

# **MINUTES OF MEETING SPECIAL LICENSING SUB COMMITTEE HELD ON WEDNESDAY, 26TH AUGUST, 2020, 10.00 AM**

**PRESENT:**

**Councillors: Luke Cawley-Harrison, Yvonne Say and Sarah Williams  
(Chair)**

## **1. FILMING AT MEETINGS**

The Chair advised that the meeting would be live streamed on the Council's website.

## **2. APOLOGIES FOR ABSENCE**

None.

## **3. URGENT BUSINESS**

It being a special meeting of the Sub Committee, under Part Four, Section B, Paragraph 17, of the Council's Constitution, no other business was considered.

## **4. DECLARATIONS OF INTEREST**

None.

## **5. REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 - BUCKYS OFF LICENCE, 1 MOOREFIELD ROAD, TOTTENHAM N17**

Daliah Barrett, Licensing Officer, introduced the report as set out. The application was a request made by Trading Standards for a review of the premises licence due to the failure to uphold the licensing objective of the prevention of crime and disorder. Ms Barrett advised that following the visit from Trading Standards to the premises, Mr Bariz (premises licence holder) had applied to become the Designated Premises Supervisor, and was now named as such on the premises licence.

Michael Squire, Trading Standards outlined the application for a review of the premises licence. Mr Squire had visited the premises on 12 November 2019, along with officers from HMRC, where illicit cigarette and tobacco sales had been found to have taken place. Officers seized cigarettes and tobacco from the premises, with unpaid UK excise duty of £2864.21 in relation to the cigarettes, and £70.40 in relation to the tobacco. The premises licence holder, Mr Bariz, was not present at the time of the visit, nor was the Designated Premises Supervisor. During the visit, officers found illicit cigarettes and tobacco behind the counter and in the cellar, which was accessed via a trapdoor found underneath a bin. An employee, Mr Hashimi, was present at the time of the visit and advised officers that Mr Bariz knew of the cigarettes and tobacco.

Mr Squire advised that in addition to the non-duty payment, it was a criminal offence to sell cigarettes and tobacco in non-UK standardised packaging and with incorrect pictures and health warnings.

In response to questions from Mr Bariz, Mr Squire advised that paperwork had been provided to Mr Hashimi on the day of the visit which outlined the offences committed. He added that it would not be unusual for employees to be provided with this information to pass on to their employers if they were not present at the time of the visit.

In response to a question from the Committee, Mr Squire advised that the premises were selling legal cigarettes which were displayed correctly. He also explained that the cellar was also found to be used for general stock as well as the illicit goods.

Mr Bariz, Premises Licence Holder, responded to the application made by Mr Squire. He advised that at the time of the visit, he had not worked in the premises as regularly as usual, due to his mother's ill health. He stated that he had no knowledge of the illicit goods. He informed the Committee that he was now at the premises every day from 16.00 until closing. Mr Hashimi had been removed from the premises, and Mr Bariz had taken over as the Designated Premises Supervisor. Mr Bariz advised that he had attended courses for under-age sales and age verification, and had implemented the Challenge 25 age verification policy for the premises. He added that he now had a proper training manual and had employed two new members of staff who had been properly trained and inducted.

Ms Barrett commented that the new policies were welcomed, but advised that the points referred to by Mr Bariz were already conditions of the premises licence. Ms Barrett requested copies of the new policies that had been implemented, so that they could be kept on file with the Premises Licence.

Ms Barrett also added that although Mr Bariz said that he did not know about the illicit goods, as the Premises Licence Holder it was his responsibility to ensure that the licensing conditions and objectives were upheld.

In response to questions from officers and the Committee, Mr Bariz advised that:

- The new manager had been instructed to display a notice outside the shop to request that members of the public refrain from drinking outside the premises.
- On his visits to the premises around the time of the Trading Standards visit, he would collect the takings and reorder stock. He did not enter the cellar.
- CCTV would be reviewed if there were any incidents, however it took a long time to review any CCTV footage.
- He did not consider that he had managed the premises badly as there was no history of under-age sales of cigarettes or alcohol. The incident referred to in the review was a one off.

In summing up, Mr Squire requested that the conditions put forward in his submission be added to the Premises Licence.

The Chair thanked all for attending and advised that the Committee's decision would be available within five working days.

## **RESOLVED**

The Licensing Sub Committee carefully considered the review application, the representations put before it by Trading Standards, the Licence Holder's representations, the Council's Statement of Licensing Policy, the Licensing Act 2003 and the section 182 Licensing Act 2003 guidance.

