

# **MINUTES OF MEETING LICENSING SUB COMMITTEE B HELD ON TUESDAY, 7TH JANUARY, 2020, 19:02 – 20:30**

**PRESENT:** Cllr Gina Adamou (Chair), Dhiren Basu and Viv Ross

## **35. FILMING AT MEETINGS**

Noted.

## **36. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

## **37. URGENT BUSINESS**

There were no new items of urgent business.

## **38. DECLARATIONS OF INTEREST**

No declarations of interest were made.

## **39. MINUTES**

### **RESOLVED**

That the minutes of the meeting held on the 25<sup>th</sup> November 2019 be approved as a correct record of the meeting.

## **40. SUMMARY OF PROCEDURE**

Noted.

## **41. REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003**

### Licensing Officer

Ms Daliah Barrett, Licensing Officer, introduced the application for the review of the Premises Licence for Oz Foods, 467-469 High Road London N17. It was noted Bruce Grove Food Store - Mr Capbar Temur held the Premises Licence (Director). The Applicant of the review was the Trading Standards RA who had claimed the operation of the premises had failed to uphold the licensing conditions and the licensing objectives, namely the prevention of crime and disorder, and the protection of children from harm. The Licensing Officer took the Committee through the report as set out at pages 11 to 14.

In addition to the Trading Standards RA submissions, representations had been received from the Public Health RA, reiterating matters highlighted by Trading Standards.

The Committee were requested to ignore a copy of variation of 2016 at appendix 2 on page 14, as this was not relevant to the current Application.

#### Applicant – Trading Standards RA

Trading Standards outlined the application for review, as set out at pages 15 to 28. Trading Standards referred the Committee to Appendix 1 – *Review application and supporting documentation* – which included statements from representatives from HMRC and Trading Standards and Responsible Trader Scheme Commitment.

The application for review followed concerns over the discovery of non-Duty paid beer, wine and tobacco on the Licensed Premises on 27<sup>th</sup> March 2019 following a visit by Trading Standards. The total amount of UK excise duty evaded from the seizure was £4989. There had also been other incidents at the premises, including the seizure of non-Duty Paid goods on 9<sup>th</sup> October 2019 valued at £630.

#### Representative for the Premises Licence Holder

Mr Duncan Craig, Lawyer representing the Premises License Holder Mr Capbar Temur, acknowledged the concerns raised by Trading Standards and accepted the terms proposed by them as reasonable given the circumstances. It was accepted that the Designated Premises Supervisor (DPS) should be removed. The Premises License Holder also accepted the appropriate conditions as set out by Trading Standards at page 22.

Mr Craig acknowledged that there had to be some sanction against the licence considering that significant quantities of non-duty paid products were found at the premises on 27<sup>th</sup> March 2019, and at a subsequent visit by HMRC non-duty paid tobacco were removed from the premises. Mr Craig noted that no amount of non-duty goods was acceptable; however, the amount of goods seized at the last visit on 9<sup>th</sup> October 2019 was a significantly reduced amount in comparison to the visit on 27<sup>th</sup> March 2019.

Mr Craig introduced Ms Ozge Boran to the Committee and submitted that the proposal was for Ms Boran to be the DPS for the premises. Mr Craig submitted that Ms Boran had worked at Oz Foods for several years as a member of staff only, although it was submitted that Ms Boran would become a manager. Mr Craig further submitted that Ms Boran presently was not a personal licence holder; however, she had completed a course and submitted an DPS application to the Borough on 7<sup>th</sup> January 2020, which the Licensing Officer confirmed would take 14 days to process. Mr Craig stressed that Mr Boran was conscious of concerns regarding the premises, and she had presented herself to the Committee to provide assurances of her intentions for the future management of the premises.

Mr Craig noted that Mr Temur was the Licence Holder by virtue of being the Director of Bruce Grove Food Store, which was the company that held the Premises Licence.

Mr Craig submitted that Mr Temur would be less involved in the management of the business due to business commitments abroad.

Mr Craig acknowledged that the purpose of the condition to suspend the licence was to promote the licensing objectives. Considering Trading Standards set out 18 conditions to be added to the licence of the premises, Mr Craig submitted that there would need to be a period of reflection and training for all staff to ensure that the conditions were met. Mr Craig proposed that a period of two weeks suspension of licence would be appropriate in such circumstances.

