

London Borough of Islington

Licensing Sub-Committee C – 12 March 2012

Minutes of the additional meeting of Licensing Sub-Committee C held at the Town Hall, Upper Street, N1 2UD on 12 March 2012 at 10.30am.

Present: **Councillors:** Raphael Andrews, Wally Burgess (Items B1-B4 and B6), Barry Edwards (Item B5) and Tracy Ismail.

COUNCILLOR RAPHAEL ANDREWS IN THE CHAIR

87 INTRODUCTIONS (ITEM A1)

Councillor Andrews 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.

88 APOLOGIES FOR ABSENCE (ITEM A2)

None.

89 DECLARATION OF SUBSTITUTE MEMBERS (ITEM A3)

Councillor Burgess substituted for Councillor Spall for Items B1-B4 and B6, Councillor Edwards substituted for Councillor Spall for Item B5 and Councillor Ismail substituted for Councillor Horten.

90 DECLARATIONS OF INTEREST (ITEM A4)

None.

91 ORDER OF BUSINESS (ITEM A5)

The order of business would be as detailed on the agenda.

92 1 GOSWELL ROAD, EC1M 7A – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B1)

The licensing officer reported that the trading standards conditions had been agreed.

There were no resident objectors present at the meeting.

Robert Jordan, representing the licensee, Jahesh Patel, spoke in support of the application and outlined the measures that the licensee would be taking to meet the licensing objectives.

The Sub-Committee noted that the opening hours would be the same as those requested for the sale of alcohol.

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

RESOLVED:

a) That having considered all the evidence submitted and having given consideration to the Licensing Act 2003 and its regulations, the national guidance and the Council's licensing policy, the premises licence in respect of 1 Goswell Road, N7 7PX, be granted to allow the sale of alcohol from Monday to Sunday from 08:00am until 11pm.

b) That the conditions as outlined in appendix 3 as detailed on page 27 subject to the deletion of condition 2 be applied to the licence.

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REASONS FOR DECISION

The Sub-Committee considered the submissions put forward by the responsible authorities, the interested party 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.

The Sub-Committee noted that the applicant's business was family run and had good management. The business sold fine wines and champagnes and would therefore not be in competition with the neighbouring off-licences. The high prices of these products made the business unlikely to be a target for underage and proxy sales.

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 010 regarding the protection of the amenity of residents and business in the vicinity of licensed premises. The Sub-Committee also took into consideration Licensing Policy 025 which considers the increasing numbers of shops selling alcohol for consumption off the premises.

The Sub-Committee considered that with the conditions detailed on appendix 3 on page 27 of the report subject to the amendment, the licensing objectives would be promoted.

93 MCDONALDS RESTAURANT, 251-255 UPPER STREET, LONDON, N1 1RY – APPLICATION FOR A PREMISES LICENCE VARIATION UNDER THE LICENSING ACT 2003 (Item B2)

The Sub-Committee noted the objection from the resident detailed in the report.

Amir Atefi, and Matthew Day, McDonalds, spoke in support of the variation. They outlined the action they would take regarding litter patrols and informed the Sub-Committee that these would take place a minimum of three times a day and could be as often as once an hour.

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

RESOLVED:

a) a) That having considered all the evidence submitted 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 McDonalds, 251-255 Upper Street, N1 1RY be granted to allow the provision of late night refreshment, Mondays to Sundays from 23:00 until 02:00.

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

i) Conditions of the current premises licence.

ii) Conditions as outlined in appendix 3 as detailed on page 55 of the agenda.

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.

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 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 4 on page 55 of the

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report, the licensing objectives would be promoted.

94 **SARI CICEK RESTAURANT, 156a BLACKSTOCK ROAD, LONDON, N4 2DY - APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B3)**

The licensing officer reported that the health and safety condition had been withdrawn.

The Sub-Committee noted the paper tabled by trading standards which would be interleaved with the agenda papers.

Yilmaz Koca, the licensee, informed the Sub-Committee that the tobacco had been brought into the shop by a member of staff and it was not very good quality. It was not for sale in the shop. The wine had been bought by his brother from a caller to the shop. He had bought a large quantity of wine as it was his intention to give it to his regular customers as Christmas presents.

