

London Borough of Islington

Licensing Sub-Committee C – 14 June 2012

Minutes of the meeting of Licensing Sub-Committee C held at the Town Hall, Upper Street, N1 2UD on 14 June 2012 at 10.00am.

Present: Councillors: Raphael Andrews, Barry Edwards (for item B1) only Marian Spall and Claudia Webbe (for items B2 to B4)

Councillor Marian Spall in the Chair

126. INTRODUCTIONS AND PROCEDURE (ITEM A1)

Councillor Spall welcomed everyone to the meeting and asked members and officers to introduce themselves. The Chair outlined the procedures for the meeting.

127. APOLOGIES FOR ABSENCE (ITEM A2)

None.

128. DECLARATION OF SUBSTITUTE MEMBERS (ITEM A3)

Councillor Barry Edwards substituted for Councillor Claudia Webbe for Item B1.

129. DECLARATIONS OF INTEREST (ITEM A4)

None.

130. ORDER OF BUSINESS (ITEM A5)

The order of business would be as on the agenda.

131. MINUTES (Item A6)

RESOLVED

That the minutes of the meeting held on the 16 April 2012 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

132. SHOREDITCH GRIND, 213 OLD STREET, LONDON EC1V 9NR

APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B1)

The licensing officer drew the Sub-Committee's attention to the additional papers circulated by the applicant in response to questions raised by local residents. Sub-Committee members confirmed that they had received and read those papers.

Referring to page 36 of the report, the Public Protection Officer reported that he had agreed amendments to his representation, with the applicant, as follows:

Replace Condition 1 with the following: "No deliveries of alcohol or collections of empty bottles shall occur between 10pm and 7am on any day, or before 9am on Sundays and Bank Holidays. There shall be no stacking, storage, discarding or disposing of empty bottles, ready for collection between the hours of 10pm and 7am on any day, or before 9am on Sundays and Bank Holidays"

Replace Condition 4 with the following: "Tables and chairs shall be made unusable, either by stacking or folding away and secured so as not to be inappropriately used by members of the public by 11pm. No drinks or food shall be taken outside after 11pm, except for takeaway sales. If noise complaints are received by the licensing authority, substantiated in writing by Council officers, the outside area will not be used for eating or drinking beyond 10pm and tables and chairs shall be made unusable by that time"

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David Abramamovitch and Christopher Kargotakis, the applicants, described the history of the premises and their plans to sell wine and beers alongside their food offer. Most of the objections received related to the outdoor space, which they had recognised as a problem but which they had plans to fence off and improve to make it a pleasant space attached to the premises. They hoped that local residents would support them in their planning application to secure that area.

Mr Charles Forrest, an objector, confirmed that the outside area of the premises was his main area of concern and he hoped that security of that area could become part of the lease. He also noted that, as there was no provision for extra toilet facilities, he feared that there would be an increase in the numbers of people urinating in public if the licence was granted. He also had concerns about the proximity of Old Street roundabout and the potential for any intoxicated people to become involved in traffic accidents, especially given the proposed removal of the pedestrian barriers from the roundabout. Mr Forrest stated that he had had good feedback from the applicants throughout the process.

The applicant stated that two extra toilets had been added to the upstairs of the premises and they hoped to be able to add two further toilets, but this would be subject to planning permission. He added that, once the outside area had been secured, substantial improvements would be made to it to ensure it was an improved space for clients and neighbours of the premises.

Members of the Sub-Committee left the room to deliberate before returning to announce their decision.

RESOLVED:

a) That, having considered all the oral and written evidence and submissions and having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's licensing policy, a premises licence in respect of Shoreditch Grind, 213 Old Street, EC1V 9NR be granted as follows:

- i) To permit the sale of alcohol on the premises, to include an outdoor seating space, between 12:00 and 23:00 Sundays to Thursdays, 12:00 and 01:00, Fridays and Saturdays.
 - ii) The provision of late night refreshment until 01:00 Fridays and Saturdays.
- b) That the conditions outlined in appendix 3 on page 40 of the agenda, be applied to the licence, subject to the amendments to the noise conditions as agreed between the applicant and the noise officer.

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, particularly those conditions proposed by the Noise Team and accepted by the applicant, which provide that the café outdoor space shall not be used for eating or drinking beyond 10pm and tables and chairs shall be made unusable by that time.

