

## London Borough of Islington

### Licensing Sub-Committee A – 20 June 2012

Minutes of the additional meeting of Licensing Sub-Committee A held at the Town Hall, Upper Street, N1 2UD on 20 June 2012 at 10.10 am.

**Present:**        **Councillors:**        Wally Burgess (Item B1, B2, B4 and C1), Barry Edwards, Jean-Roger Kaseki and Phil Kelly (Item B3).

**COUNCILLOR WALLY BURGESS IN THE CHAIR (Items B1, B2, B4, B5 and C1)**

**COUNCILLOR PHIL KELLY IN THE CHAIR (Item B3)**

**137 INTRODUCTIONS (ITEM A1)**

Councillor Burgess welcomed everyone to the meeting and asked members and officers to introduce themselves.

The procedure for the meeting was outlined and those present were informed that it was also detailed on page 3 of the agenda.

**138 APOLOGIES FOR ABSENCE (ITEM A2)**

Apologies were received from Councillor Phil Kelly.

**139 DECLARATION OF SUBSTITUTE MEMBERS (ITEM A3)**

Councillor Edwards substituted for Councillor Kelly for Items B1, B2, B4, B5 and C1 and for Councillor Burgess for Item B3.

**140 DECLARATIONS OF INTEREST (ITEM A4)**

Councillor Barry Edwards declared a personal interest in item B1, Arsenal Supermarket, as he knew one of the neighbours who had written a letter of support for the premises.

**141 ORDER OF BUSINESS (ITEM A5)**

The Sub-Committee noted that the order of business would be as follows:- B2, B5, B1, B4, B3, and C1.

**142 ARSENAL SUPERMARKET, 229 BLACKSTOCK ROAD, N5 2LL – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B1)**

The trading standards officer reported that the application for the licence had been made by the sister in law of the previous licensee Yacul Yavuz, whose licence had been revoked at a review hearing following a seizure of a large quantity of non-duty paid alcohol. He had not had contact with the applicant and had lodged a representation in order for the Sub-Committee to assess the management control of the business.

Leo Charalambides, counsel, representing the applicant, Yavuz Giulizar, spoke in support of the application. He reported that it had been a family business for ten years. The applicant had been running another outlet for the previous two years and there had been no concerns raised with this premises. All proposed conditions from trading standards had been accepted and the Sub-Committee also noted the undertaking that, should the licence be granted, appropriate training would be given by an external company within thirty days. Receipts from a Cash and Carry and two letters of support from neighbours were given to the Sub-Committee for consideration.

In response to questions from the Sub-Committee, the trading standards officer reported that, as it was a family business, it was not considered appropriate for Yacul or Halil Yavuz to be prevented from working in the premises, but officers were concerned that they should not have management

## Licensing Sub-Committee A – 20 June 2012

responsibilities for purchasing or choosing the suppliers of alcohol.

Members of the Sub-Committee left the room to consider their decision, together with the legal officer and the clerk.

### **RESOLVED:**

a) That, having considered all the evidence and having considered the Licensing Act 2003, as amended, its regulations, the national guidance and the Council's Licensing Policy, the premises licence in respect of Arsenal Supermarket, 229 Blackstock Road, N5 2LL be granted to allow the sale by retail of alcohol, off supplies only, Mondays to Saturdays 08:00 until 23:00 and on Sundays and Bank Holidays from 10:00 until 22:30.

b) That the conditions as outlined in appendix 3 as detailed on page 25 of the agenda with the following amendment to condition 18, be applied to the licence:

- Neither Yacul Yacuz nor Mr Halil Yavuz will have any role in the decisions made regarding the purchase of alcohol at the premises.

### **REASONS FOR DECISION**

The Sub-Committee considered the submissions put forward by the responsible authority and the applicant and balanced the conflicting needs of residents and the business interests of the applicant.

The Sub-Committee noted that the applicant accepted the conditions put forward by the responsible authorities.

In reaching their decision, the Sub-Committee took into particular consideration Licensing Policy 013 regarding the highest standards of management in licensed premises. The Sub-Committee considered that proposed condition 18 be amended for clarity.

The Sub-Committee considered that with the conditions detailed on appendix 3 on page 25 of the report subject to the amendment to condition 18, the licensing objectives would be promoted.

#### **143 PEOPLE'S SOCIAL CLUB, 113 HOLLOWAY ROAD, LONDON N7 8TL – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B2)**

Mr Dadds, the solicitor acting on behalf of the licensee, reported that, as one of the incidents detailed in the papers required further investigation and the CCTV footage was also subject to a police investigation, it was suggested following discussion with the police, that this item should be deferred.

The police agreed to the deferral of this item.

### **RESOLVED:**

That this item be deferred to a future meeting.

#### **144 MEDITERRANEAN FOOD CENTRE, UNIT 2, MARQUESS ESTATE, ST PAUL'S ROAD, N1 2RH - APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B3)**

The Sub-Committee noted the papers submitted by Sal and Company Solicitors. These would be interleaved with the agenda papers.

