

MINUTES OF MEETING SPECIAL LICENSING SUB COMMITTEE HELD ON THURSDAY, 21ST APRIL, 2022, 10:30AM to 12:15PM

PRESENT:

Councillors: Gina Adamou (Chair), Bob Hare and Yvonne Say

1. FILMING AT MEETINGS

The Chair referred to the filming of meetings and this information was noted.

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

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 shall be considered at the meeting.

4. DECLARATIONS OF INTEREST

There were none.

5. SUMMARY OF PROCEDURE

The Chair provided a summary of the procedure for the meeting.

6. APPLICATION FOR A REVIEW OF A PREMISES LICENCE AT OZ SULTAN, 348 HIGH ROAD, WOOD GREEN, LONDON, N22

Ms Daliah Barrett, Licensing Team Leader, informed the Sub-Committee that:

- A document had been received from the licence holder of a summary of conditions that have been agreed with the applicant.
- The application consented to incidents. The first incident related to an underage sale made on 4 August 2021. A second incident involves non-duty-paid cigarettes and hand rolling tobacco found on the premises after Trading Standards inspection on 20 October 2021.
- The premises licence holder and the DPS was Mr Turac Ademir.

- The supporting documents in appendix 3 of the agenda papers showed some training that had been taken by staff and a record of incidents which were shared with Trading Standards at the time of the inspection.
- The licence had been transferred to the licence holder in July 2020 and the review application related to the licensing objectives of crime and disorder and protection of children from harm.
- The Sub-Committee did not have the power to assess criminality and the Sub-Committee's role was to consider the application as part of licensing objectives only.
- Certain types of criminal activity may be reported in relation to the premises such as the use of the premises, the use of storage for tobacco and alcohol and where a review application arises regarding those issues and the Sub-Committee was expected to seriously consider revocation of the premises licence.
- The decision taken by the Sub-Committee should be appropriate and proportionate.

The applicant, Mr Michael Squire, Trading Standards, informed the Sub-Committee that:

- There were two incidents that had occurred at the premises.
- A 16-year-old had purchased a small bottle of wine from the premises and was served by Me Mehmet Ademir. Mr Turac Ademir was subsequently interviewed by the correspondents and had stated that there had been no written training records for Mr Mehmet Ademir regarding selling alcohol to underaged members of the public.
- The second incident had occurred on 20 October 2021 whereby the trading standards authority arrived at the premises with trained dogs to inspect the premises. Two safes have been located behind the counter and offices were asked for keys. One safe was successfully opened but the other safe could not be opened and Mr Mehmet Ademir had advised that the safe could not be opened as it was broken. Subsequent to this, two dogs were deployed to sniff the safe and both dogs indicated that there was tobacco inside the safe. Officers instructed that they would seize the safe if it couldn't be opened and after approximately 20 minutes of waiting to open the safe, officers decided they would remove it from the premises.
- Mr Mehmet Ademir was given seven days to open the safe which was then opened and was found to be stocked with illegal tobacco products. The products have not been duty-paid or in standard packaging. There were also foreign health warnings on the packets and should have English language health warnings.
- The value of the tobacco was in the region of £1600. There were 4,580 cigarettes and a kilo of hand rolling tobacco found at the premises.
- It could be a criminal offence to sell tobacco without the standard packaging and with the incorrect health warnings.
- It could also be a criminal offence to store non-duty-paid goods on the premises.
- The premises licence holder, Mr Turac Ademir, in his interview, stated that his brother, Mr Mehmet Ademir, was running a side business whilst he was on holiday.

- He remained concerned that access to the safe could not be given immediately when it was requested.
- There was a general agreement between all parties regarding the newly proposed conditions but there were slight amendments in places requested by the licence holder in addition to conditions volunteered by the licence holder.

In response to questions, Mr Squire informed the Sub-Committee that:

- It was not normal for a shop to house two safes or even one safe. It would only occur between one in every ten shops.
- He still recommended that licence be suspended as officers had been wrongly advised that the safe that could not be accessed had been broken.
- The young person in question who had made the test purchase was two years younger than the legally required age and this was part of the code of practice.
- Most shops operate at a Challenge 25 policy and there had been no challenge.
- Even if the individual looked older than 16 years of age, it was unlikely that they looked 25 and should have been asked for their age.
- The premises licence holder had fully cooperated as soon as he had been made aware of the issues.

Mr Robert Sutherland, representing the premises licence holder, informed the Sub-Committee that:

- The conditions put forward by the licence holder was a slight amendment, but was similar to the original set of conditions as set out on page 16 of the agenda papers. An additional three conditions had also been added. He would ask that the latest set of conditions be considered instead of the conditions originally proposed.
- The premises licence holder, Mr Turac Ademir, apologised for not attending the meeting as he had contracted the coronavirus and had been suffering from it for a couple of weeks. He had hoped to attend but was unable to do so. No disrespect to the Sub-Committee was intended.
- In order for the Sub-Committee to deliver a proportionate and appropriate decision, he would urge that if the Sub-Committee was minded to suspend the licence, then the period should be kept as short as possible.
- The business was a family business run by the premises licence holder, his brother his wife and his adult daughter.
- Between the four of them, they operated the premises. The premises was an off-licence which sold additional goods.
- The premises was mainly a traditional off-licence and was largely alcohol focused.