The Sub-Committee noted that one of the interested parties, living in close proximity to the premises, welcomed the changes to the café outdoor space proposed by the applicant and the Sub-Committee were of the view that, with the conditions agreed, the licensing objectives would be promoted.

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, Licensing Policy 010 regarding the protection of the amenity of residents and business in the vicinity of licensed premises and Licensing Policy 20

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regarding smoking, drinking and eating outside.

The Sub-Committee considered that, with the conditions detailed on appendix 3 on page 40 of the report, subject to the amendments, the licensing objectives would be promoted.

Note of the Sub-Committee

The Sub-Committee requested that the applicant and the Police discuss to what extent CCTV should cover the café outdoor space

133. MARATHON, 193a CALEDONIAN ROAD, LONDON N1 OSL - APPLICATION FOR A NEW PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B2)

Mr David Dadds, legal representative for Mr Tesfa, the premises licence holder, drew the Sub-Committee's attention to the fact that some of the matters which were before the Sub-Committee for consideration could be sub judice, due to potential prosecutions.

Police Sergeant Robin Clarke, from Islington Police Station, said that the incident referred to by Mr Dadds had taken place in September 2011, whereas the CCTV footage to be shown to the Sub-Committee at this meeting related to incidents at the premises in January, February and May 2012 and was not likely to be used as evidence in the case from September 2011.

In response to a question from the Licensing Officer, members of the Sub-Committee confirmed that they had received and read the additional written material from the Police.

Sergeant Clarke showed DVD evidence, relating to incidents either inside or outside the premises, as follows:

DVD 1 – from 17 March 2012, at 2.45am, CRIS reference 2706857

DVD 2 – from 22 January 2012, at 2.40am, CRIS reference 2701706

DVD 3 – from 6 May 2012, at 1.45am, CRIS references 2711133 and 2711131 (relating to one crime)

Mr Dadds outlined the steps which Mr Tesfa had undertaken in the past to improve management of the premises, following complaints from the Police and the Council's Licensing Team. Mr Tesfa had employed a new door team, discontinued the sale of bottles of spirits and installed new CCTV equipment. Since the incident in September 2011, where a glass was used, glasses had been replaced with polycarbonate drinking vessels.

All of these improvements had been fully implemented since April 2012. He stressed that this indicated Mr Tesfa's willingness to co-operate with the Police and the Council. Mr Dadds added that these improvements needed time to have a full impact at the premises.

Referring to the incident on 17 March 2012, which involved people who knew each other, Mr Dadds pointed out that patrons of the premises were now searched on entry, although no knife was used in that incident. Referring to 6 May 2012, Mr Dadds said that Mr Tesfa had taken responsible steps to deal with this incident, especially as he had employed new door staff and plastic drinking vessels, so there were no serious injuries on that occasion, although assaults had taken place. The incidents on 6 May were not related to alcohol, but to the behaviour of some of the patrons, and Mr Tesfa had felt let down by the Police due to the fact that they were not intending to prosecute anyone.

Mr Dadds stated that the clientele at the premises was changing and that Mr Tesfa was progressing a membership scheme at the premises. Mr Tesfa had applied for later hours at the premises as that was what his community (- not the local community, but his racial community) preferred.

Sergeant Clarke stated that all persons involved in the incident on 6 May 2012 had been arrested

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and interviewed. However, the Crown Prosecution Service had decided that it would not be in the public interest to proceed with the case, which they considered a public order matter.

In response to a question from the Licensing Officer, Mr Dadds confirmed that Mr Tesfa would participate in the Pubwatch scheme.

RESOLVED:

a) That, having considered all the oral and written evidence and submissions 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 **Marathon, 193a Caledonian Rd, EC1Y 4SB** be modified as follows:

i) The following conditions shall be added to the licence.

1. The use of polycarbonate drinking vessels
2. A minimum of three SIA trained door supervisors on Friday and Saturday
3. CCTV shall be installed, operated and maintained in agreement with the Police. The system will enable frontal identification of every person entering the premises. The system shall record in real time and operate whilst the premises are open for licensable activities. The recordings shall be kept available for a minimum of 31 days. Recordings shall be made available to an Authorised Officer or a Police Officer (subject to the Data Protection Act 1998) within 24 hours of any request.
4. The DPS to ensure that he and all staff receive training appropriate to the running of a licensed premises
5. That last admittance to the premises be 1.00am from Monday to Sunday
6. That there be no admittance to the premises after 11pm on Fridays and Saturdays unless patrons have been searched by premises staff
7. That there be no admittance to the premises other than to members and their guests as defined under the membership rules, after 11pm from Monday to Sunday.
8. That the licensee participate in the Pubwatch scheme.