## Licensing Sub-Committee A – 20 June 2012

The trading standards officer reported that this was a rehearing of the previous review following a consent order. He informed the Sub-Committee that nothing he had seen in the additional papers from the solicitors had changed his mind that revocation was not the correct decision. There had been no interaction with the business and he would have expected more contact in this situation.

The police recommended revocation of the licence.

Mr Benjamin Newton, counsel, supporting the licensee, Mr Er, informed the Sub-Committee that he had not been represented at the last meeting and had been unfamiliar with the proceedings. Mr Er knew that purchasing the wine and cigarettes was wrong but had been tempted and persuaded by customers who had asked him for cheap cigarettes. He had felt pressurised by reducing profit margins and so had bought a small quantity of wine. Mr Newton asked that only conditions be applied to the licence, however, if a suspension was considered necessary he asked that it be for no more than a month.

In response to questions it was noted that the licensee had not bought an ultra violet light earlier as he could not buy one from the cash and carry and had to buy one online. The trading standards officer informed the licensee that he could supply him with an ultra violet light had he asked for one. He had not read any local press reports which had highlighted revocations of licences and was not aware of the consequences of selling non duty paid alcohol.

In summing up, the trading standards officer highlighted that the visit to the premises was prompted by a tip off given to the HMRC about a month prior to the visit. He reported that this may imply that this was not the first time that non duty paid goods had been purchased.

Mr Newton reported that tobacco had been bought on an earlier occasion and the wine had been bought two days before the visit by trading standards and the HMRC. Mr Er admitted his guilt but considered that it was too harsh a penalty to revoke his licence.

Members of the Sub-Committee left the room to consider their decision, together with the legal officer and the clerk.

### **RESOLVED:**

a) That, having considered all of the oral and written evidence and having given consideration to the Licensing Act 2003 and its regulations, the national guidance and the Council's Licensing Policy, the premises licence variation in respect of Mediterranean Food Centre, Unit 2, Marquess Estate, St Pauls Road, N1 2RH be suspended for a period of 28 days.

b) That the conditions as detailed on page 25 of the agenda numbers 7-17 be applied to the licence with the following additional condition.

- The licensee shall be required to undertake appropriate training during the 28 day suspension period. The licensee shall identify a course, notify the licensing team of the course and date taken and keep a record for inspection.

### **REASONS FOR DECISION**

The Sub-Committee considered the submissions put forward by the responsible authorities and the applicant.

The Sub-Committee noted that the review was brought following the discovery of smuggled alcohol and tobacco found at the premises by the responsible authorities. The Home Office guidance at paragraphs 11.26 and 11.27 identified criminal activity which the Secretary of State considers should be treated particularly seriously. This includes the sale of smuggled tobacco and alcohol. The Sub-Committee considered that the crime prevention objective was undermined through the premises being used for the sale of smuggled tobacco and alcohol.

## Licensing Sub-Committee A – 20 June 2012

The Sub-Committee noted that 102 bottles of Italian wine, 35 x 20 packs of Marlboro Gold cigarettes and 3 x 50g of Golden Virginia tobacco were seized from the licensed premises on 11 November 2011. The licensee admitted he had bought the wine from a man in a van, despite clear advice being sent to the shop in March 2011. Thirty packs of the cigarettes were found inside a sofa bed that was folded up in the storage area of the shop. The licensee admitted that he knew that the tobacco was non duty paid and knew that he had bought wine in respect of which no duty had been paid. The Sub-Committee noted the explanation provided by his legal representative in this regard.

The Sub-Committee noted that the licensee had been sent an information letter by Trading Standards in March 2011 and following the seizure of the smuggled goods, had failed to engage with the trading standards team to ensure future compliance with the law.

Given these considerations the Sub-Committee decided that a suspension of the licence for 28 days would enable the licensee to raise management standards at the licensed premises and the conditions imposed would facilitate this. In reaching their decision, the Sub-Committee took into particular consideration Licensing Policy 038 regarding the review of licences and Licensing Policy 039 regarding the sale of smuggled goods.

### 145 **TESCO, 24 CHISWELL STREET, EC1V 4PA – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B4)**

The licensing officer reported that the notice of hearing had been sent. There had been no response by the applicant to the proposed conditions as set out in the report.

The applicant was not present. The Sub-Committee was satisfied that the application could be considered in their absence.

The Sub-Committee considered that they would prefer consistency regarding the application of conditions and amended condition 1 in line with the Council's Licensing Policy.

#### **RESOLVED:**

a) That, having considered all of the oral and written evidence and having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy, the premises licence in respect of Tesco, 24 Chiswell Street, EC1V 4PA be granted to permit the premises to sell alcohol from Monday to Sundays between 6am – 11pm.

b) That the conditions as outlined in appendix 3 of the report be applied to the licence with the following amendment to condition 1.

