

London Borough of Islington

Licensing Sub-Committee C – 3 October 2011

Minutes of the meeting of Licensing Sub-Committee C held at the Town Hall, Upper Street, N1 2UD on 3 October 2011 at 10.15am.

Present: **Councillors:** Raphael Andrews, Julie Horten (Items B1 – B4), Tracy Ismail (Items B5 – B8) and Marian Spall.

COUNCILLOR MARIAN SPALL IN THE CHAIR

73 INTRODUCTIONS (ITEM A1)

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

Those present were informed that the procedure for the conduct of the meeting was detailed on page 3 of the agenda.

74 APOLOGIES FOR ABSENCE (ITEM A2)

None.

75 DECLARATION OF SUBSTITUTE MEMBERS (ITEM A3)

Councillor Ismail substituted for Councillor Horten for Items B5 – B8.

76 DECLARATIONS OF INTEREST (ITEM A4)

None.

77 CONFIRMATION OF THE MINUTES OF THE MEETING OF LICENSING SUB-COMMITTEE C HELD ON 4 AUGUST 2011 (ITEM A5)

RESOLVED:

That the minutes of the meeting held on the 4 August 2011 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

78 ORDER OF BUSINESS (ITEM A6)

The order of business would be B1, B3, B4, B2, B5-8.

79 BROTHERS SUPERMARKET, 60 FONTHILL ROAD, LONDON N4 3HT – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B1)

The Sub-Committee noted that this item had been adjourned to a future meeting.

80 SX FOOD AND WINE, 142 ESSEX ROAD, LONDON N1 8LX – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B2)

The trading standards officer reported that the main issues were outlined in the report to the Sub-Committee. He raised particular concerns regarding the management structure in the premises and reported that there had been no communication from the premises with Trading Standards regarding licensing issues. He also informed the Sub-Committee that the licensee may wish to obtain further legal advice as he was unrepresented.

Erdal Unek supported by his father Mehmet Ali Unek and Mehmet Kizildag, the proposed Designated Premises Supervisor (DPS), spoke against the review. In response to questions from the Sub-Committee Erdal Unek reported that he could deal with the issues and the DPS was also present to respond to questions.

The Sub-Committee noted that Mr Gosgu, who was named on the licence, had left some time before and the licence was in the process of being transferred. At the time of the seizure Mr Kizildag

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was abroad due to personal circumstances. Mr E Unek had taken over the shop from the 5 August 2011 once he had finished his studies. Since he had taken over management of the shop, stock had been purchased only from genuine cash and carry shops. He had tried to find invoices for the seized stock but had been unable to do so. He agreed to the additional conditions detailed on page 61 of the report.

Following a short adjournment the Sub-Committee returned to seek further information. In response to questions Mr E Urek stated that his father had kept the paperwork relating to the application for the review at home as this was prior to his taking over the management of the shop.

Members of the Sub-Committee left the room to consider their decision.

RESOLVED:

(a) That the premises licence in respect of SX Food and Wines, 142 Essex Road, N1 8LX be suspended for 8 weeks and the DPS be removed.

(b) That conditions as detailed on page 61 of the agenda be applied to the licence:

REASONS FOR DECISION

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

The Sub-Committee noted that the review was brought following smuggled alcohol being found at the premises by the responsible authorities. The Home Office guidance at paragraphs 11.23, 11.26 and 11.27 identified criminal activity which the Secretary of State considered should be treated particularly seriously. This included the sale of smuggled and counterfeit 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 should be seriously considered. The Sub-Committee considered that the crime prevention objective was undermined through the premises being used for the sale of smuggled alcohol. When making their decision the Sub-Committee also considered paragraphs 11.19, 11.20 and 11.22 of the guidance.

The Sub-Committee noted that 7.7 litres of spirit and 185 bottles of wine were seized from the premises. The Sub-Committee heard evidence that the licensee's son had recently taken over the management of the shop and an application had been made for a change in Designated Premises Supervisor. The Sub-Committee noted that no invoices were available and nor was evidence given as to how the seized goods came to be in the licensed premises.

