

London Borough of Islington
DRAFT
Licensing Sub-Committee A – 21 January 2014

Minutes of the meeting of Licensing Sub-Committee A held at the Town Hall, Upper Street, N1 2UD on 21 January 2014 at 6.45 pm.

Present: **Councillors:** Jilani Chowdhury, Phil Kelly, Gary Poole, Claudia Webbe (for Items A1 – A5) and Catherine West.

COUNCILLOR PHIL KELLY IN THE CHAIR (ITEMS B1 AND B2)
COUNCILLOR GARY POOLE IN THE CHAIR (ITEMS B3-B7)

257 INTRODUCTIONS (ITEM A1)

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

258 APOLOGIES FOR ABSENCE (ITEM A2)

Received from Councillor Poole for Items B1 and B2.

259 DECLARATION OF SUBSTITUTE MEMBERS (ITEM A3)

Councillor Kelly substituted for Councillor Poole for Items B1 and B2.

260 DECLARATIONS OF INTEREST (ITEM A4)

None

261 ORDER OF BUSINESS (ITEM A5)

The order of business would be as the agenda.

262 MINUTE OF THE MEETING HELD ON 26 NOVEMBER 2013 (ITEM A6)

RESOLVED

That the minutes of the meeting held on 26 November 2013 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

263 MEM AND LAZ, 8-10 THEBETON STREET, N1 0QX – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2013 (Item B1)

It was agreed that Items B1 and B2 would be heard together. The decisions would be made separately.

The Sub-Committee noted the bundle of documents circulated which would be referred to by the owner's representative. These would be interleaved with the agenda papers.

The licensing officer reported that the officers from Highways and Planning were available if the Sub-Committee needed to ask questions of them.

The applicant, Theberton Street Residents' Association, spoke in support of the review. It was stated that he agreed with the conditions proposed by the licensing authority except for the amendment in relation to off sales. The premises had a long history of non-compliance and the high level of feeling by local residents was evident by the number of people present at the meeting. The applicant had little or no engagement with local residents and they did not consider there was a need for off sales as this was well catered for in the local area. They proposed an amended condition for tables and chairs to be

cleared at 10:30 and rendered unusable by 11pm. The association were not objecting to dining outside but the nuisance caused by the tables and chairs. A resident representing Moon Street requested that there be a clear pedestrian passage through the tables and chairs and that there be clear, appropriate and enforceable conditions on the licence. She stated that off sales should be removed from the licence and was concerned that conditions were frequently breached even following the application for the review. She considered that a licence for off sales would act as a smoke screen to serve alcohol in unlicensed premises.

The licensing authority reported that following discussions with the licensee's representative, some conditions had been modified since the original representation. She reported that the following conditions on page 96 of the agenda had been agreed by the licensee:- No1, No2 i, ii and iv. Regarding 2 iii she stated that Highways had put forward the figure they regarded as the maximum number of tables and chairs that could be considered in the space but this had not been agreed by the applicant. Regarding 2 v, she stated that she would agree with the licensee suggested amendment on page 82 but noted the applicant's objection to this. She questioned why the applicant needed a licence for off sales. Agreement had also not been reached with the applicant regarding the number of tables and chairs outside 16 Theberton Street. There was an off sales licence for 8-10 Theberton Street but not No.16.

Anna Matthias, solicitor, supported by the owner Mehmet Kocakerim, spoke against the review of the licence. Two local residents also attended in support of the licensee. She reported that this had been a restaurant since 2000 and the owner had invested £4 million in the premises including the purchase of the freehold. She reported that there had been representations received in support of the premises and that the grounds for review were not for rowdiness or drunkenness. The applicant had raised for the first time this evening the issue of off sales. The licence holder had believed that, as the practice of using tables and chairs was widespread, he could also do this. He had been informed by his representative that this was not the case. He agreed that a member of staff would manage the outside area and that a rope and pole arrangement would be trialled in the summer. She stated that photographs in the pack submitted, indicated an improvement and commitment to change. She reported that one issue outstanding was the number of tables and chairs allowable outside the premises. Outside No. 10 Theberton Street a parking meter had been installed and it was considered unfair to deprive the licensee of tables where a parking meter had been installed. She reported that the representation made by the licensing authority was made in response to the review which had not raised the matter of off sales or rowdiness. The removal of off sales from the licence would prevent alcohol sales to that area and would allow the decision to be susceptible to appeal. Condition 6 prevented alcohol being sold other than to persons already taking a table meal at the premises and it would be wrong to prohibit the licence further.

