended court. The Licensing Authority was only made aware of this by residents who were happy to see a sign on the premises saying that it was now closed. Mr Mufwankolo took back the licence in his name on 1st August 2015 and named himself in the role of DPS on 5th October 2015. A further transfer of the licence was made to a Mr Illyunga on 12 November 2015. Mr Mufwankolo then re-established himself as the Premises Licence Holder on 30th March 2016.

The Licensing Team Leader advised that the premises operating to its current times offering both live and recorded music had caused public nuisance over the years. The Committee considered that whilst Mr Mufwankolo had 'stepped aside' at various periods since 2015 the operation and management of the premises had been the cause for complaints from residents who had been disturbed by noise emanating from the premises. This had been further exacerbated by the lateness of the hours for the premises in this locality.

The Committee NOTED the times of licensable activities allowed under the licence:

Live Music and Recorded Music

Monday to Wednesday 1100 to 0000 hrs

Thursday 11:00 to 0130

Friday to Sunday 1100 to 0330 hrs

Provision of Late Night Refreshment

Monday to Wednesday	1100 to 0030 hrs
Thursday	1100 to 0200
Friday to Sunday	1100 to 0400 hrs

Supply of Alcohol

Monday to Wednesday	1100 to 0030 hrs
Thursday	1100 to 0200
Friday to Sunday	1100 to 0330 hrs

The opening hours of the premises:

Monday to Wednesday	0700 to 0030 hrs
Thursday	0700 to 0200
Friday to Sunday	1100 to 0400 hrs

b. Police Representation

NOTED the representation by Daliah Barrett on behalf of Mark Greaves, the Police representative, including that:

On Thursday 18th August 2016 at 1230 Police attended N17 Lounge, Pride of Tottenham, by appointment to meet the Licensee and DPS Mr Mpala Mufwankolo. During the visit, Mr Greaves showed him 4 flyers relating to events at his venue advertised as going on until 0500, which was after the permitted opening hours. The applicant stated that the flyers were wrong and the events ended at 0400. CCTV was checked but it only held footage between the 10th and 18th August so none of events on the flyers were available to view. A condition on his licence under the prevention of crime & disorder stated that CCTV must be kept for 30 days, so all the days on these flyers should have been available to see what time the venue closed. In response to this Mr Mufwankolo advised that Police took his 2 x 1 Terabyte hard drives after the Tottenham riots and had not returned them.

The Committee was advised that Mr Mufwankolo had purchased a new CCTV system with a 2 terabyte hard drive but it has only been programmed to store 9 days of footage, which Mr Mufwankolo stated he was not aware of. Mr Greaves commented that Mr Mufwankolo must have realized the new CCTV system was not programmed to retain recordings for 30 days. A 2 terabyte hard drive was enough for at least 30 days. Mr Mufwankolo assured the Police that the CCTV system would be reprogrammed for 30 days.

Police reviewed CCTV from 13th and 14th August and the venue closed on time. During the visit, Mr Greaves also raised the issue of noise concerns relating to his

clientele and their leaving venue at end of events and loitering outside making noise. In response, Mr Mufwankolo stated that they were Africans whose culture was to loiter outside such venues all night talking loudly and when he tried to move them along they become abusive and threatening. Mr Mufwankolo acknowledged that he was unable to prevent the patrons from creating noise nuisance when they left the venue.

The Licensing Team Leader talked through some CCTV footage taken from outside the premises which showed; a fight breaking out, the venue open after its permitted hours and alcohol being served after 4am.