- Any suspension of the licence would affect the premises significantly as it was reliant on the sale of alcohol.
- In the two instances that had been cited for the review application, both issues had arisen due to the actions of the premises licence holder's brother who had made a statement contained on page 53 of the agenda papers and apologised for the incidents and for putting the family business in jeopardy.
- The premises licence holder had completed the training for premises staff in the past and now had hired a consultant to deal with the training to refresh their knowledge. Exams had been re-taken in March 2022
- The Challenge 25 policy had been strengthened since the incidents. Signage regarding Challenge 25, No ID, No Sale and signage stating that tobacco products could not be sold to anyone under the age of 18 signs were in use at the premises.
- The training had been improved and staff had been reminded of their responsibilities.
- The premises licence holder's brother was not allowed to manage the premises or be responsible for control of the premises on his own. This was due to the incident that occurred regarding the tobacco.
- Any time the premises licence holder was not present, then his wife or his daughter would be present at the premises. This could be found on proposed condition 22.
- A prompt system had been added to the till in order to help meet the Challenge 25 policy requirements. This also met the requirements for proposed condition 21.
- A folder had been prepared for the premises staff to refresh their training in November 2022.
- The premises would operate a Refusals Register and had one that was being maintained with records showing entries up until March 2022.
- Condition 6 proposed that the register be maintained via a loose-leaf system. The last sentence of condition 6 was deleted as it was a replication of condition 2.
- Proposed condition 4 referred to the use of posters and additional posters had been put up on the premises to ensure that the Challenge 25 policy was in place.
- Proposed condition 5 ensured that appropriate employees would be trained to carry out age restricted sales.
- Proposed condition 17 dealt with ensuring that alcohol was purchased from a registered wholesaler.
- Proposed condition 8 outlined that receipts be maintained for a period of six months to ensure the compliance for the purchase of alcohol.
- Ultraviolet light would be stocked at the premises to ensure that any relevant products would have validated UK duty paid stamp.
- The applicant did not wish for the premises to be perceived as a premises that stored non-duty-paid products and if staff become aware of such a product being present at the premises, then the Council would be informed.

- The tobacco was stored in the cabinet. There was a display shelf underneath the counter so that staff would be able to see what cigarettes they were selling to customers.
- All legitimate stock for cigarettes would be stocked out of sight in an accessible location.
- All tobacco products not on the display would be stored in a container marked 'tobacco stock'. This was relevant to proposed conditions 13, 14 and 15.
- Proposed condition 14 dealt with the issue regarding the cabinet behind the sales counter and the undercounter to ensure legitimate sales of tobacco, condition 16 would ensure that refusal books had been inspected and condition 17 dealt with the requirement to attend a meeting with a Council officer if there had been any breach of any of the conditions.
- Proposed condition 20 made it clear that if there was a locked safe on the premises that this be accessible to a relevant officer.
- If the Sub-Committee was minded to suspend the licence, then he would suggest a maximum of two to three weeks only.

In response to questions, Mr Sutherland informed the Sub-Committee that:

- In relation to the previous visits made at the premises, there had been no illegal tobacco discovered on the premises and the premises licence holder was not aware of any transgressions regarding upholding the licensing objectives. There was no evidence that, before October 2021, there was any illegal tobacco being made available at the premises.

The applicant was recalled to address matters arising. In response to questions, Mr Squire informed the Sub-Committee that:

- The Council had received intelligence on 29 June 2021 and on 17 September 2021 that there was illegal tobacco on the premises, but no visit took place during a period as sniffer dogs were not available at that time.
- The signage at the premises was more than what was generally required.
- A Refusals Register was not a legal requirement, but was good practice and there was no issue with maintaining a loose-leaf system as an officer could enter the premises and asked to view the register. It was important that the register could be inspected upon request.
- Once the new conditions were in place, they would be enforced. The Council had a Responsible Trader Scheme (the licence holder was not a member of this scheme) although many of the conditions mirrored that of the scheme. An officer would be able to go into the premises, check the refusals book and check if the licence holder was

meeting the conditions of the licence. It would be at that stage where it would become apparent if the licensing conditions were being met.

To summarise, Mr Squire stated that he agreed with the conditions that had been proposed, but there were still concerns regarding whether or not the premises was operating in a safe manner and therefore would recommend a period of suspension.

To summarise, Mr Roberts stated that officers would attend the premises from time to time. The premises would have CCTV records for 31 days and officers often checked the CCTV system. In order to check for compliance, officers would be able to check the Refusals Register and examine the CCTV footage including date and time. Officers often found the use of loose-leaf pages more helpful as this would largely consist of one page which could be located close to the till where it was required. Due diligence would also be undertaken via the use of the age prompt on the till as an additional reminder. Staff members would carry out the checks to make sure that an individual met the age requirements to buy age restricted products. It was important to note that a sale of an age restricted product could not be made without confirming if a customer had met the age restriction requirements. It was important to note that the cause of the issue was the premises licence holder's brother and once the premises licence holder became aware of the issue, he acknowledged the situation and sought to work with officers. The premises licence holder's brother would have a more restricted involvement with the premises and a till prompt had been installed. An extended and improved training regime would be recorded and the newly proposed conditions addressed many of the issues which had arisen. If the Sub-Committee was minded to suspend the licence, then a maximum period of two to three weeks would be the most reasonable approach.