In response to questions it was noted that the parking team could be asked to look at the moving of the parking meter. The applicant would want to use A boards and considered that more tables and chairs proposed by highways were possible. Councillor West advised on Council policy regarding alcohol consumption and asked why an off licence was considered necessary. Ms Matthias reported that off sales were currently on the licence and removal would only be relevant if the review had been brought for rowdiness or if the owner sold to drunk people. Ms Matthias stated that the off sales licence had not been an issue in the original application brought by the Theberton Residents' Association but this had been added by the Licensing Authority. The legal adviser reported that there was nothing to prevent the licensing authority from adding a condition following an application for a licence review. The licensing authority reported that the removal of off sales had been in her original representation but had been modified. Following an application for a licence review, responsible authorities could bring appropriate conditions forward.

In summary, the applicant's representative recognised that there had been abuse of conditions in the past but now extra measures were being taken. The restaurant made a huge contribution to the area. Additional conditions were accepted but the removal of off sales was disproportionate and not relevant with the condition already on the licence that alcohol would only be sold with a table meal.

The applicant reported that off sales were used to serve those seated outside with no licence. He stated

that the licensee had said much about why off sales should not be included as part of the review but little about why off sales were necessary. Conditions should be clear and enforceable. With the off sales as part of the licence it was difficult to know if conditions were being breached.

The Sub-Committee left the room to deliberate and returned to announce their decision.

RESOLVED:

(a) That the premises licence in respect of Mem and Laz, 8-10 Theberton Street, N1 be modified to add conditions as detailed in Appendix 10 on page 96 of the agenda with the following amendment.

- Condition 2 vi to read. That off sales shall be removed from the licence.

(b) That the parking team be requested to consider the relocation of the parking meter outside number No. 10 Theberton Street.

REASONS FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The main areas of concern to the applicant and the licensing authority, was the encroachment by the restaurant and/or its patrons onto parts of the pavement that are beyond the boundary of the premises. Submissions were provided referring to customers standing alongside tables and chairs and of chairs being placed in such a manner as to obstruct the pavement. This, it was stated had caused inconvenience to wheelchair users, elderly people and members of the public with prams.

In addition thereto, the licensing authority was concerned about the off sales licence provision and the misuse thereof by using the off sales licence to provide on sales to the unlicensed part of the premises.

The licensee's legal representative was asked by the Sub-Committee as to why the off sales licence was required and the response was to enable diners in the licensed part of the premises to purchase a bottle of wine to take with them when they left the restaurant.

The Sub-Committee had regard to Licensing Policy 9 and 10. It was concerned about the non-compliance associated with the premises as well as the evidence by Management of the misuse of the existing licence.

The Sub-Committee accordingly decided to add conditions as detailed in the decision.

264 LE VITA E BELLA, 16 THEBETON STREET, N1 0QX – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2013 (Item B2)

It was agreed that Items B1 and B2 would be heard together. The decisions would be made separately.

The Sub-Committee noted the bundle of documents circulated which would be referred to by the owner's representative. These would be interleaved with the agenda papers.

The licensing officer reported that the officers from Highways and Planning were available if the Sub-Committee needed to ask questions of them.

The applicant, Theberton Street Residents' Association, spoke in support of the review. It was stated that he agreed with the conditions proposed by the licensing authority except for the amendment in relation to off sales. The premises had a long history of non-compliance and the high level of feeling by local residents was evident by the number of people present at the meeting. The applicant had little or no engagement with local residents and they did not consider there was a need for off sales as this was

well catered for in the local area. They proposed an amended condition for tables and chairs to be cleared at 10:30 and rendered unusable by 11pm. The association were not objecting to dining outside but the nuisance caused by the tables and chairs. A resident representing Moon Street requested that there be a clear pedestrian passage through the tables and chairs and that there be clear, appropriate and enforceable conditions on the licence. She stated that off sales should be removed from the licence and was concerned that conditions were frequently breached even following the application for the review. She considered that a licence for off sales would act as a smoke screen to serve alcohol in unlicensed premises.