The Sub-Committee considered that a suspension was necessary to allow for the changes in management structures to take effect. They considered that the replacement of the designated premises supervisor was a necessary and proportionate response as the problem identified relates to poor management decisions made.

The Sub-Committee were satisfied that with the suspension and the removal of the DPS, the licensing objectives would be promoted. In reaching their decision, they took into particular consideration Licensing policy 028 which requires licensees to operate to the highest standards of management and Licensing Policy 039 regarding the sale of counterfeit and smuggled goods and considered their decision was necessary and proportionate to the promotion of the licensing objective of the prevention of crime and disorder.

81 COSTCUTTERS, 22 CALEDONIAN ROAD, LONDON N1 9DU - APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B3)

The trading standards officer highlighted to the Sub-Committee that a letter had been sent to the owner in March 2011 which outlined precautions to licensees about purchasing smuggled goods. Members noted that Mr Khan had recently asked for training on smuggled goods and had purchased a UV light.

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Howard Timms, solicitor, supported by Mr Khan the licensee, spoke against the review. He reported that since the first incident in 2009, the licensee had done all he could to prevent the purchase of smuggled goods from occurring a second time. The second incident had not been caused by staff buying from callers at the shop. Invoices were available and there was only one receipt, for the Glen vodka, that could not be found.

Mr Timms reported that Mr Khan had co-operated as fully as possible with Trading Standards, he accepted the additional conditions and also proposed to send a mystery shopper into his store to check his staff understood that they should not buy from callers at the shop.

Mr Timms presented a file of invoices for members to look at during their deliberation. Members expressed their concern that the invoices had not been available before this day.

Members of the Sub-Committee left the room to consider their decision.

RESOLVED:

That the premises licence in respect of Costcutters, 22 Caledonian Road, N1 9DU be revoked.

REASONS FOR DECISION

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

The Sub-Committee noted that the review was brought following smuggled alcohol found at the premises by the responsible authorities. The Home Office guidance at paragraphs 11.23, 11.26 and 11.27 identified criminal activity which the Secretary of State considered should be treated particularly seriously. This included the sale of smuggled and counterfeit 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 should be seriously considered. The Sub-Committee considered that the crime prevention objective was undermined through the premises being used for the sale of smuggled alcohol. When making their decision the Sub-Committee particularly considered paragraph 11.22 of the guidance.

The Sub-Committee heard evidence that in December 2009 three bottles of Bollinger champagne were surrendered by the licensee to trading standards officers following an inspection, as they were suspected and later confirmed to be counterfeit. Written advice was then given to Mr Khan which warned against buying from persons calling at the shop. Trading standards sent clear advice in March 2011 detailing the types of products that could be illicit and how to avoid buying them. Despite this, the Sub-Committee noted that 15.9 litres of spirits and 111 bottles of wine were seized at the premises in June 2011. The business was given 30 days to provide proof of legitimate purchase and a reminder letter was sent by trading standards on 4 July but no proof was forthcoming although invoices were provided at the hearing, It was not possible to examine these in order to link them to the seized alcohol given the short notice. The Sub-Committee noted that the licensee had recently approached trading standards for training but in their view, this should have been sought earlier. In the view of the Sub-Committee he had not co-operated with trading standards until very recently and this was indicative of poor management. The Sub-Committee was not satisfied that the licensee could run a business that could promote the licensing objective of the prevention of crime.

Given these considerations, the Sub-Committee decided to revoke the licence. In reaching their decision, they took into particular consideration Licensing policy 028 which requires licensees to operate to the highest standards of management and Licensing Policy 039 regarding the sale of counterfeit and smuggled goods and considered their decision was necessary and proportionate to the promotion of the licensing objective of the prevention of crime and disorder.

