

London Borough of Islington

Licensing Sub-Committee A – 17 July 2012

Minutes of the meeting of Licensing Sub-Committee A held at the Town Hall, Upper Street, N1 2UD on 17 July 2012 at 10.10 am.

Present: **Councillors:** Wally Burgess, Barry Edwards and Jean-Roger Kaseki.

COUNCILLOR WALLY BURGESS IN THE CHAIR

149 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.

150 APOLOGIES FOR ABSENCE (ITEM A2)

Apologies were received from Councillor Phil Kelly.

151 DECLARATION OF SUBSTITUTE MEMBERS (ITEM A3)

Councillor Edwards substituted for Councillor Kelly.

152 DECLARATIONS OF INTEREST (ITEM A4)

None.

153 ORDER OF BUSINESS (ITEM A5)

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

154 MINUTES (ITEM A6)

RESOLVED

That the minutes of the meetings held on the 17 May 2012 and the 25 June 2012 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

155 NISA LOCAL, 2 & 3 CLIFTON HOUSE, CLIFTON TERRACE, N4 3JU – APPLICATION FOR A PREMISES LICENCE VARIATION UNDER THE LICENSING ACT 2003 (Item B1)

The Sub-Committee noted that the applicant was not present. The item was adjourned until midday to allow time for the applicant to attend. The applicant had not arrived by 12:00 midday. The Sub Committee agreed to hear the item in the applicant's absence.

The licensing service manager reported that all references to health in her representation be deleted. She informed the Sub-Committee that this premises was near a transport hub and there were five 24 hour licences in the area. She asked the Sub-Committee to consider licensing policy 023 and paragraph 109 of the Licensing Policy in relation to cumulative impact.

The police reported that alcohol fuelled crime peaked between midnight and 8 am when there were fewer resources available. They considered that there were sufficient licensed premises and reported that there were 41 off sales licences in the local area.

Licensing Sub-Committee A – 17 July 2012

RESOLVED:

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 Nisa Local, 2 & 3 Clifton House, Clifton Terrace, N4 3JU be refused.

REASONS FOR DECISION

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

At the commencement of the meeting, it was noted that the applicant was not present and the Sub-Committee requested that the licensing officer try to contact the applicant by telephone. The licensing officer was able to contact the applicant and reported that the applicant had said that he should be able to attend at noon. The other items on the agenda were dealt with and at 11.35 am the meeting was adjourned until noon to give the applicant time to attend. The Sub-Committee reconvened at noon but the applicant was still not in attendance. The Sub-Committee agreed to hear the application in the applicant's absence.

The Sub-Committee heard evidence from the police that alcohol fuelled crime peaked between midnight and 8am. The police officer also informed the Sub-Committee that there were already 41 premises licensed to provide off sales in the ward.

The Sub-Committee heard evidence from the licensing service manager that the premises were in an area which is a busy transport hub and which has many late night venues. There were already five premises with 24 hour licenses in the ward.

In reaching their decision, the Sub-Committee took into particular consideration Licensing Policy 023 regarding the type of premises and their cumulative impact on the area and Licensing Policy 025, particularly paragraph 109 in which the licensing authority expresses its concern over the increasing number of licensed shops selling alcohol for consumption off the premises and advises that it will consider restricting the hour in locations where longer hours are not considered appropriate because of the nature of the area or where representations are received.

The Sub-Committee considered that, in light of the evidence heard, an extension of the hours for off sales would not promote the licensing objectives.

156 HIGHBURY FINE FOOD AND WINE, 249 UPPER STREET, LONDON N1 1RU – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B2)

The licensing officer reported that there was an additional condition from the noise team which had been agreed by the licensee. This was tabled and would be interleaved with the agenda papers.

The trading standards officer reported that a test purchase had failed in March 2012. The case would normally have been taken to an officer panel but, as the licensee had recently bought the business after a previous revocation and had met with trading standards and the police to discuss his responsibilities and, in addition, at the time of the sale there were a number of breaches of conditions e.g. no training records were kept, no refusals book could be produced and Challenge 25 was not being adopted, it was decided to bring this case directly to the Sub-Committee. During a visit by the licensing manager at the beginning of April the same breaches were noted. However, recent correspondence indicated improvements in management and although a suspension was considered essential, revocation was no longer recommended.

Anthony O'Connell, licensing consultant, supporting the licensee Ashar Naqvi and manager Ali Imran, reported that the staff member who had made the underage sale had been dismissed. Other

Licensing Sub-Committee A – 17 July 2012

members of staff had been trained. A copy of the refusal log was available which dated back to March 2012 and it was unclear why the staff member who sold alcohol to the underage volunteer was unaware of the existence of the refusal log. The licensee wished to apply for a change in the designated premises supervisor from Mr Naqvi to Mr Imran. He requested that, if a suspension of the licence was considered this should be for a short period. Proposed conditions had been agreed. The premises had shown an improvement in management, although it was accepted that this was work that should have been carried out at an earlier stage.