The licensing authority reported that following discussions with the licensee's representative, some conditions had been modified since the original representation. She reported that the following conditions on page 96 of the agenda had been agreed by the licensee:- No1, No2 i, ii and iv. Regarding 2 iii she stated that Highways had put forward the figure they regarded as the maximum number of tables and chairs that could be considered in the space but this had not been agreed by the applicant. Regarding 2 v, she stated that she would agree with the licensee suggested amendment on page 82 but noted the applicant's objection to this. She questioned why the applicant needed a licence for off sales. Agreement had also not been reached with the applicant regarding the number of tables and chairs outside 16 Theberton Street. There was an off sales licence for 8-10 Theberton Street but not No.16.

Anna Matthias, solicitor, supported by the owner Mehmet Kocakerim, spoke against the review of the licence. Two local residents also attended in support of the licensee. She reported that this had been a restaurant since 2000 and the owner had invested £4 million in the premises including the purchase of the freehold. She reported that there had been representations received in support of the premises and that the grounds for review were not for rowdiness or drunkenness. The applicant had raised for the first time this evening the issue of off sales. The licence holder had believed that, as the practice of using tables and chairs was widespread, he could also do this. He had been informed by his representative that this was not the case. He agreed that a member of staff would manage the outside area and that a rope and pole arrangement would be trialled in the summer. She stated that photographs in the pack submitted, indicated an improvement and commitment to change. She reported that one issue outstanding was the number of tables and chairs allowable outside the premises. Outside No. 10 Theberton Street a parking meter had been installed and it was considered unfair to deprive the licensee of tables where a parking meter had been installed. She reported that the representation made by the licensing authority was made in response to the review which had not raised the matter of off sales or rowdiness. The removal of off sales from the licence would prevent alcohol sales to that area and would allow the decision to be susceptible to appeal. Condition 6 prevented alcohol being sold other than to persons already taking a table meal at the premises and it would be wrong to prohibit the licence further.

In response to questions it was noted that the parking team could be asked to look at the moving of the parking meter. The applicant would want to use A boards and considered that more tables and chairs proposed by highways were possible. Councillor West advised on Council policy regarding alcohol consumption and asked why an off licence was considered necessary. Ms Matthias reported that off sales were currently on the licence and removal would only be relevant if the review had been brought for rowdiness or if the owner sold to drunk people. Ms Matthias stated that the off sales licence had not been an issue in the original application brought by the Theberton Residents' Association but this had been added by the Licensing Authority. The legal adviser reported that there was nothing to prevent the licensing authority from adding a condition following an application for a licence review. The licensing authority reported that the removal of off sales had been in her original representation but had been modified. Following an application for a licence review, responsible authorities could bring appropriate conditions forward.

In summary, the applicant's representative recognised that there had been abuse of conditions in the past but now extra measures were being taken. The restaurant made a huge contribution to the area. Additional conditions were accepted but the removal of off sales was disproportionate and not relevant with the condition already on the licence that alcohol would only be sold with a table meal.

The applicant reported that off sales were used to serve those seated outside with no licence. He stated that the licensee had said much about why off sales should not be included as part of the review but little about why off sales were necessary. Conditions should be clear and enforceable. With the off sales as part of the licence it was difficult to know if conditions were being breached.

The Sub-Committee left the room to deliberate and returned to announce their decision.

REASONS FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The main areas of concern to the applicant and the licensing authority, was the encroachment by the restaurant and/or its patrons onto parts of the pavement that are beyond the boundary of the premises. Submissions were provided referring to customers standing alongside tables and chairs and of chairs being placed in such a manner as to obstruct the pavement. This, it was stated had caused inconvenience to wheelchair users, elderly people and members of the public with prams.

In addition thereto, the licensing authority was concerned about the off sales licence provision and the misuse thereof by using the off sales licence to provide on sales to the unlicensed part of the premises.

The licensee's legal representative was asked by the Sub-Committee as to why the off sales licence was required and the response was to enable diners in the licensed part of the premises to purchase a bottle of wine to take with them when they left the restaurant.