The Committee resolved to:

- (i) Suspend the licence for a period of 3 months and
- (ii) Impose additional conditions to promote the crime prevention licensing objective.

Reasons:

The Committee only made its decision after considering all the evidence and was satisfied that the crime prevention objective had been undermined.

The Committee considered the Licence Holder's submissions that he did know that illicit tobacco and cigarettes were being sold from the premises. It concluded that if that were true that would have been clear evidence of his poor management of the premises. Whilst the Committee would have some sympathy for a Licence Holder with family issues, that could not abrogate from their responsibility to ensure that the licensing objectives were not being undermined and that the premises were not being used for criminal activity. The Licence Holder claims to have left the running of the business to others and to have been visiting the premises once a week. He did not appear to take any responsibility for the sale of the illicit tobacco and cigarettes nor to accept that if he had left his business to be run by others this would have been poor management on his behalf. This was of concern.

The Committee did not however find the Licence Holder's submissions that he had no knowledge of the illegal activity at the time of the seizure of the illicit tobacco and cigarettes on 12<sup>th</sup> November 2019 credible, nor his purported ignorance of the seizure until April 2020 when Trading Standards wrote to him. It decided that his employee Mr Hashimi's account on the day of the seizure on 12 November 2019 was more credible i.e. that the Licence Holder knew about the illicit products and had himself put some behind the counter. Had the License Holder been attending the premises once a week or every 5 days as he submitted, the Committee believes that he would have been aware of the illicit tobacco and cigarettes. At the time of the seizure Mr Hashimi claims he was unaware of the seriousness of the offence and the Committee felt it more likely that because of his ignorance Mr Hashimi told the truth at the time of the visit and not in the version of events given in his statement of 26<sup>th</sup>

April 2020 where he takes full responsibility. Also, the Committee found it unlikely that Mr Hashimi would not have informed the License Holder of the Trading Standards and HMRC visit.

The statutory guidance issued pursuant to section 182 of the Licensing Act 2003 at section 11.27 advises that where licensed premises are involved in illegal activity, such as the sale and storage of illicit tobacco, this should be treated particularly seriously. Also, in accordance with section 11.28 of the guidance, even if the criminal activity was a first instance occurrence, as in this case, the Committee should consider revocation of the licence.

The Committee decided not to revoke the licence because the Licence Holder has attended training courses, has implemented new procedures for the premises (although many should already have been in place) and is also taking direct responsibility for the management of the premises by becoming the DPS. These are all steps in the right direction for the proper management of the premises and the Committee felt that he should be given a chance to continue his licensable activities and promote the licensing objectives.

The Committee's decision to suspend the licence for the maximum 3 months reflects (i) the seriousness of the illegal activity – this was a large haul of illicit goods, (ii) the licence holder's direct responsibility for the illegal activity, (iii) his failure to accept responsibility for the illegal activity and poor management by trying to place the blame on others and (iv) the impact of the sale of illicit tobacco and cigarettes on the community as set out in the grounds for review. The financial impact of the suspension on the licence holder has been considered, but the Committee believes that given the above factors, a three month suspension is appropriate and proportionate to promote the crime prevention licensing objective by acting as a deterrent to the Licence Holder.

The Committee decided that adding the following conditions to the Premises Licence as requested by Trading Standards would be appropriate and proportionate to further promote the crime prevention licensing objective going forwards:

Additional conditions:

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.
5. Only Employees of the business who have been formally trained on Licensing requirements and age restricted sales may serve behind the counter.
6. 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.
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 six/twelve months and made available to Authorised Officers on request.
10. An 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.
11. Where the trader becomes aware that any alcohol may be not duty paid they shall inform the Council of this immediately.
12. Only alcohol which is available for retail sale shall be stored at the licensed premises.

13. 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 storeroom or behind the sales counter.
14. Tobacco shall only be taken from the covered tobacco display cabinet behind the sales counter in order to make a sale.
15. Only tobacco which is available for retail sale can be stored at the licensed premises.
16. 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.
17. 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.

18. A CCTV system should be installed which should be able to record colour footage for a period of 28 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.
19. All Staff left in charge of the premises should be trained in the operation of CCTV and the production of copies of recordings '
20. The business shall join the Council's Responsible Trader Scheme.

### **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.

CHAIR: Councillor Sarah Williams

Signed by Chair .....

Date .....