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82 **JENNINGSBET, 75-77 GREEN LANES, LONDON N16 9BU – APPLICATION FOR NEW PREMISES LICENCE UNDER THE GAMBLING ACT 2005 (Item B4)**

Andrew Woods, solicitor, supported by Peter Jowett, Development Manager, spoke in support of the application.

The Sub-Committee noted that JenningsBet would be replacing an adult gaming centre and that there would be four gaming machines in the premises. Mr Woods outlined the policies Jennings Racing Limited had in place and informed the Sub-Committee that they ensured all staff were trained in their social responsibility.

Members of the Sub-Committee left the room to consider their decision.

RESOLVED:

That the premises licence in respect of JenningsBet be granted subject to the mandatory and default conditions as detailed on pages 113 and 114 of the agenda.

REASONS FOR DECISION:

The Sub-Committee considered the submissions put forward by 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 JenningsBet were taking over an adult gaming centre and as a result there would only be four gaming machines on the premises. The Sub-Committee was satisfied that JenningsBet had policies in place that would promote the licensing objectives.

The Sub-Committee considered that granting the application was consistent with the Council's Gambling Policy and the Gambling Act 2005. The Sub-Committee noted that the authority intended to carry out further investigation to consider whether it was necessary to introduce a saturation policy. The Sub-Committee took into consideration Part 2, paragraphs 42 – 52 of the Gambling policy regarding location of the premises, crime and disorder and protecting children and vulnerable persons.

83 **YOUR LOCAL MINI MARKET, 274 Highbury New Park, London N5 2LH – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B5)**

The Sub-Committee noted the statement of evidence from the licensee that would be interleaved with the agenda papers.

Members noted the report of the Trading Standards officer. The trading standards officer informed the Sub-Committee that receipts were unlikely to be provided unless goods were purchased from reputable suppliers. Four invoices in this case had been supplied and could be matched to similar goods purchased at the cash and carry.

Michael Attenborough, barrister, supported by the licensee, Mr Erdogan, spoke against the review. He accepted that Mr Erdogan failed to conduct checks when he was approached by a caller to the shop but had removed the bottles from the shelves once he had realised they were not genuine. All other purchases had been from genuine suppliers.

Mr Attenborough informed the Sub-Committee that the licensee had no previous history of selling underage customers. The licensee had purchased a UV light, read about the dangers of methanol and had retrained staff. He provided a valuable service to the community and he considered it disproportionate after one seizure to revoke the licence. Mr Erdogan would build on the improvements that he had already started to make.

The Sub-Committee noted that nine of the ten bottles of Smirnoff vodka had damaged caps, consistent with security devices being forced off. Two of these bottles were shown to have been

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supplied directly to supermarkets.

Members of the Sub-Committee left the room to consider their decision.

RESOLVED:

That the premises licence in respect of SX Food and Wines, 142 Essex Road, N1 8LX be modified to impose conditions as detailed on pages 124/125 of the agenda.

REASONS FOR DECISION

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

The Sub-Committee noted that the review was brought following smuggled alcohol being found at the premises by the responsible authorities. The Home Office guidance at paragraphs 11.23, 11.26 and 11.27 identified criminal activity which the Secretary of State considered should be treated particularly seriously. This included the sale of smuggled and counterfeit 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 should be seriously considered. The Sub-Committee considered that the crime prevention objective was undermined through the premises being used for the sale of smuggled alcohol. When making their decision the Sub-Committee also considered paragraph 11.19 and 11.22 of the guidance.

The Sub-Committee noted that 38 litres of spirit and 112 bottles of Italian wine were seized from the premises and were found to be genuine but non duty paid. It was also noted that 13.5 litres of Smirnoff vodka seized, had been examined and two bottles were found to have been supplied to supermarkets. Additionally, 20 bottles of Jacobs Creek wine were seized and found to be counterfeit.

The Sub-Committee noted that the licensee had taken steps to improve management practices by purchasing a UV light to check stock, retraining staff and was now familiar with the advice/literature provided by the trading standards team on the dangers of purchasing alcohol other than from reputable suppliers.