In summary, Mr Craig proposed the following:

- Removal of the current DPS, and for Ms Boran to become the new DPS;
- Acceptance of the conditions set out by Trading Standards at pages 22-24 of the agenda pack; and
- Suspension of the licence for two weeks to allow a period for reflection and staff training.

### Questions

The Committee next raised questions in relation to the submissions. The following was noted:

- In response to a query, Trading Standards clarified that the licensing conditions from pages 22-24 were additional to the existing licensing condition for the premises.
- In reference to item 15 of the Trading Standards conditions as found at page 23 of the agenda pack, a Committee member queried whether the Licensee had attended meetings that were previously arranged by Trading Standards. Trading Standards noted that the Licensee had not attended any meeting. It was further explained that the Licensee was asked to attend an interview in respect of a criminal enquiry, and the Licensee's Licensing Agent had suggested that they would undertake the interview by correspondence; however, Trading Standards had not received any response back from their correspondence. Hence, the purpose of the item 15 condition was to ensure the Licensee would take their responsibility of promoting the licensing objectives seriously by being open to discussion with the Responsible Authority should any issues arise. Trading Standards noted that the Licensee would be in breach of the licence if the condition was ignored.
- In relation to the existing licensing conditions, Mr Craig requested the Committee consider removing the condition set at page 117 of the agenda, 'CCTV to be maintained on premises', and replacing it with conditions proposed by Public Health in relation to CCTV as set out at page 141 of the agenda pack. Mr Craig submitted that the conditions relating to CCTV proposed by Public Health were more adequate than the existing condition on CCTV.
- Trading Standards queried Mr Boran's connection with the current Licence Holder, Mr Temur. In response, Ms Boran confirmed that she was distant family member of Mr Temur.
- Trading Standards queried Ms Boran's involvement with the business. In response, Mr Craig noted that Ms Boran would be involved in the management of the business, which she had not undertaken previously. Mr Craig submitted that Ms Boran understood the responsibility that comes with the role of being

DPS. Ms Boran submitted that past incidents at the premises were out of her control, and she assured the Committee that in her new role as DPS she would ensure that past issues at the premises would not re-occur as she was aware of the consequences.

- The Chair was concerned that Ms Boran may be unable to control the management of the business and establish change at the premises. In response Ms Boran assured the Committee that as DPS she would not want to put her name in disrepute, hence would not allow past issues to continue at the premises
- In response to a query, Ms Boran noted that within a week she only had one day off from Oz Foods. Ms Boran submitted that none of the current staff held a licence; however, the employer's wife currently held a personal licence.

### Closing Submissions

*Representative for the Premises Licence Holder* – Mr Craig reiterated support of the conditions set by the Applicant. Mr Craig hoped that the presence of the proposed DPS, Ms Boran, at the hearing allowed the Committee to ascertain the genuine intention of Ms Boran in delivering positive change for the premises. Mr Craig submitted that Ms Boran understood the importance of delivering positive change for the premises and understood the consequences should the licensing conditions not be upheld.

### **RESOLVED**

The Committee carefully considered the application for a review of the Premises Licence of the Oz Foods, which is situated at 467 – 469 High Road, London N17. In considering the review application, the Committee took into account the Report pack and supporting documentation, the London Borough of Haringey's statement of Licencing policy, the Licensing Act 2003, the Licensing Act 2003 section 182 guidance representations made Trading Standards, (who issued the review application), and representations made on behalf of the licence holder and prospective management of Oz Foods, via their legal representative.

Having heard from the parties, the Committee decided that the matters it heard represented a serious failure to uphold the licencing objective relating to Crime and Disorder, and as a result saw fit to suspend the licence for a period of 6 weeks.

The Committee noted that the respondent had accepted that the premises had been poorly managed and resolved that the current DPS should be removed. The committee also noted that the respondent had made proposals to address the behaviour that was occurring at the premises. However, the Committee was not satisfied that the measures proposed by the respondent were a sufficient response to the matters put before the Committee.

In particular, the committee felt that the evidence it had read and heard regarding Crime and Disorder was serious. In particular, details of previous failure to operate in a responsible manner were a source of concern. The Committee observed an apparent lack of desire on the part of the management of the premises to cooperate with the investigations into incidents that had occurred at the premises, namely the

evasion of customs duties, as evidence by the presence of stock for which duty was not paid, and the presence of illicit tobacco at the premises.