Mr Koca apologised for the mistake and promised that it would not happen again. He reported that there had been no other incidents in the past.

In response to questions, the trading standards officer, reported that the licensee was given advice earlier in the year and if this advice had been followed; the mistake would not have been made. He advised that he was asked to visit the premises and provide a uv torch.

The police still had concerns regarding the management of the business and supported a revocation of the licence.

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

RESOLVED:

a) That, having considered all the evidence submitted and having given consideration to the Licensing Act 2003 and its regulations, the national guidance and the Council's licensing policy, the premises licence in respect of Sari Cicek Supermarket, 156a Blackstock Road, N4 2DY for a period of 28 days.

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

i) Conditions of the current premises licence with the deletion of condition 7, Annex 2.

ii) Conditions 9 - 19 proposed by trading standards officers as detailed on page 27 of the agenda and the following additional condition.

- All staff should become fully conversant in the characteristics of smuggled and counterfeit products and trading standards procedures. The licensee should engage fully with trading standards in this process.

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 brought following smuggled alcohol and tobacco being 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 considered should be treated particularly seriously, including the sale of smuggled alcohol and tobacco. It was envisaged that licensing authorities would use the review procedures to deter such activities and crime.

The Sub-Committee noted that on the 11 November 2011, officers from trading standards and HMRC whilst visiting the premises, seized 3.5 litres of Yeni raki, 2.1 litres of Tekirdag raki, 0.7 litres of Glens vodka, 206.25 litres of Italian wine, 1.15kg of 'Golden Virginia' hand rolling tobacco and

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0.1kg of shisha tobacco which they believed to be non-duty paid. The Golden Virginia tobacco had since been found to be counterfeit but trading standards had agreed that it was not on display.

The licensee admitted that the wine had been bought by his brother from an unknown seller calling to the shop and no paperwork had been given. The licensee apologised to the Sub-Committee and said it was a mistake and he would guarantee not to do it again. He reported that he had never been in trouble with the police. It was noted that trading standards had no previous record of non-compliance at the shop in respect of underage sales. This was the first time an inspection had been carried out in respect of smuggled and counterfeit goods by trading standards.

In reaching their decision the Sub-Committee took particular consideration of licensing policy 039 regarding the sale of smuggled goods on licensed premises. The Sub-Committee took note of the admission of fault and apology given by Mr Yilmaz Koca to the Sub-Committee. Further note was taken of his positive engagement with trading standards since the seizure. Given these considerations, the Sub-Committee decided to suspend the licence for 28 days and made amendments to the conditions. The Sub-Committee considered this was necessary and proportionate in all the circumstances to ensure that the licensing objectives were upheld.

95 **ARSENAL SUPERMARKET, 229 BLACKSTOCK ROAD, LONDON, N4 2DY – APPLICATION FOR PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B4)**

The licensing officer reported that the health and safety condition had been withdrawn.

The Sub-Committee noted the paper tabled by trading standards which would be interleaved with the agenda papers. The trading standards officer reported that he had met with Ali Yavuz and he believed he was genuine in his intention to improve compliance.

Graham Hopkins, licensing representative, supported by Ali Yuvaz, the manager and Yucel Yuvaz the designated premises supervisor, reported that Ali was now in day to day control of the business. Ali Yuvaz had recently returned to the UK from Turkey and had contacted trading standards within two days of his return. Invoices were not available but Mr Hopkins asked the Sub-Committee to take into account that this was a first offence and that the licensees had never had a problem with underage sales.

In response to questions it was noted that Ali was also managing a neighbouring restaurant. Both Halil Yuvaz, the father and Yucel were currently working at the supermarket. Halil could not read the guidance from Trading Standards as it was not in Turkish and Yucel had scanned the guidance but did not go through the advice with his father. Ali Yuvaz considered that all the letters from the Council looked the same and it would have been helpful if different points had been highlighted. He also felt that there should be a hotline to report sellers. He informed the Sub-Committee that, if he had to leave the country again, he would have to sell the business.