The Sub-Committee had regard to Licensing Policy 9 and 10. It was concerned about the non-compliance associated with the premises as well as the evidence by Management of the misuse of the existing licence.

The Sub-Committee accordingly decided to add conditions as detailed in the decision.

265 CABANA RESTAURANT, 56 UPPER STREET, N1 0NY – APPLICATION FOR A PREMISES LICENCE VARIATION UNDER THE LICENSING ACT 2003 (ITEM B3)

The licensing officer reported that the layout to the premises had been approved at a previous meeting on the 17 December 2013. Following this meeting the noise and police had met to agree proposed conditions which were detailed at page 221 of the report.

The Sub-Committee noted the proposed amendments to the police/noise conditions circulated separately and which would be interleaved with the agenda papers.

The noise officer reported that the premises had been visited on the 18 January and it was noted that tables and chairs had not been cleared at 11.30pm. She spoke to the general manager who did not seem to realise the importance of the chairs being made unusable. It was understood that there was an issue in bringing the tables inside the premises at that time but they should not be used after 23:00 hours.

The police commented that the premises did have a past history which could attract crime and disorder. There were many licensed premises which had door staff. The applicant had stated at the last meeting that they had experience of late night venues, but the police had noted that the other Cabana premises did not open past 11pm.

Alan Thomas, solicitor, supported by the owner, informed the Sub-Committee that the tables would be rendered unusable by 11:00 pm. The other venues closed their kitchens at 11pm and did not advertise

opening after that time although some were open until midnight or even 1am. TENs had been granted until 3am and the Westfield branch stayed open until 2am throughout the Olympic period.

He reported that to have two SIA supervisors for this type of operation did not make sense. 75% of the space would be set out as a restaurant. There would only be 40 or 50 people in the bar area. He proposed an amendment to condition 1 that on Thursdays, Fridays and Saturdays, where the sale of alcohol was after midnight, there would be a minimum of 1 door supervisor after 10 pm. The restaurant was broadly for family use and rarely opened after midnight. Previous operations at the premises had been for 90% sale of alcohol. This operation was for 75% food sales. The rear area was to be a restaurant and capacity had been dramatically reduced to meet concerns. The premises had been trading since December as a restaurant that generally closed before midnight.

The legal adviser reported that the police considered an amended condition would be more appropriate to that proposed by the applicant that on Thursdays, Fridays and Saturdays, where the sale of alcohol was after midnight, from 10pm to 30 minutes after close, there be one door supervisor to 100 customers. The police reported that his proposed condition reflected the history of this area and his concern for staff in the venue. He considered that where there were over 100 customers in the venue there would need to be two door staff and he had come to this conclusion due to his experience of working in the area.

In summing up, the noise officer reported that door supervisors could look smart in line with the image the licensee wished to project. Often it would only be the badge on the arm that could distinguish door supervisors. To have no door supervisor to direct customers would be a concern.

Mr Thomas reported that the existing level of door supervision allowed the premises to trade as a bar, which the applicant would prefer not to do. The remaining conditions were for a restaurant and he asked the Sub-Committee to balance the need for additional door staff.

The Sub-Committee left the room to deliberate and returned to announce their decision.

RESOLVED:

That the conditions to the premises licence in respect of Cabana Restaurant, 56 Upper Street, N1 0NY be modified to:-

- Remove conditions 4 and 8 of Annex 2 and condition 1 of Annex 3.
- Add conditions as detailed in Appendix 5 on page 221 of the agenda with the following amendment to condition 1.
- On Thursdays, Fridays and Saturdays, where the sale of alcohol is after midnight, SIA registered door staff are to be employed at the premises from 22:00 until 30 minutes after the premises closes, at the ratio of 1 door supervisor to every 100 customers.

REASONS FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material.

This was an application for a variation of the licence. At a previous hearing on the 17 December 2013 it was agreed to change the layout of the application as laid out under 1.2.(i) before the licensing Sub-Committee dated 21 January 2014.

The conditions were agreed between the parties with the exception of the provision of security door supervisors. The licensing authority and the police requested a condition that security door supervisors be required on Thursday to Saturdays after 10pm until 30 minutes after closure. The number of door supervisors to be 1 per 100 customers. The police submitted that the area concerned had a history of

crime and disorder and that most licensed premises had door staff and that this was necessary to deal with any late night issues in the area.