The Committee considered that repeated incidents of this type fell well below what would be expected from a responsible licence holder. However, in view of the assurances given on behalf of the respondent that, they wished to take a fresh approach to the running of the premises, the Committee decided that rather than revoking the licence, (which it could have done given that this was not the first incident), it decided to suspend the licence for 6 weeks, with a strong warning that more serious measures would follow if the matter was to come before the committee for similar incidents in the future

The Committee had regard to the London Borough of Haringey's statement of licensing policy and its wish to promote the local economy of which the premises is a part, but it could in no way disregard the incidents it had heard evidence about.

The Committee also wished to convey to the licence holder the concerns it had regarding public health, in particular the effects of high strength alcohol and tobacco, particularly tobacco that was not properly labelled with required warnings and the provenance of which was unclear.

The Committee resolved to amend the premises license.

The Committee approached its deliberations with an open mind and only made its decision after hearing the parties' representations. The Committee considered its decision to be appropriate and proportionate.

**The following additional conditions are to be added to the premises license –**  
**Protection of Children from Harm**

1. The business shall adopt a "Challenge 25" policy
2. A refusals register shall be maintained to record instances where alcohol sales are refused. These records shall be made available for inspection by Police and Authorised Council officers on request.
3. 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. 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
4. 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. Only Employees of the business who have been formally trained on Licensing requirements and age restricted sales may serve behind the counter.
5. 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.
6. 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.

#### Prevention of Crime and Disorder

7. The Premises Licence Holder and Designated Premises Licence Holder shall ensure alcohol is only purchased from a wholesaler registered with HMRC under the Alcohol Wholesaler Registration Scheme (AWRS).and shall produce receipts for the same upon request for inspection.
8. 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 source unless the source is another venue owned and operated by the same company who also purchase their stock from an authorised wholesaler.
9. 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 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 twelve months and made available to Authorised Officers on request.

10. 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.
11. Where the trader becomes aware that any alcohol may be not duty paid they shall inform the Council of this immediately. Only alcohol and tobacco which is available for retail sale shall be stored at the licensed premises.

12. 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.
13. Tobacco shall only be taken from the covered tobacco display cabinet behind the sales counter in order to make a sale.
14. 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.
15. A CCTV system should be installed and kept in working order. It should be able to record colour footage for a period of 31 days and be able to capture clear video of persons 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 Authorized 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.
16. All Staff left in charge of the premises should be trained in the operation of CCTV and the production of copies of recordings
17. The Premises shall not stock High strength beers in excess of 6.5%ABV and no single cans of alcohol are to be sold at the premises.

### Appeal Rights

This decision is open to appeal to the Magistrates Court within the period of 21 days beginning on the day upon which the Appellant is notified of the decision. This decision does not take effect until the end of the appeal period or, in the event that an appeal has been lodged, until the appeal is dispensed with.

## **42. REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003**

### Licensing Officer

Prior to introducing the report, Ms Daliah Barrett, Licensing Officer, informed the Committee that the Premises License Holder had been invited to attend the hearing but was not present.

The Licensing Officer introduced the application for the review of the Premises Licence for West Green Pool Bar, 428 West Green Road London N15. It was noted Mr Huseyin Karakas held the Premises Licence. The Applicant of the review was the Metropolitan Police who had claimed the operation of the premises had failed to

uphold the licensing conditions and the licensing objectives, namely the prevention of crime and disorder, and the prevention of public nuisance. The Committee were taken through the report as set out at pages 153 to 156.

Regarding a question from the Committee on the Closure Order imposed on the premises, the Metropolitan Police confirmed the premises had been closed from 30<sup>th</sup> October to 31<sup>st</sup> January. It was a criminal offence for the premises to be entered unless the License Holder had good reason to enter and had informed the Court.

### Applicant – Metropolitan Police

Mr Mark Greaves, the Police representative, outlined the application for review as set out at pages 159 to 161. Mr Greaves also took the Committee through the appendices, including the Application for Closure Order prepared by PC Ben Boulter at pages 163 to 164.