In response to a question from Mr Charge, officers advised that noise officers usually worked until 4am. Mr Charge suggested that this resulted in the Council being unable to witness the noise after 4am. Mr Charge informed the Committee that the main issue was around the level of noise created in the early hours of the morning and the detrimental impact on local residents being able to sleep. The noise was caused by excessively loud music and also from people leaving the venue and creating further nuisance such as cars beeping their horns. In response to a question from the Committee, Mr Charge advised that this was typical of most weekends. Mr Charge advised that he lived at Millicent Fawcett Court.

c. Representations from Enforcement Response

NOTED the representation by Derek Pearce, Enforcement Response Team Leader on behalf of the Charles Buckle, Enforcement Response Officer, including that:

Mr Buckle visited the premises at 00.36am on 25th July as a result of a noise complaint and witnessed loud music emanating from the premises and echoing up road from 50 yards away on Pembury Road. The level of noise was excessive and likely to cause a nuisance in the noise officer's opinion. The Committee were advised that upon further investigation, a 3'x2' speaker was found outside in the front garden area of the premises and the person in charge was spoken to and the speaker was turned off and taken inside. Later at 05:00, Mr Buckle revisited the premises on a proactive visit and witnessed a large number of patrons leaving the premises one hour after its permitted closing time. Significant levels of noise was witnessed through laughing, talking and shouting and this was likely to cause a nuisance, especially by those patrons congregating in an area around 30 feet from residential premises. The traffic noise was notably increased by vehicles pulling up to collect patrons and driving away.

Mr Pearce advised that, in response to flyers advertising events until 05:00, another proactive visit was undertaken at 04:30 on Sunday 31st July 2016 and some 30 patrons were observed outside talking loudly with some patrons returning inside to the premises. No music was audible from outside. The noise generated was considered to be unreasonable and likely to cause a nuisance.

On Monday 1st August 2016 at 03:30-03:50 Mr Buckle visited the location again, in response to a noise complaint. Parked at Pembury Road, approximately 50 yards from the venue, music was clearly audible along with voices from 15-20 patrons talking and shouting outside. The noise officer walked around the premises and observed that no doors or windows were left open and determined that the music was

clearly being played too loud. The music should have finished at 03:30 but was still being played when the officer left at 03:50. Again, the noise generated from those outside and from the music was considered to be unreasonable and likely to cause a nuisance.

In response to this representation, the Committee enquired whether there was a possibility of requesting that sound proofing be installed at the venue. Officers advised that a significant amount of the noise nuisance reported seemed to arise as result of doors and windows being left open and as a result of people congregating outside the venue. Cllr Rice raised concerns relating to late night noise nuisance and groups congregating outside of the venue being drunk and obstructing the pavement, on behalf of a complaint from a local resident which was attached at page 83 of the agenda pack.

d. Applicant's response to the representations

NOTED the representation by the applicant, Mr Mufwankolo, including that:

He had held a Premises Licence since 2010, managing a number of pubs and bars in and around Tottenham and in that time he had never been in any trouble with the Licensing Authority. In addition, Mr Mufwankolo advised that he had assisted Police during the Tottenham riots and had loaned his hard drive containing CCTV footage to the police to assist in their enquiries. Mr Mufwankolo also stated that the period in which the representation by Enforcement Response covered was a one week period from 25th July to 1st August and that this was very much an exception to the way the premises was usually managed.

In reference to the flyers submitted as evidence to the Committee, Mr Mufwankolo advised that he had no involvement in their production and that his name or contact details did not appear on the flyers. Mr Mufwankolo acknowledged that there was a speaker left outside of the venue on the 25th July and stated that this was a mistake and that he immediately returned the speaker inside once it was brought to his attention. Mr Mufwankolo informed the Committee that he was undertaking every effort to reduce the noise being made by patrons outside of the venue and that during the visit by Mr Buckle on 31st July he had put people back inside to reduce the noise emanating from outside the venue but there was no alcohol being sold. The licence holder reiterated that his patrons were often very threatening and abusive when he attempted to quieten them down or ask them to disperse after closing. Furthermore, the Police had previously advised him that managing the pavement outside his venue was not his responsibility.

Mr Mufwankolo informed the Committee that his licence only stipulated the need for 2 security staff but he currently employed 4 as he recognised his responsibilities and he wished to try and reduce the nuisance caused to his neighbours. Mr Mufwankolo reiterated that the noise was coming from people outside the venue and that was the source of complaints.