The licensee requested that there be a requirement of only one door supervisor irrespective of the number of customers, although initially at the meeting and in the original proposals put forward by the licensee's representative he had agreed to one door supervisor every one hundred customers. The Sub-Committee decided that it should be a condition that the premises have two door supervisors to cater for situations where the numbers exceed one hundred and accordingly granted the variation as set out in the decision notice, this being to satisfy the licensing objective of preventing crime and disorder.

266 JOURNEYS, 54-48 CALEDONIAN ROAD, N1 9DP – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (ITEM B4)

The Sub-Committee noted that this item had been adjourned to a future meeting at the request of the applicant.

267 CO OPERATIVE STORE, 271-273 CITY ROAD, EC1V 1LA – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (ITEM B5)

The Sub-Committee noted the Co-operative training guide which was circulated separately and would be interleaved with the agenda papers.

The licensing officer reported that this was a application for a new licence. A previous licence had been granted on the 3 October to sell alcohol from 09:00 to 21:00 hours. Conditions would be as detailed on the previous licence as detailed at pages 283 and 286 of the report.

The noise officer reported that the premises was in a cumulative impact area. The noise team had a high level of calls in this area and it was therefore considered necessary to recommend refusal.

The police reported that they would consider agreeing a new application with the surrendering of the licence as agreed at the 3 October meeting and also the ghost licence from the Red Lion PH.

Richard Arnot, solicitor, spoke in support of the application. He reported that this was previously a public house and conditions had been agreed with building control and noise. Following the previous decision to grant from 09:00 to 21:00 hours, enquiries had been made regarding the police representation. He considered police evidence given was capable of challenge and peak crime occurred after midnight and not before. On this basis a new application was applied for from 08:00 to 10:00. Mr Arnot undertook to surrender the licence granted on the 3 October and also to request the holder of the public house licence to surrender the ghost licence.

He informed the Sub-Committee that this would be a convenience store, where alcohol represented 15% turnover and was therefore not an alcohol led premises. He outlined their training practice, particularly regarding age restricted products. The main alcohol display was kept away from the main doors, there were three personal licence holders for the premises. The co-operative was keen to participate in local schemes, as a business were keen to avoid prosecutions and reviews and had a legal, moral and commercial incentive to do so. The hours requested were within the licensing policy framework hours. He reported that the noise officer withdrew her representation to the previous application with longer hours prior to the meeting on the 3rd October 2013. It had not been based on the 09:00 to 21:00 hours that was granted by the Sub-Committee. The previous licence was held by a public house which had hours to 02:00 am, the premises was not alcohol led and he considered that this was an exception to the cumulative impact policy.

In response to questions and concerns regarding the local school, Mr Arnot reported that the premises operated Challenge 25 and it would not be worth the risk to the store to sell underage. There were off-

licences nearby that children underage could use and the police would have mentioned underage sales in their representation if this had been a problem in the area. Although Mr Arnot could not state when the premises would be opening he advised that it would be more attractive to trade in the premises than selling the premises on with a licence.

In summing up, the police reported that he had heard a positive statement regarding the surrender of the previous licences. The applicant informed the Sub-Committee that an appeal had been considered but that it was hoped that a new application would resolve any issues.

The Sub-Committee left the room to deliberate and returned to announce their decision.

RESOLVED:

That the application for a new premises licence in respect of the Co-operative Store, 271-273 City Road, EC1V 1LA be granted to permit the premises to sell alcohol, off supplies only, on Mondays to Sundays from 09:00 until 22:00.

Conditions of the current premises licence shall be applied to the licence.

REASONS FOR DECISION

The premises had previously applied for a premises licence which was granted at Sub-Committee on the 3 October 2013. The hours then applied for were for the sale by retail of alcohol from 7am until 11pm, Monday to Saturday and from 7am until 10:30pm on Sunday. The licence granted by the Sub-Committee was for the sale by retail of alcohol from 9am until 9pm Monday to Sunday.

The application before the Sub-Committee was for a new licence for the sale by retail of alcohol for the hours of 8am until 10pm Monday to Sunday off supplies only.