At 11:50 am, the Sub-Committee withdrew from the meeting to consider the application.

Resolution

The Committee carefully considered the application for a review of the premises licence for Oz Sultan, the representations of Trading Standards and the Licence holder, the Council's Statement of Licensing Policy and the s182 Licensing Act 2003 Statutory Guidance.

The Committee resolved:

- a) To suspend the Licence for a period of 3 weeks and
- b) To impose the following conditions on the Licence as agreed with Trading Standards:
 1. The business shall adopt a "Challenge 25" policy.
 2. A refusals register shall be maintained to record instances where age restricted product 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. The refusals register shall be kept at the premises to record details of all refusals to sell alcohol and age restricted products. This register 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.
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 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 or on the under counter shelf marked for ‘Tobacco Stock’ 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 or the under counter shelf marked for 'Tobacco Stock' 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 and maintained which 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 authorised 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. Any malfunction in the operation of the CCTV system shall be reported to the Licensing Authority within 24 hours.

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. Where a locked safe, cupboard or stock storage area is maintained at the licenced premises within the designated sales or stock room area during normal opening hours, immediate access to these locked areas shall be provided on request of Police or an Authorised officer who wishes to carry out an inspection. Where keys or codes necessary to access these locked areas are not immediately available to staff on the premises they shall be provided by a responsible person/keyholder within 20 minutes of a request for access or within a reasonable time as agreed by the Authorised Officer.

21. The till age prompt system will be activated for the sale of all age restricted products.

22. Mr Mehmet Aydemir will not be permitted to manage or be in control of the shop or be employed at the premises without appropriate supervision from the licence holder, DPS or other person nominated by the licence holder in writing and notified to the licensing authority.

Reasons

This review arises in connection with crime relating to the sale and storage of smuggled tobacco plus a breach of the licensing condition relating to underage sales.

The Committee had regard to the 182 guidance which recommends that where licensed premises are being used for criminal activity such the sale or storage of smuggled tobacco or alcohol, this should be treated particularly seriously. The Guidance also requires licensing authorities to take very seriously the illegal sale of alcohol to minors.

The Committee were satisfied that the Licence holder was aware of his statutory obligations and the requirements of good practice in respect of the licensed premises.

The Committee were concerned about the failed test purchase on 4th August 2021 when a 16 year old was sold alcohol by the Licence Holder's brother Mr Mehmet Aydemir . It accepted that he may have had personal issues that were affecting him, but that does not an excuse him not undertaking his due diligence in checking the appropriate ID. If any member of staff was unable to comply with their legal obligations the Committee would expect the Licence Holder to ensure that they were not serving customers.

The discovery of illicit tobacco on the premises on 20th October 2021 in circumstances where Mehmet Aydemir tried to deliberately conceal it from the inspecting Trading Standards Officers and mislead them, only giving them the combination for the safe containing it after they had been forced to remove it, was also of great concern. The licence holder and DPS Mr Turac Aydemir was abroad at the time but it was his responsibility to ensure that the business was being properly run and operating lawfully in his absence. It was noted that the combination/key was provided to Trading Standards upon his instructions.

In light of these factors the Committee seriously considered revocation or a lengthy suspension of the Licence.

The committee however considered the representations made by the Licence holder and gave him credit for trying to turn things around. He has undertake refresher training for Mr Mehmet Aydemir and other staff and has agreed to more robust conditions including the operation of a refusals register, operation of a Challenge 25 policy, the introduction of a till age prompt, conditions relating to the purchase and storage of tobacco stock and a condition that Mr Mehmet Aydemir will not be left to run the business unsupervised.

The Committee considered that this is a family run business which derives its main revenue from alcohol sales and that a lengthy suspension would have a very negative financial impact. It decided that in light of the more robust conditions and the financial impact of a lengthy suspension, it would be proportionate to impose a 3 week period of suspension which would give the Licence holder an opportunity to demonstrate his ability to promote the licensing objectives.

The Committee could not stress enough how seriously the prevention of crime and disorder and protection of children from harm licensing objectives had been undermined and therefore imposes the suspension to deter the Licence holder from allowing similar breaches in future.

Informative

The Committee would like the License holder to be in no doubt that the licensing objectives have to be promoted and the Licence holder has to be actively involved to make sure this happens. If he is unable to exercise the necessary control over the day to day running of the business he should consider whether to appoint someone else as DPS.

7. APPLICATION FOR A NEW PREMISES LICENCE AT CLASIC RESTAURANT, 502-508 HIGH ROAD, LONODN, N17

This item was withdrawn from the agenda.

CHAIR:

Signed by Chair

Date