The trading standards officer advised the Sub-Committee that this was one of the biggest seizures of smuggled alcohol that had been made. In response to the point raised about differentiating letters from the Council, he held up a letter that had been sent to the licence holder which had a bright red heading stating 'Important Information – Your licence is at risk'. He advised that if they wished to report sellers they could ring his number as detailed on the letter. Although the father was unable to read English, he had not had the guidance explained to him by Yucel, the designated premises supervisor.

In summing up, the trading standards officer reported that this was a large seizure, the spirits could have been counterfeit, the guidance had not been read and he considered there were significant management issues. The police considered that the licence holders were blaming others rather than acting responsibly, for example they had stated that the guidelines were not in Turkish and the letter they had received from Trading Standards was not highlighted enough. He advised that if they had followed the guidelines they would not have been in this situation. He considered that the

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Sub-Committee should revoke the licence.

Mr Hopkins reported that there was now a change in management and Ali Yuvaz had said that if he had to leave the country he would have to sell the business. He asked that the Sub-Committee impose additional conditions to the licence.

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

RESOLVED:

That, having considered all the evidence submitted and having given consideration to the Licensing Act 2003 and its regulations, the national guidance and the Council's licensing policy, the premises licence in respect of Arsenal Supermarket, 229 Blackstock Road, N4 2DY be revoked.

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 brought following smuggled alcohol and smuggled tobacco being found at the premises by the responsible authorities. The Home Office guidance at paragraphs 11.26 and 11.27 identifies criminal activity which the Secretary of State considered should be treated particularly seriously, including the sale of smuggled alcohol and tobacco. It was envisaged that licensing authorities will use the review procedures to deter such activities and crime. Where licensing authorities determined that the crime prevention objective was being undermined it is expected that revocation of the licence should be seriously considered.

The Sub-Committee noted that on the 11 November 2011, officers from trading standards and HMRC visited the premises and seized 55.8 litres of Glens vodka, 26 litres of High Commissioner whisky, 9 litres of E and J brandy, 7 litres of Famous Grouse whisky, 1.4 litres of Bells whisky and 5257 cigarettes.

At an interview under PACE on the 20 January 2012, the father, Halil Yavuz, the sole director of Bilkon Ltd, the company that own the business, stated that he did not know where the spirits had been bought. He did not supply paperwork at the interview. The Sub-Committee noted that this was one of the biggest seizures that had been made.

The director Halil Yavuz, denied seeing the letter and guidance that was sent to the shop, but Yucel Yavuz, the designated premises supervisor and licensee said he had scanned the letter but not taken note of its contents.

The Sub-Committee noted that Yucel and Halil Yavuz were still working at the premises and that their brother Ali had stepped forward to deal with the management issues. Yucel stated that sales from the caller had been made after he had left the premises for the day and as such had felt that they were out of his control. Halil had sanctioned the purchase of the licensable goods from cold callers. Further Yucel stated that he felt the trading standards warning letters should have a more prominent warning. Doug Love produced such a letter with a heading in bright red stating "Important Information - YOUR LICENCE IS AT RISK" which he considered to be more than sufficient. Yucel also felt that all correspondence from the Council on these matters should be in Turkish, as his father could not speak very good English, however he did accept that his father, as company director, had far reaching responsibilities and as such should have had a capability to have documents translated. Yucel also stated he felt trading standards should have a hotline to report cold callers. Doug Love stated that his number, given in the warning letters was such a hotline. The police also told him that he could ring 999 to report sellers. The Sub-Committee noted that trading standards reported that the majority of the alcohol was easy to spot as smuggled, except for the Glens vodka and that, had they read and followed the guidance, they would not be in this position. The Sub-Committee noted that the finger of blame was consistently pointed at

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authorities rather than at the real culprit. Yucel as DPS and licensee, was still failing to take responsibility for his lack of management.

The Sub-Committee noted that although Ali Yavuz was willing to take out a personal licence, he could not guarantee he would be at the premises or even in the country all the time to manage. The business would remain a family concern and therefore would be vulnerable to repeat contraventions.

In reaching their decision they took into particular consideration Licensing Policy 039 regarding the sale of smuggled goods on licensed premises. Given these considerations, the Sub-Committee decided that revocation was necessary and proportionate in this case.