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, as amended, and its regulations, the national guidance and the Council's Licensing Policy, the premises licence in respect of Highbury Fine Food and Wine, 249 Upper Street, N1 1RU be suspended for a period of 14 days, be modified by the addition of three conditions and that the designated premises supervisor be removed.

b) That the following conditions be applied to the licence:-

- i) Conditions of the current licence with the deletion of condition 16, Annex 2.
- ii) The following additional conditions:-

- The licensee will display a 'We don't buy illegal alcohol' poster prominently in the shop window unless he has express permission not to, from Trading Standards.
- The licensee shall ensure that staff are trained about age restricted products and ensure that they sign to confirm that they have understood the training. The training shall include the assessment of age: making a challenge: acceptable proof of age: and recording refusals. The licensee shall keep records of training and instruction given to staff and make them available for inspection upon request by the licensing team, police or trading standards. (To replace condition 16, Annex 2)
- Noise or vibration must not emanate from the premises so as to cause a nuisance to nearby properties.

REASON FOR DECISION

The Sub-Committee considered the submissions put forward by the responsible authorities, interested party and the licensee through his representative.

The Sub-Committee noted the evidence that on the 26 January 2012, Dan Whitton wrote to the licensee, Mr Naqvi, asking him to display a summary of the licence in his premises. In March 2012 alcohol was sold to a 15 year old volunteer. The licence summary displayed at this time was for the previous licence. No training records or records of refusal could be produced at the visit. The trading standards officer left an advice pack and an Under 25 poster which was recommended for display. On the 4 April 2012, licensing officers visited the premises with the Safer Neighbourhood Team. The current licence was not displayed on the premises, there was no UV light available, no refusals log was available and an Under 25 poster was still not displayed. The licensing officer supplied the premises with a poster stating 'We do not buy illegal alcohol' and requested that this be displayed in the shop window. On the 6 April a member of the licensing team purchased alcohol from the shop after licensing hours. CCTV footage was requested of the sale but had not been provided.

The Sub-Committee heard evidence from the licensing consultant that the staff member who made

Licensing Sub-Committee A – 17 July 2012

the underage sale had been sacked and all other staff members had been trained and had signed the management policy. Copies of a refusals log which dated back to March 2012 were submitted. The Sub-Committee noted that the licensee accepted responsibility for the breach, accepted the seriousness of the situation and accepted that he should have put these measures in place earlier. The Sub-Committee heard from the licensing consultant that the licensee wished to apply for a new designated premises supervisor. The Sub-Committee heard from trading standards that, due to the change in management style and the steps taken by the licensee, they were no longer recommending revocation. The Sub-Committee noted the licensing consultant's submission that, in the event that the licence was suspended, the period of suspension should be a short period to allow for a change of the designated premises supervisor. The Sub-Committee in reaching their decision to suspend for 14 days considered that 14 days was an adequate period to allow the licensee to apply to change the designated premises supervisor.

In reaching their decision the Sub-Committee took into consideration Licensing Policy 028 concerning the highest standards of management to prevent the sale of alcohol to underage children and 032 concerning the licensing authority's commitment to tackling the illegal sale of alcohol to children. The Sub-Committee also considered paragraph 11.29 of the guidance concerning the illegal purchase of alcohol by minors. The Sub-Committee considered that a suspension of 14 days together with the removal of the designated premises supervisor and the addition of extra conditions would promote the licensing objectives.

157 ZACO'S MINI MARKET, 175 UPPER STREET, N1 1RG - APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B3)

The trading standards officer confirmed that 126 bottles of Italian wine were seized and not 358 bottles as stated in the agenda. He reported that the licensee had bought the alcohol and a fridge from a shop that was closing down due to bankruptcy but had no paperwork relating to the purchase. The licensee had received advice from trading standards, three weeks prior to the seizure that he reported to have understood. If the advice had been followed he would not be at the Sub-Committee for the review. The Sub-Committee noted that the licensee had not been in contact with the Council since the review application had been submitted.

Mr Ulger the owner and Mr Akkaya the manager spoke against the review. The Sub-Committee noted that they bought the alcohol from a family friend who they trusted. It was noted that the licensee asked the Council to look at some stock they were uncertain was genuine in 2009 and this was found to be illicit.

In response to questions from the Sub-Committee it was noted that the licensee had bought a UV light, had put posters up in the premises and checked each bottle purchased to make sure they were genuine.

In summing up, the trading standards officer highlighted that this was the second offence and considered that the licence should be revoked.

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 Zaco's Mini Market, 175 Upper Street, N1 1RG be suspended for a period of three months.

b) That the following conditions be applied to the licence.