The premises are situated within the Bunhill cumulative impact area adopted by the Council on the 24 January 2013.

The Sub-Committee took into consideration Licensing Policy 002. Licensing policy 002 creates a rebuttable presumption that, applications for new premises licences that are likely to add to the existing cumulative impact will normally be refused, unless an applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The police originally objected to the application and the Sub-Committee heard representation by the applicant's representative that the statistics relied upon by the police at the original application in October 2013, were inaccurate. The Sub-Committee noted that the noise team had initially opposed the application as stated in their representations as the area in question produced a high level of calls relating to noise nuisance. The police at the hearing, contrary to their initial report, reported that they would consider agreeing the application with the surrender of the previous licence and also the ghost licence from the Red Lion. The applicant's solicitor drew to the Sub-Committee's attention the fact that the noise officer had withdrawn her representation to the previous application prior to that meeting. That original application was for 07:00 am to 11pm. The representation was withdrawn prior to any suggestion of the hours from 9am to 9pm.

With regard to concerns expressed by the Sub-Committee which had recently been set up near the shop the licensee representative stated that the premises would operate Challenge 25 and there would be no risk of underage sales. In light of the submissions by the police and the noise team above, the Sub-

Committee decided to extend the hours permitted for the premises to sell alcohol, off supplies only on Mondays to Sundays from 9am to 10pm.

The premises had already been granted a licence to sell alcohol from 9am to 9pm and the Sub-Committee was of the opinion that the additional hour in the evening would not adversely affect the licensing objectives.

268 OLD STREET CENTRAL STOP, 104-122 CITY ROAD, EC1V 1LA – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (ITEM B6)

The trading standards officer reported that there had been three seizures of illicit wine, in March, July and September 2013. The licence holder had not contacted trading standards after each occasion, despite requests to do so and he had not been seen in the shop. When the trading standards officer had spoken to him in October 2013, Mr Patel promised he would call back, but no communication had been received. He reported that the licence holder had consistently shown he was unable to manage underage sales and had not engaged with the responsible authorities and he considered that the licence should be revoked.

The police officer reported that he agreed with the recommendations and the review submitted by the trading standards officer.

Mr O'Connell, agent, supported by Mr Patel, the licence holder, spoke against the review. He informed the Sub-Committee that Mr Patel had sought to train his staff but Mr Krunel Patel had deceived him and he had been unaware of any communications from Trading Standards until October. He was not disputing the evidence before the Sub-Committee but stated that a member of staff was deliberate in his attempts to bring illicit alcohol into the shop. He realised he had not attended to the matter as quickly as he should and offered to remove himself as designated premises supervisor and add conditions to the licence or use suspension as an alternative to the revocation of the licence. Mr Patel was let down by a trusted member of staff and was now trying to turn things around. Management and training policies and copies of a P45 for Mr K Patel were circulated and would be interleaved with the agenda papers.

In response to questions from the Sub-Committee, Mr Patel was unable to outline the licensing objectives. The matter was brought for review because of the seizures of illicit alcohol, despite advice given and also due to the failure of Mr Patel to engage with the authorities. The trading standards officer spoke to two different members of staff regarding the seizures and would be concerned if they had not passed the message on. The Sub-Committee noted that Mr Krunel Patel was no relation of the licence holder, Mr Patel.

In summary, the trading standards officer reported that, although it was pleasing to see that training was now taking place, there was no evidence that staff were trained before working on the till. The recommendation to revoke the licence remained.

The police considered that it was no defence that Mr Patel did not know the activities that were happening in his premises. He was responsible for the things that happened in the store.

Mr O'Connell stated that the defence was not that Mr Patel did not know what was happening in the premises but that he was deceived by a member of staff and once he was aware acted with due diligence.

The Sub-Committee left the room to deliberate and returned to announce their decision.

RESOLVED

That the premises licence in respect of Old Street Central Stop, 104-122 City Road, EC1 be revoked.