The Sub-Committee also noted that the licensee recognised that he provided a valuable service to his local community and would continue to do so if given the opportunity.

The Sub-Committee were satisfied that by adding conditions 1-10 as detailed on pages 124/125 of the agenda, the licensing objectives would be promoted. In reaching their decision, they took into particular consideration Licensing policy 028 which requires licensees to operate to the highest standards of management and Licensing Policy 039 regarding the sale of counterfeit and smuggled goods and considered their decision was necessary and proportionate to the promotion of the licensing objective of the prevention of crime and disorder.

84 SAIGON EXPRESS OFF LICENCE, 90 HORNSEY ROAD, LONDON N7 7NN– APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B6)

The Sub-Committee noted the statement of evidence from the licensee that would be interleaved with the agenda papers.

Members noted the report of the Trading Standards officer. The trading standards officer highlighted that an advice visit was made in December 2010 and an advice pack left. In June 2011, spirits and wine were seized in a joint HMRC/trading standards visit.

Michael Attenborough, solicitor, supported by Mr Yeter, licensee, spoke against the review of the licence. Invoices were available to confirm that Mr Yeter generally bought goods from reputable sources, however these did not match up to the alcohol seized from the premises. Mr Yeter admitted that the spirits were purchased from a man calling to the shop who was selling shelves

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which he needed for the shop. He agreed to sell the shelves on condition that Mr Yeter also purchase the spirits.

Mr Attenborough informed the Sub-Committee that Mr Yeter had been unaware of the advice visit. He had purchased a UV light, had installed a stock control system and had read about the dangers of methanol. He accepted the suggested conditions. He was very concerned about the possible loss of business on a family with two young children and four staff.

Members of the Sub-Committee left the room to consider their decision.

RESOLVED:

That the premises licence in respect of Saigon Express Off Licence, 90 Hornsey Road, N7 7NN be modified to impose conditions as detailed on page 169 of the agenda.

REASONS FOR DECISION

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

The Sub-Committee noted that the review was brought following smuggled alcohol being found at the premises by the responsible authorities. The Home Office guidance at paragraphs 11.23, 11.26 and 11.27 identified criminal activity which the Secretary of State considered should be treated particularly seriously. This included the sale of smuggled and counterfeit 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 should be seriously considered. The Sub-Committee considered that the crime prevention objective was undermined through the premises being used for the sale of smuggled alcohol. When making their decision the Sub-Committee also considered paragraph 11.19 and 11.22 of the guidance.

The Sub-Committee noted that 39.8 litres of spirit and 29 bottles of wine were seized from the premises. The spirits in this case were believed to be genuine but non-duty paid. The Sub-Committee noted that the licensee had taken steps to improve management practices by purchasing a UV light to check stock, retraining staff and was now familiar with the advice/literature provided by the trading standards team on the dangers of purchasing alcohol other than from reputable suppliers. The Sub-Committee also noted the impact a revocation would have on the licensee and four members of staff that he employed.

The Sub-Committee were satisfied that by adding conditions 1-11 as detailed on page 169 of the agenda, the licensing objectives would be promoted. In reaching their decision, they took into particular consideration Licensing policy 028 which requires licensees to operate to the highest standards of management and Licensing Policy 039 regarding the sale of counterfeit and smuggled goods and considered their decision was necessary and proportionate to the promotion of the licensing objective of the prevention of crime and disorder.

85 HOLLOWAY FOOD STORES, 535 HOLLOWAY ROAD, LONDON N19 4BT – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B7)

The trading standards officer highlighted that an advice letter had been sent to the premises in March 2011. In May 2011, at a joint visit made by officers from HMRC and the trading standards team, illicit spirits were seized from the premises. The goods in this instance were smuggled but not counterfeit. The officer expressed concern that there had been a previous suspension of the licence as there had been a review of the licence following two sales to underage test purchasers in 2008. The trading standards officer considered that this indicated an unsatisfactory standard of management.