REASONS FOR DECISION

The Sub-Committee had regard to the steps it could take as necessary to promote the licensing objectives.

The Sub-Committee considered all the evidence and the representations made.

The Sub-Committee considered that it was necessary and proportionate to modify conditions of the licence to promote the licensing objectives of preventing crime and disorder and public safety. The Sub-Committee noted the comment from the Police that the restaurant had been the scene of repeated violent crimes over the last 12 months and the Sub-Committee viewed CCTV footage of three separate incidents from the past six months. The Sub-Committee heard evidence from the Police that the incidents were caused mainly by the profile of the clientele of the premises who are largely young men, treating the premises like a social club. The Police stated that in their view, the incidents were related to racial tensions and that the incidents were not associated with issues of drunkenness.

The Sub-Committee considered the further conditions offered by the licensee which included controlling the profile of the clientele after 11pm through a membership scheme and not allowing entrance to the premises after 1.00am from Monday to Sunday. The Sub-Committee further noted that the licensee had already started using polycarbonate drinking vessels and had improved the CCTV system and employed SIA approved door staff, all of which was evident from the DVD footage of an incident on 6 May 2012.

The Sub-Committee noted the seriousness of the incidents but considered that, in view of the Police evidence and the steps already taken and offered by the licensee, the licensing objectives would be promoted.

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In reaching their decision, the Sub-Committee took into particular consideration licensing policy 01 concerning standards of management 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 Section 11 of the Home Office guidance concerning reviews.

Note of the Sub-Committee

The Sub-Committee wished the Licensing Team to visit the premises six months from the date of the meeting to review how implementation of conditions was being adhered to.

The Sub-Committee wished to see the membership rules agreed in consultation with the Licensing Team.

CALEDONIAN SUPERMARKET, 288 CALEDONIAN ROAD, N1 1BA - APPLICATION FOR A NEW PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B3)

The licensing officer advised the Sub-Committee that he had no additional information to present.

The Trading Standards officer reported that the review had been prompted by a joint visit with the council and HMCE which had resulted in a very large seizure of smuggled/counterfeit alcohol.

The Trading Standards officer further advised the Committee that no invoice had been provided to cover the alcohol seized. The Sub-Committee noted that there had been no previous problems with the business. The applicant had been given advice about avoiding illicit alcohol and tobacco and received two mailshots in March and December of 2011 with guidance on how to spot counterfeit goods.

The Caledonian Road, including this business, was part of a Community Alcohol Project that gave extra support including free training with Turkish specific sessions with details on how to detect illicit alcohol. Regular visits were made to businesses in the project area, including Caledonian Supermarket to encourage staff to attend training. The Sub-Committee noted that no one had attended from Caledonian Supermarket.

Due to the very large seizure made and the seriousness of the issue, officers considered that revocation was appropriate in this instance. The Sub-Committee noted that the licensee had not contacted officers since the seizure.

The Police Officer advised the Sub-Committee that Sergeant Clarke had needed to leave the meeting but the Police recognised that this was a very large seizure, that the applicant had not attended training and would support Trading Standards recommendation.

The applicant, Azil Yanar was present and made his submissions via a Turkish interpreter. He stated that he had thought the letters he had received were relating to underage sales. He stated that he had cooperated with officers and given the contact details of the person who sold him the wine to officers. He stated that this was the first time he had made a mistake and had always tried to work with Trading Standards in the past.

Trading Standards commented that all of the spirits seized were non-duty paid. The applicant had stated that he could not identify where these had come from and stated at the time of seizure that his staff must have bought the goods. Although the applicant had stated that the goods were old this was not the case for most of the stock. The Sub-Committee noted that there were easy ways to identify smuggled and counterfeit goods if advice was followed.

The applicant stated that when he had bought the wine the seller had stated that he would bring

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him a receipt for the wine and when HMCE had made the seizure he had given them that number to contact.

The Sub-Committee queried whether Mr Yanar understood the risks counterfeit/smuggled alcohol posed to his customers. The applicant stated that he wanted to provide customers with the products they wanted. The Sub-Committee further queried what steps he would take to ensure this did not happen again and the applicant stated that he had acknowledged that he should not have bought the wine and was asking for a second chance. The applicant stated that he would not buy goods from anyone he did not know in future or purchase illicit goods.

