

MINUTES OF THE MEETING OF THE LICENSING SUB COMMITTEE B HELD ON TUESDAY, 20TH JUNE, 2017, 6pm

PRESENT:

Councillors: Toni Mallett (Chair), David Beacham and Zena Brabazon

10. FILMING AT MEETINGS

Noted.

11. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Rice. Councillor Brabazon was in attendance as a substitute.

12. URGENT BUSINESS

None.

13. DECLARATIONS OF INTEREST

None.

14. 272 MUSWELL HILL BROADWAY, LONDON N10 2QR

This item was withdrawn from the agenda.

15. SUMMARY OF PROCEDURE

The Chair referred those present to the procedure to be followed during the hearing.

16. SUPERCLASS, 4-5 CAMPSBOURNE PARADE, LONDON N8 7PR

Daliah Barrett, Licensing Officer, introduced the report for a review of the Premises Licence at Superclass, 4-5 Campsbourne Parade, N8 7PR. The review had been brought by Trading Standards due to the fact that the premises was originally found to be selling illicit goods in May 2016 and was provided with advice and given the opportunity to apply for a Minor Variation to have additional conditions added to the license of their own volition as opposed to being reviewed at the time. Ms Barrett highlighted the representations from Public Health and the Licensing Authority who both support the recommendation to revoke the premises license on the following grounds:

- The operation of the premises had failed to uphold the Licensing Objectives of The Prevention of Crime & Disorder and Public Safety.

- The premises was found to be stocking and selling non duty paid tobacco and alcohol from the premises.

Ms Barrett then summarised the steps available to the Licensing Sub Committee in their decision regarding the license holder.

The representatives present from Trading Standards outlined the reasons for their review application notifying the Committee that there had been 2 occasions where illicit alcohol and tobacco had been found on the premises. On both of these occasions the premises was under the control of the Premises License Holder and Designated Premises Supervisor Bektas Erdogan. They expressed their concern that these incidents indicated that the highest standards of management had not been exhibited by the business and due to this fact Trading Standards no longer had confidence in the Licensee to promote the Licensing Objectives.

Robert Sutherland, Premises License Holder Representative, gave an explanation of Mr Erdogan's circumstances as outlined in his witness statement. He notified the Committee that Mr Erdogan was prepared to accept his actions and was remorseful. He also stated that Mr Erdogan was happy to accept all conditions recommended by Trading Standards and requested that these be imposed onto the license as opposed to revocation as this would have detrimental effects on the business. Mr Sutherland informed the Committee that the License Holder had taken steps to ensure that there would be no further breaches of the license.

The Committee adjourned to consider the application and advised all present that the decision would be communicated in writing following the meeting.

RESOLVED

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

The committee resolved to:

- Revoke the licence

The committee had careful regard to the fact that criminal activity had taken place at the premises of a type which the s182 Guidance advises should be treated particularly seriously i.e. the sale of smuggled tobacco and alcohol. It noted that the licence holder had been found to be selling illicit tobacco on 23rd May 2016 for which he accepted a simple caution on 4th November 2016 and that illicit alcohol was found at the premises on 24th January 2017, less than 12 weeks after the caution. The second offence was even more serious in terms of the unpaid duty.

The committee considered that having received training as licence holder and DPS and having committed a similar offence in the past, the licence holder would have been in no doubt at the visit in January 2017 that the sale of non duty paid alcohol was an offence and that such an offence would have put his licence at risk. There was

clearly a breakdown in due diligence by him in sourcing legitimate products for the business and a failure to pay substantial amounts of duty to HMRC.

The committee decided that it was appropriate and proportionate to revoke the licence as the only way of promoting the licensing objective of the prevention of crime and disorder. The licence holder was the DPS and was responsible for the day to day running of the business. The offences happened in quick succession and the licence holder had clearly accepted the caution and then ignored the need to source goods from reputable sources. At the time of the 2nd offence he was interviewed under caution and said that the alcohol was either old stock from previous owners, even though he had been operating the business for 5 years, or that if it was illicit it was his employee's fault. He took no responsibility and sought to blame others.

It was only on the day of the hearing that the licence holder produced a witness statement accepting responsibility for the failings which led to the review on the basis that he had left the running of the shop to his staff and did not check what was happening. He alleged that he had put some measures in place to address the issues and he gave account of the personal reasons that led to his lack of control of the premises. Whilst the committee had some sympathy, the role of licence holder and DPs is a responsible one. The sale of contraband cigarettes and alcohol is a matter of considerable concern and those products can contain potentially dangerous ingredients that pose a risk to the health of the wider community. The offences therefore need to be treated very seriously.

The committee considered whether imposing conditions and/or removing the licence holder as DPS would be appropriate to promote the licensing objective of the prevention of crime and disorder, but felt that conditions were only an appropriate and proportionate measure if it had confidence that the licence holder would comply with them, and it did not have confidence that the licence holder would, because a stepped approach had been taken on the first occasion and conditions had been imposed, but there had been a repeat of a similar offence this time in relation to alcohol and not tobacco. Removing the Licence holder as DPS alone would not be sufficient to promote the licensing objectives as a new DPS would be employed by the licence holder who would still have control of the business and the matters giving rise to the review are a reflection of poor practice by the licence holder.

The committee considered whether a period of suspension would be appropriate and proportionate response to the promote the licensing objectives and to act as a deterrent to the licence holder. The licence holder had indicated that the review had been a wake up call to him and so suspension was not necessary, but if suspension was considered it should be for the shortest period possible. The committee was of the view that first visit and the caution should have acted as a wake-up call, not the review. The licence holder had been given help and assistance from the Authorities after the first discovery of illicit tobacco and the Committee felt that given the second offence so soon afterwards, if the premises were not visited periodically by the Authorities it was very likely that he would continue to sell illicit and smuggled non duty paid goods to the local community. Suspension or a combination of suspension and conditions would not therefore be appropriate or sufficient to promote the licensing objectives.

The committee balanced the fact that this was the licence holder's only business and that revocation would have a significant financial impact on his business (noting that this is a grocery store and so he could continue trading), against the fact that serious crime had been committed and the community had been placed at significant risk. On balance it felt that the commission of crime at the premises and the health risk posed to the community by allowing the licence holder to continue to sell alcohol outweighed the interests of the individual licence holder in preserving his licence. The committee concluded that revocation was the only way to promote the licensing objectives and to safeguard those wider interests. The crime prevention objective had been undermined and this was likely to continue unless the licence was revoked.

17. ITEMS OF URGENT BUSINESS

None.

CHAIR: Councillor Toni Mallett

Signed by Chair

Date