### Questions

The Committee next raised questions in relation to the submissions. The following was noted:

- In response to a query, the Licensing Officer explained that failure to pay a licence fee could only result in the suspension of a licence. The system used by the Council, called M3, generated invoice worksheets for one missed year; however, the system was unable to pick up unpaid invoices for following years. Generally, further to an issuance of a suspension letter, a follow up visit would be carried out. In relation to this premises, an officer had previously visited the premises but was unable to gain access. Furthermore, the computer system failed to generate further invoices, which resulted in an oversight of the premises by the Council. It was further noted, that even though police had visited the premises separately, the premises had not been flagged up to the Council. The Licensing Officer acknowledged that joint up with police would be required to prevent such premises going under the radar.
- The Licensing Officer informed the Committee that all premises used to be on a risk-rating, thus premises were visited frequently if required, for instance within a 6 month or 18-month period. However, due to a shortage of resources in the last few years, issues of payment of licence fees were not picked up as it used to be. The Licensing Officer assured the Committee that this issue had been flagged up.
- In response to a query, the Licensing Officer explained that legislation was reliant on the Licence Holder or DPS informing the Responsible Authority that they were no longer at the premises. Unfortunately, most of the time the only way the Responsible Authority discover the absence of a Licence Holder or DPS was when officers visit premises.
- The Licensing Officer noted that premises were required to have their summary licence on display, which names the Licence Holder and DPS. In relation to this particular case, there were instances in the past whereby officers were unable to gain access into the premises, and a period of time when the premises was left abandoned, thus the premises was closed off for a while on the Council's computer system.



- The Licensing Officer informed that at this stage it would be irrelevant to delve into whether alcohol was sold at the premises because the licence had been suspended. The Licensing Officer noted that the matter at hand for the Committee was whether the licence should be revoked.
- Regarding a query around sub-letting, the Licensing Officer informed that during a visit to a premises, should an officer be provided with a different name to what was stated on a licence, the officer would contact the named individual on a licence to obtain confirmation that they were still the Licence Holder. The Licensing Officer noted that when Mr Karakas was contacted by the Responsible Authority a few years ago, he confirmed that he was still the Licence Holder and there had been no changes.
- Responding to a query, the Licensing Officer explained that any individual that would require a licence for the premises would need to commence a new licensing application should the licence be revoked. A revocation of a licence for the current Licence Holder would result in the loss of an in-tact secured licence. It would be more valuable to lease out the premises with an in-tact licence than without a licence.

### Closing Submissions

In closing, the Metropolitan Police reiterated to the Committee their concerns over the management of the venue.

### **DECISION**

The Licensing Sub Committee (LSC) carefully considered the review application and representations put before it, the Council's statement of licensing policy, the Licensing Act 2003, and the section 182 Licensing Act 2003 guidance.

In light of the evidence it heard, the LSC decided it was appropriate and proportionate to revoke the licence.

### Reasons

Having heard evidence from the Police, the Committee was satisfied that there had been a failure on the part of the licence holder to promote and uphold the licensing objectives relating to public nuisance and crime and disorder.

The evidence put before the Committee in connection with criminal activity was particularly serious. The premises had been the subject of a closure order following execution of a warrant pursuant to section 23 (3) Misuse of Drugs Act 1971. Evidence of the sale and supply of drugs was found at the premises and the committee took the view that it would be inappropriate for the premises to be permitted to continue operating.

The Committee noted with some concern that the License Holder had not been engaged in the operation of the premises for some considerable time and had not been in a position to address the crime and disorder that was taking place at the premises.

The Committee was satisfied that it had heard credible evidence regarding incidents of Crime and Disorder and was concerned at the effect that drug dealing at the premises would have on locals going about their normal business.

The crime and disorder linked to the premises was so grave that the Committee decided it was appropriate to revoke the licence, as complete revocation of the licence was the only measure that could ensure the promotion of the licensing objectives, in particular for the prevention of crime and disorder.

The Committee only made its decision after considering all the evidence and was satisfied that revocation of the licence was an appropriate and proportionate response to the matters that were put before it.

Appeal Rights

This decision is open to appeal to the Magistrates Court within the period of 21 days beginning on the day upon which the Appellant is notified of the decision. This decision does not take effect until the end of the appeal period or, in the event that an appeal has been lodged, until the appeal is dispensed with.

**43. EXCLUSION OF THE PRESS AND PUBLIC**

**RESOLVED**

That the press and public be excluded from the meeting for consideration of the following items as they contain exempt information as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985); paragraph 1.

**44. REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003**

The Committee noted the information contained in the exempt material.

**45. ITEMS OF URGENT BUSINESS**

None.

CHAIR: Councillor Gina Adamou

Signed by Chair .....

Date .....