Licensing Sub-Committee A – 17 July 2012

1. No alcoholic goods will ever be purchased or taken from persons calling to the shop.
2. No spirits shall be purchased in a resealed box.
3. The licensee will immediately report to Trading Standards any instance of a caller to the shop attempting to sell alcohol.
4. Invoices (or copies) for all alcoholic goods on the premises will be kept at the shop and made available to officers from the council, police or HMRC upon request.
5. A stock control system will be introduced, so that the licensee can quickly identify where and when alcoholic goods have been purchased.
6. An ultra violet light will be available at the premises for the purpose of checking the UK Duty Stamp on spirits as soon as practical after they have been purchased.
7. If any spirits bought by the company have UK Duty Stamps that do not fluoresce under ultra-violet light or are otherwise suspicious, the licensee shall identify the supplier to Islington Trading Standards and HMRC as soon as possible.
8. The licensee shall adopt the Challenge 25, the Retail of Alcohol Standards Group's advice for off-licences.
9. The licensee shall ensure that staff are trained about age restricted products and ensure that they sign to confirm that they have understood the training. The training shall include the assessment of age; making a challenge; acceptable proof of age; and recording refusals. The licensee shall keep records of training and instruction given to staff and make them available for inspection upon request by the licensing team, police or trading standards.
10. The licensee shall put arrangements in place to ensure that before serving alcohol to young persons, staff ask to see accredited proof of age cards for example proof of age cards carrying the 'PASS' logo (and no others), a Passport, or UK Driving Licence bearing the photograph and date of birth of the bearer.
11. The licensee shall require staff to note any refusals to sell to young people in a refusals log. The refusals log shall be checked and signed monthly by the designated premises supervisor. The refusals log shall be made available for inspection by the licensing team, police or trading standards.
12. The licensee will display a 'We don't buy illegal alcohol' poster prominently in the shop window unless he has express permission not to from Trading Standards.

REASONS FOR DECISION

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

The Sub-Committee noted that the review was following the discovery of smuggled alcohol found at the premises by the responsible authorities, namely 6.3 litres of spirits and 126 bottles of wine. The home office guidance at paragraphs 11.29 and 11.30 identified criminal activity which the Secretary of State considered should be treated particularly seriously. These included the use of licensed premises for the sale of smuggled alcohol. It was envisaged that licensing authorities would use the review procedures to deter such activities and crime. Where licensing authorities determined that the crime prevention objective was being undermined it was expected that revocation of the licence

Licensing Sub-Committee A – 17 July 2012

be seriously considered.

The Sub-Committee heard evidence from trading standards that the alcohol was bought from a shop that was closing down due to bankruptcy and that the licensee purchased the alcohol mainly because he wanted to purchase a fridge from the shop. Trading standards informed the Sub-Committee that advice had been sent to the premises concerning illicit alcohol three weeks before the alcohol was purchased. The Sub-Committee noted the concerns of trading standards that the licensee had not been in contact with them since the review application was submitted. Trading Standards informed the Sub-Committee that, although it was a small amount of spirits seized, if advice had been followed it would have been easy to spot that the spirits were illicit.

The Sub-Committee noted the evidence of the licensee that although he was cautioned in 2009 for purchasing illicit alcohol, this was actually following a report from him to the Council that he suspected that some of his goods may not have been genuine. The Sub-Committee heard evidence from the licensee that there was a UV light on the premises, that posters were displayed and that he checks the bottles of alcohol one by one.

The Sub-Committee considered that management standards had fallen below those expected of licensees but that some steps had been taken to improve and that the licensing objectives would be promoted with further training and advice and support. The Sub-Committee concluded that a suspension of three months would provide sufficient time for further improvements to management including proper procedures for purchasing of stock, stock control and training for all staff. The Sub-Committee concluded that the suspension would also allow the licensee to fully implement the extra conditions recommended by trading standards and which the Sub-Committee considered would further promote the licensing objectives.

In reaching their decision, the Sub-Committee considered Licensing Policy 039 regarding counterfeit and smuggled goods and also 11.29 of the guidance concerning the use of licensed premises for the sale of smuggled alcohol.

158 SOMERFIELD STORES LIMITED, 185 OLD STREET, EC1V 9NP – APPLICATION FOR A PREMISES LICENCE VARIATION UNDER THE LICENSING ACT 2003 (Item B4)

The Sub-Committee noted that the noise officer would withdraw his objection if the proposed conditions were added to the licence.

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

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 variation in respect of Somerfield Stores Limited, 185 Old Street, EC1V 9NP be granted to allow the sale by retail of alcohol, to permit the premises to sell alcohol from 06:00 and 23:00, Monday to Saturdays and from 07:30 to 23:00 on Sundays.

b) The following conditions shall apply to the licence:

- i) Conditions of the current premises licence.
- ii) Conditions as outlined in appendix 3 as detailed on page 138 of the agenda.

REASONS FOR DECISION:

The Sub-Committee considered the submissions put forward by the responsible authority and the application.

Licensing Sub-Committee A – 17 July 2012

The Sub-Committee agreed that the application would be dealt with in the absence of the applicant, having been satisfied that the notice of hearing was sent to the address requested for correspondence in the application.

The Sub-Committee noted that there was only one representation in relation to the application and that this was from the noise team who stated in their representation that they would withdraw their objection in the event that their proposed conditions were agreed.

In reaching their decision, the Sub-Committee took into particular consideration Licensing Policy 010 regarding the protection of the amenity of residents and business in the vicinity of licensed premises.

The Sub-Committee considered that with the conditions detailed on appendix 3 on page 138 of the report the licensing objectives would be promoted.

The meeting ended at 12.15 pm.

CHAIR