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Justin Shale, solicitor, supported by owner, Celal Gul, spoke against the review. He reported that Mr Gul would not purchase from a man calling at the shop. The alcohol had been purchased from a cash and carry or, in the case of the vodka, was old stock. Mr Gul had received the advice letter in March 2011 but was not unduly concerned as he always purchased alcohol through a cash and carry and considered them to be a reputable supplier. Mr Shale also reported that Mr Gul had received visits from HMRC on previous occasions. He had invoices that tied in with the exact purchases. He urged the Sub-Committee not to consider revocation or suspension, although accepted the imposition of the conditions on the licence. He felt that the underage sales had been dealt with on a previous occasion.

Members of the Sub-Committee left the room to consider their decision.

RESOLVED:

That the premises licence in respect of Holloway Food Stores, 535 Holloway Road, N19 4BT be modified to impose conditions as detailed on pages 193/194 of the agenda.

REASONS FOR DECISION

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

The Sub-Committee noted that the review was brought following smuggled alcohol being found at the premises by the responsible authorities. The Home Office guidance at paragraphs 11.23, 11.26 and 11.27 identified criminal activity which the Secretary of State considered should be treated particularly seriously. This included the sale of smuggled and counterfeit 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 should be seriously considered. The Sub-Committee considered that the crime prevention objective was undermined through the premises being used for the sale of smuggled alcohol. When making their decision the Sub-Committee also considered paragraph 11.19 and 11.22 of the guidance.

The Sub-Committee noted that 28.5 litres of spirit had been seized. The spirits in this case were believed to be genuine but smuggled. The Sub-Committee noted that the licensee had been in business for eight to nine years, that the bottles seized in this case had been examined and found to be old stock and may not have required a duty stamp. The Sub-Committee noted that the licensee had provided invoices from a cash and carry in respect of purchases of alcohol. The Sub-Committee also noted the impact a revocation or suspension would have on the licensee and his staff.

The Sub-Committee were satisfied that by adding conditions as detailed on pages 193/194 of the agenda, the licensing objectives would be promoted. In reaching their decision, they took into particular consideration Licensing policy 028 which requires licensees to operate to the highest standards of management and Licensing Policy 039 regarding the sale of counterfeit and smuggled goods and considered their decision was necessary and proportionate to the promotion of the licensing objective of the prevention of crime and disorder.

86 GARDEN CAFE, 418 ESSEX ROAD, LONDON N1 3PJ – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B8)

The licensing officer informed the Sub-Committee that the licensing area would not extend to the garden and the sale of alcohol was for on sales only.

The noise officer reported that condition 10 on page 225 of the agenda should be deleted as the garden was not part of the licensable area.

Justin Shale, solicitor, supported by Mr Turgay Mizan, the applicant, spoke in support of the application. He reported that a planning application had been submitted to extend the hours of use

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and to change the use of the garden.

Members of the Sub-Committee left the room to consider their decision.

RESOLVED

- a) That the application for a new premises licence in respect of the Garden Café, 418 Essex Road, London, N1 3PJ be granted to permit the sale of alcohol on sales only from 11:00 until 23:00 Monday to Sunday.
- b) That the conditions as detailed on page 225 of the agenda shall be applied to the licence subject to the deletion of condition 10.

REASONS FOR DECISION

The Sub-Committee considered the submissions put forward by the responsible authorities, 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, character of the area, views of the interested parties and the proposed hours of operation and licensing policy 010 regarding the protection of the amenity of residents and business in the vicinity of licensed premises. The Sub-Committee also considered licensing policy 009 regarding lawful planning status and noted that the applicant had applied to the planning authority for an extension in hours of operation.

The Sub-Committee considered that with the conditions detailed on appendix 3 on page 225 of the report subject to the deletion of proposed condition 10, the licensing objectives would be promoted.

The meeting closed at 4:45 pm

CHAIR