The Sub-Committee asked what measures he had put in place since the seizure in February and the applicant stated that he had not bought more illicit goods since then. He further stated that if there was training he would attend but he had thought the previous invitations related to underage sales and he had already undertaken training in that area. The Sub-Committee noted that the two letters had been backed up by three personal visits to encourage staff to attend training. A test purchase had been carried out at the premises and the underage volunteer had successfully purchased alcohol although they had then been stopped before exiting the premises.

The Community Alcohol Project had been introduced as a pilot for that area as there had previously been a problem with underage sales in that general location. The training had covered underage sales but had also included illicit alcohol and this was outlined in the letters. Free UV lights were also available to those who attended the training for the purposes of identifying illicit alcohol. Officers purposefully did not visit premises in the CAP area to check for smuggled goods until after businesses had been given advice and been given the opportunity to attend training about identification of illicit alcohol.

The Sub-Committee queried whether the applicant was aware of the need for training on illicit alcohol and whether he understood the need for steps to be taken to ensure this did not happen again. The applicant stated that he had made a mistake and he would cooperate with officers. The Sub-Committee stated that they would have welcomed evidence of further cooperation with Trading Standards after the seizure. The important issue was whether the standards of management were satisfactory and officers stated they did not feel this standard had been met. In response to questions the applicant informed the Sub-Committee that his staff had received no additional training since the seizure although some had previous experience of running similar shops.

Members of the Sub-Committee left the room to deliberate before returning to announce their decision.

Once the decision had been announced the Sub-Committee checked that the applicant had fully understood the implications of the decision.

RESOLVED:

That, having considered all the oral and written evidence and submissions 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 Caledonian Supermarket, 288 Caledonian Road, N1 1BA be revoked.

REASONS FOR DECISION

The Sub-Committee considered all the evidence and the representations made.

The Sub-Committee noted that the review was following the discovery of smuggled alcohol found at the premises by the responsible authorities. The home office guidance at paragraphs 11.29 and 11.30 identifies criminal activity which the Secretary of State considers should be treated particularly seriously. These include the sale of smuggled alcohol. It is envisaged that licensing authorities will use the review procedures to deter such activities and crime. Where licensing

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authorities determine that the crime prevention objective is being undermined it is expected that revocation of the licence should be seriously considered.

The Sub-Committee noted that the responsible authorities seized a very large amount of illicit alcohol described by Trading Standards as one of the largest seizures in the borough comprising of 130.2l spirits and 358 bottles of wine. The Sub-Committee further noted that the licensee was given 30 days to produce invoices for the alcohol seized but failed to do so.

The licensee admitted that he had purchased the wine from a man who called to the shop. The Sub-Committee noted that the licensee informed Trading Standards that some of the spirits were old stock, that some were purchased by members of his staff and that he could not explain the origin of the remaining spirits. The Sub-Committee noted that Trading Standards had sent samples of the seized spirits for analysis and confirmed that they were not old stock. The applicant has not to date produced any documentation for the purchases but has passed the details of the seller of the wine to HM Revenue and Customs.

The Sub-Committee was concerned that the licensee did not appear to understand the possible health consequences of illicit alcohol to his customers. The Sub-Committee was further concerned that the licensee had not attended free training offered by Trading Standards through the Community Alcohol Partnership despite Turkish sessions being offered and officers from Trading Standards visiting the premises on more than one occasion and that his staff still remained untrained. The Sub-Committee was concerned that there was no evidence that the licensee had made any changes to his management of the premises since the goods were seized in February.

The Sub-Committee were not satisfied that the licensing objectives would be promoted through further conditions or by suspending the licence as the licensee did not appear to acknowledge his responsibilities and had offered no evidence as to any proposed changes in management. The Sub-Committee concluded that only a revocation of the licence would promote the licensing objectives.

In reaching our decision, we have taken into particular consideration Licensing policy 013 and 028 which requires licensees to operate to the highest standards of management, licensing policy 039 regarding the sale of smuggled goods. The Sub-Committee is satisfied that the revocation of the licence is a proportionate response to this review.

YOUR SUPERMARKET, 8-10 WESTBOURNE ROAD, N7 8AU - APPLICATION FOR A NEW PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B4)

The Sub-Committee noted that the applicant did not feel he would require a translator although one was available if there were any particular questions that required translation.