96 **HIGHBURY WINE, 225 BLACKSTOCK ROAD, LONDON, N5 2LL – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B5)**

The licensing officer reported that the health and safety conditions had been withdrawn.

The Sub-Committee noted the paper tabled by trading standards which would be interleaved with the agenda papers. The trading standards officer reported that he had not had any contact from the licence holder until their representative had contacted them recently. Invoices that had been requested were still outstanding. He reported that there had been no tobacco relating to this review.

Graham Hopkins, licensing representative, supported by Ali Yildirim, the designated premises supervisor, spoke against the review. He informed the Sub-Committee that the owner, Mr Mehmet Yildirim and brother of Ali, had bought the Italian wine from a caller to the shop. Mehmet had seen the guidance letters but had not passed them onto Ali. He was unsure where the High Commissioner whisky or the Glens had been purchased from, but believed the Glens may have come from a cash and carry. There was a cold caller in January and he had been turned away. They had kept the CCTV relating to this incident but it was wiped after 31 days.

In response to questions, it was noted that this was a first offence. Mr A Yildirim had told his brother that if he bought any other smuggled goods he would leave the business. He had asked his brother not to buy any other stock even if he believed it to be genuine. Mehmet had not told his brother he had purchased the wine and Ali had not noticed as similar wine had been purchased from a cash and carry previously. Mr Hopkins advised that a condition be added to the licence that all purchasing be delegated to Mr A Yildirim.

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

RESOLVED:

a) That, having considered all the evidence submitted and having given consideration to the Licensing Act 2003 and its regulations, the national guidance and the Council's licensing policy, the premises licence in respect of Highbury Wine, 225 Blackstock Road, N5 2LL for a period of 28 days.

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

i) Conditions of the current premises licence.

ii) Conditions 9-19 proposed by trading standards officers as detailed on page 27 of the agenda and the following additional condition.

- All staff should become fully conversant in the characteristics of smuggled and counterfeit products and trading standards procedures. The licensee should engage fully with trading standards in this process.

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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 brought following smuggled alcohol being 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 considered should be treated particularly seriously, including 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 should be seriously considered.

The Sub-Committee noted that on the 11 November 2011 officers from trading standards and HMRC visited the premises and seized 7 litres of High Commissioner whisky, 5.6 litres of Glens vodka and 135.75 litres of Italian wine.

At a PACE interview on the 20 January 2012, Mr Ali Yildirim, the DPS and licensee, informed the panel that his brother, Mehmet Yildirim, the owner, bought some Italian wine from a caller to the shop a few days before the joint visit. No paperwork was obtained from this purchase. He was not sure where the High Commissioner whisky had come from and believed he may have bought the Glens from a cash and carry.

The Sub-Committee noted that the licensee was unable to produce valid receipts for the alcohol. He claimed he had repeatedly advised his brother not to buy from cold callers, but despite that, he had done so. Further his brother had failed to pass onto him the crucial warning letters received from trading standards. Ali Yildirim repeatedly told the Sub-Committee that his brother would not repeat these actions and said he had told him, if he did, he would step down. The Sub-Committee however, had concerns about his ability to stand up to his brother and control his brother's purchasing activities despite his best intentions. The Sub-Committee considered an offer by Ali to form a written agreement with Mehmet, stating that only Ali would purchase licensable goods.

In reaching their decision, the Sub-Committee took into particular consideration Licensing Policy 039 regarding the sale of smuggled goods on licensed premises. Given the considerations, the Sub-Committee decided to suspend the licence for 28 days and made amendments to the conditions. The Sub-Committee considered this was necessary and proportionate in all the circumstances to ensure that the licensing objectives were upheld.

Note of the Sub-Committee

The Sub-Committee noted that Mr Ali Yildirim would enter into a written agreement with his brother, Mr Mehmet Yildirim, that only Mr Ali Yildirim would purchase licensable goods.

97 GROUND AND LOWER GROUND FLOORS, CENTRAL WORKING (CAMPUS), 4-5 BONHILL STREET, LONDON, EC2A 4BX – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B6)

The Sub-Committee noted that this item had been withdrawn from the agenda, as agreement had been reached with all parties.

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The meeting closed at 2:50 pm

CHAIR