The Committee referred to Mr Mufwankolo's written submission, as part of the licence review, at page 113 of the agenda pack. The Committee noted that the licence holder had offered to reduce his opening hours back to midnight and asked what impact that

would have on his business. Mr Mufwankolo responded that this would have a very significant impact on his business. Mr Mufwankolo clarified that he did not want to have his licensing hours cut back but considered it during his submission, in the context of a worst case scenario, because he wanted to respect his neighbours.

The Licensing Team Leader informed the Committee that Mr Mufwankolo was never the named Premises Licence Holder on any of the other venues referred to in his submission. The Licensing Team Leader also advised that there had been a significant number of complaints relation to noise nuisance since 2010 and the complaints contained in the agenda pack were only those received as part of the consultation this licensing review process. The Committee were also formed that, as per the Section 182 guidance, Mr Mufwankolo had already installed signs inside his premises asking patrons to be quiet when they left the premises but that these were clearly not being respected.

Mr Charge suggested that a closing time 12am on a Sunday in a largely residential area was not clearly suitable and, he suspected, virtually unheard of.

21:50 the Committee retired to make a decision. Returned 10:20hrs

DECISION

The Committee carefully considered the application for a review of the premises licences, the representations made by the Licensing officer, the responsible authorities, the licence holder, the Council's Statement of Licensing Policy and the Revised Home Office Guidance issued under section 182 of the Licensing Act 2003.

The Committee was satisfied based on the evidence before it that public nuisance associated with the licensed premises had occurred both within the immediate vicinity of the premises and in the locality as well.

The Committee considered that it would be appropriate and proportionate to modify the license conditions in response to the evidence it heard because there was clear evidence of persistent noise nuisance and anti social behaviour directly associated with the premises. The licensing objectives of promoting public safety, preventing crime and disorder and the prevention of public nuisance were not being upheld by the license holder.

The times during which the Licence authorises the carrying out of licensable activities are modified as follows.

The Committee also RESOLVED that the following alterations/conditions be made to the Licensing conditions.

That the premises close no later than 23:30 Sunday to Thursday and 00:30 Friday and Saturday.

That regulated entertainment ceases thirty minutes prior to closing time i.e. 23:00 hrs Sunday to Thursday and 00:00hrs (midnight) Friday and Saturday.

That the provision of late night refreshment and the supply of alcohol cease 30 minutes before closing on Friday and Saturday only. The permitted hours are now:

Live Music and Recorded Music

Sunday to Thursday 1100 to 2300 hrs

Friday to Saturday 1100 to 0000 hrs

Amplified Music to be played until 30 minutes before closing time on days when live amplified music has been organised.

Provision of Late Night Refreshment

Friday and Saturday 2300 to 0000 hrs

Supply of Alcohol

Sunday to Thursday 1100 to 2300 hrs

Friday and Saturday 1100 to 0000 hrs

For consumption ON the premises only.

The opening hours of the premises:

Sunday to Thursday 0700 to 2330 hrs

Friday and Saturday 1100 to 0030 hrs

In addition to the conditions that already form part of the licence, the following conditions will now apply:

The licence holder will employ a minimum of two additional SIA approved doormen on Spurs home match days and on Friday and Saturday nights.

The license holder will also install a dedicated phone line for residents to contact him, in order to raise their concerns.

In addition to installing clearly legible signage reminding patrons to leave the premises quietly, the Committee recommends that the Licence holder introduce the use of security staff to act as marshals to ensure that patrons leave the premises quietly and keep noise in the surrounding streets to a minimum.

The Committee expressed that it takes the concerns raised by the responsible authority and the residents very seriously. The Committee strongly recommends that the licence holder engage in early and ongoing dialogue with the local residents. It is recommended that this could be achieved by the licence holder having scheduled meetings with the residents and or their representatives. The Committee also advises that the licence will be subject to further review if the conditions are not met.

The Committee approached its decision with an open mind and only reached a decision after having heard and considered the evidence of all the parties and considered that its decision was appropriate and proportionate in the circumstances.

86. ITEMS OF URGENT BUSINESS

None.

Meeting finished at 22:00.

CHAIR: Councillor Toni Mallett

Signed by Chair

Date