REASONS FOR DECISION

The Sub-Committee noted that the review was brought following underage sales at the premises. The Home Office guidance at paragraph 11.27 identifies criminal activity which the Secretary of State considers should be treated particularly seriously including the illegal purchase of alcohol by minors. Paragraph 11.28 of the guidance states that the review procedure can be used to deter such activities. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

The Sub-Committee noted that on the 7 September 2013 an underage sale of alcohol took place without challenge to a female volunteer who was 16 years old. In addition thereto, despite several invitations, no-one from the business attended any of the three training sessions provided by Trading Standards in January 2013. On the 20 March 2013 there was a seizure of 83 bottles of wine during a check of alcohol stock by HMRC. No invoices could be provided. On 2 July 2013 Mr Krunel Patel sold to a student assisting trading standards. The student was 18 years and two weeks old and Mr Patel failed to challenge the purchaser. Following this incident a letter was sent by trading standards to the licence advising of the importance of Challenge 25. Also in July 2013 a seizure of 14 bottles of wine took place. No invoices could be provided and in an audit conducted on the 6 September 2013 Mr Patel revealed a lack of knowledge in relation to challenging young people. It was after this incident and after the warning letter that the underage sale took place on the 7 September 2013. On the 26 September 2013 a seizure of 23 bottles of wine were seized. No invoices could be provided and on the 15 October 2013 trading standards contacted the licensee on the phone. He said he would phone back in a couple of weeks but nothing was heard from him. Mr Love informed the Sub-committee that there had been a total lack of co-operation between the licensee and the authority and for these reasons recommended that the licence should be revoked. Mr Patel had an opportunity to learn from his failed Challenge 25 purchase and had a further reminder the day before the illicit sale took place.

The Sub-committee was of the opinion that removing the designated premises supervisor would not be effective as it appears little prospect of the management of the business changing just because the dps had changed. The Sub-Committee considered that the licensee had failed to demonstrate high standards of management and the prevention of crime and disorder objective was seriously undermined. The Sub-Committee was not confident that this would be improved by the imposition of changes of dps or additional conditions and accordingly decided to revoke the licence.

269 EMIRATES EXPRESS, 35-43 HORNSEY ROAD, N7 7DD – APPLICATION FOR A PREMISES LICENCE TRANSFER AND DPS APPLICATION UNDER THE LICENSING ACT 2003 (ITEM B7)

The applicant was not present at the meeting.

The licensing officer reported that the applicant was notified of the meeting on the 7 January 2014 and had received no subsequent correspondence from the applicant.

The police officer, supported by his witness, the trading standards officer, spoke against the application. He stated that there was no change to the representation detailed in the agenda. He asked that the Sub-Committee decline the application for a premises licence transfer and variation of designated premises supervisor.

DECISION

That the application to transfer the premises licence and vary the DPS in respect of Emirates Express, 35-43 Hornsey Road, N7 7DD be refused.

REASONS FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and

its regulations, the national guidance and the Council's Licensing Policy.

This was an application to transfer and vary the designated premises of the premises licence. The police submitted representations. The premises licence had previously been revoked and was currently trading subject to appeal.

The premises licence had previously been reviewed by Trading Standards on 31 August 2010 on the grounds of the prevention of protection of children from harm for two underage sales. The licence was suspended on 1 November 2010 for two weeks and additional conditions were placed on the licence. Further conditions were then placed on the licence following a review on the 14 July 2011 on the grounds of the prevention of crime and disorder after the seizure of illicit alcohol. The current licence holder Mr Zahid Shah was the designated premises supervisor at the premises at the time of both licence reviews and he became the licence holder of the premises on the 17 August 2011. On the 7 October 2013 the Sub-Committee decided to revoke the premises licence for Emirates Express, due to the licensee having failed to demonstrate a commitment to standards of management required in managing staff. That decision is currently on appeal which will be heard on the 11 March 2014.

At the hearing on the 21 January 2014, the applicant did not appear and no representative appeared for him. The Sub-Committee heard representations from the police who objected to the application. The trading standards officer attended the meeting to give evidence as a police witness.

The police objected to the transfer and submitted that since the revocation of the licence the premises had been subject to licensing enforcement action since the 7 October 2013 including two after hour sales of alcohol. The day to day management had not changed since the application even though the applicant had stated on their forms that the application would have immediate effect. The application for the variation was accordingly refused on the grounds of poor management and the prevention of crime and disorder.

The meeting closed at 9.50pm

CHAIR