- CCTV shall be installed, operated and maintained in agreement with the Police. The system will enable frontal identification of every person entering the premises. The system shall record in real time and operate whilst the premises are open for licensable activities. The recordings shall be kept available for a minimum of 31 days. Recordings shall be made available to an Authorised Officer or a Police Officer (subject to the Data Protection Act 1998) within 24 hours of any request.

#### **REASONS FOR DECISION:**

The Sub-Committee considered the submissions put forward by the responsible authority and the applicant and balanced the conflicting needs of residents and the business interests of the applicant.

In reaching their decision, the Sub-Committee took into particular consideration Licensing Policy 023 regarding the location of the premises, the character of the area and the proposed hours of operation.

## Licensing Sub-Committee A – 20 June 2012

The Sub-Committee considered that condition 1 in appendix 3 of the report, regarding CCTV, should be amended to ensure consistency and uniformity with the Council's Licensing Policy and the model condition to promote the licensing objective of the prevention of crime and disorder.

The Sub-Committee considered that with the conditions detailed on appendix 3 of the report subject to the amendment, the licensing objectives would be promoted.

### 146 **BASIL, 156 WHITECROSS STREET, EC1Y 8JL – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B5)**

The applicant, Lorenzo Canonica, the licensee, spoke in support of the application. He informed the Sub-Committee that he would be willing to compromise on the hours applied for and proposed revised hours of 11am to 9pm for the sale of alcohol with a suggested closing time of 10pm.

He informed the Sub-Committee that, although he would not be open at the weekend, he would offer tastings on Sundays.

#### **RESOLVED:**

a) That, having considered all of the oral and written evidence and having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy, the application as amended at the meeting, for a new premises licence in respect of Basil, 156 Whitecross Street, EC1Y 8JL be granted to permit the premises to sell alcohol from 11:00 hours until 21:00 hours Monday to Sunday, for consumption on the premises.

b) That the closing hour for the premises shall be 22:00 hours.

c) That conditions as outlined in appendix 3 as detailed on page 37 of the report be applied to the licence.

#### **REASONS FOR DECISION:**

The Sub-Committee considered the submissions put forward by the responsible authority, the interested parties and the applicant and balanced the conflicting needs of residents and the business interests of the applicant.

The Sub-Committee noted that the applicant accepted the conditions put forward by the responsible authorities.

In reaching their decision, the Sub-Committee took into particular consideration Licensing Policy 023 regarding the location of the premises, the character of the area, the views of the interested parties and the proposed hours of operation and Licensing Policy 021 regarding flexibility in licensing hours.

The Sub-Committee considered that with the conditions detailed on appendix 3 on page 81 of the report, the licensing objectives would be promoted.

### 147 **URGENT NON-EXEMPT ITEMS**

The Chair had agreed that the following item was urgent as, following an objection to a temporary event notice by the licensing authority, it was necessary to hold a meeting within seven working days.

## Licensing Sub-Committee A – 20 June 2012

148 **CAMINO DE CRUZ DEL REY, 3 VARNISHERS YARD, N1 9DF - APPLICATION TO DETERMINE A TEMPORARY EVENT NOTICE (TEN) UNDER PART 5 OF THE LICENSING ACT 2003 (Item C1)**

The Sub-Committee noted the reasons given for the rejection of the TEN by the noise officer. The Sub-Committee were informed that there had been some negotiation with the applicant regarding noise conditions but these could not be enforced by the Sub-Committee. The Sub-Committee noted the legal advice that they would only be able to impose conditions that were already on the licence.

Monica Trochiecka, the applicant, informed the Sub-Committee that complaints had not been received since June 2011, after a noise problem had been resolved. She advised the Sub-Committee that complaints were now mainly due to the dispersal of customers through a gate leading to Caledonian Road. Ms Trochiecka informed the Sub-Committee that she would speak to the landlord about using an alternative exit route onto Pentonville Road. She advised that customers would not be allowed in the courtyard after 22:30 hours and that extra staff would help to monitor the courtyard. The Sub-Committee noted that a resident complaint regarding music at 3.30 am on the 28 May 2012 did not refer to these premises.

### **RESOLVED:**

That, having considered all of the oral and written evidence and having given consideration to the Licensing Act 2003 and its regulations, the national guidance and the Council's licensing policy, the temporary event notice in respect of Camino de Cruz del Rey, 3 Varnishers Yard, N1 9DF be granted to allow licensable activities from 19:00 to 22:00 on 30 June 2012 and allow regulated entertainment (recorded music) inside the premises from 20:30 to 21:00 and 22:00 to 02:00 on 30 June 2012. The existing licence conditions shall be applied to the licence.

### **REASONS FOR DECISION**

The Sub-Committee considered the objection put forward by Environmental Health and the submissions from the applicant and were minded to allow the temporary event notice to proceed in the knowledge that the noise team and the licensee were in negotiations to ensure the licensing objective of the prevention of public nuisance was not undermined.

The Sub-Committee considered that the conditions of the premises licence should be applied to the TEN in order to promote the licensing objective.

The meeting ended at 2.45 pm.

CHAIR