The Sub-Committee noted that the applicant had agreed to the conditions suggested by officers.

The applicant's representative drew the Sub-Committee's attention to evidence submitted of steps the applicant had taken to address any problems with the management of the business. This included pictures of new signage at the premises, invoices, details of new equipment and a petition in support of the business from local residents.

The Sub-Committee noted evidence from Trading Standards relating to two underage sales at the premises. They further noted that at the time the last underage sale had been made, officers had noted some Italian wine without duty stamps and advised staff that this was likely to be smuggled goods. They also advised staff that if invoices could not be provided for those items then the business would face sanctions. Following that visit a joint visit was conducted with HMCE and council officers where a small amount of spirits was seized alongside the wine which was noted on the first visit.

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When officers visited the premises in December 2011 there were no challenge 25 posters displayed and no refusals book or training book in place. Officers advised the Sub-Committee that the applicant had been in contact with officers and officers were aware that action had been taken to remedy problems. Originally revocation or a significant suspension had been recommended but in light of the efforts made by the applicant, officers were no longer recommending revocation although suspension should still be considered.

The applicant Ibrahim Kilic was present and was represented by his solicitor, Richard Thomas. Mr Thomas stated that the applicant was aware that he had made a grave error and was here to demonstrate to the Sub-Committee the steps taken to ensure it did not happen again. The Sub-Committee noted that both of the underage sales had been made by the applicant's sister. Mr Kilic had sent his sister on the personal licence holders' course which she had passed recently. The till at the premises had been upgraded so that when an alcohol sale was made an age had to be entered. A refusals book and training book had been set up, UV pens and equipment had also been purchased and Challenge 25 signage had been installed. Trading Standards advised the Sub-Committee that they would need to come and check that the new equipment and signage met the appropriate standards. The Sub-Committee noted the applicant's willingness to work with officers.

The Sub-Committee noted that the applicant had provided invoices for the wine but noted that the exact wine did not seem to be detailed on the invoice supplied.

The Sub-Committee noted that the petition reflected the value of the business to the community and noted that the applicant recognised he had let his customers down.

Members of the Sub-Committee left the room to deliberate before returning to announce their decision.

RESOLVED:

That, having considered all the oral and written evidence and submissions 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 Your Supermarket, 8-10 Westbourne Road, N7 be modified by the addition of the conditions as detailed on page 108 of report.

REASONS FOR DECISION

The Sub-Committee considered all the evidence and the representations made.

The Sub-Committee noted that the review was following the discovery of smuggled alcohol found at the premises by the responsible authorities. The home office guidance at paragraphs 11.29 and 11.30 identifies criminal activity which the Secretary of State considers should be treated particularly seriously. These include the use of licensed premises for the illegal purchase of alcohol by minors and the sale of smuggled alcohol. It is envisaged that licensing authorities will use the review procedures to deter such activities and crime. Where licensing authorities determine that the crime prevention objective is being undermined it is expected that revocation of the licence should be seriously considered. However, the Sub-Committee noted that Trading Standards had, in light of steps taken by the licensee, changed their recommendation from revocation to a suspension to act as deterrent.

The Sub-Committee noted that a review had been brought in relation to underage sale of alcohol on the 17 December 2011. At the time of that visit officers from Trading Standards drew the licensee's attention to some cheap Italian wine that was recognised as a brand often supplied without duty being paid. The licensee was advised that if HM Revenue and Customs officers visited the shop they would seize the wine unless invoices could be provided. On 24 February 2012 officers from Trading Standards and HM Revenue and Customs visited the premises and seized 37

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bottles of wine and 12.7l of spirits.

On the 13 April 2012, Ibrahim Kilic, attended a PACE interview. Mr Kilic produced an invoice which he said was for the wine from Alpha C&C however, the invoice produced did not detail the wine seized

The Sub-Committee noted that the test purchase was sold by Mr Kilic's sister who had failed a previous test purchase at different premises owned by Mr Kilic in May 2009. Whilst these two test purchases had been failed the Sub-Committee noted that five other test purchases had been successfully passed.

The Sub-Committee heard from Mr Kilic that his sister has now taken and passed the personal licence holder's exam and been given a final warning. Mr Kilic also stated that he had upgraded his till so that alcohol cannot be purchased without the purchaser's age being entered. Mr Kilic confirmed that Challenge 25 is now operated on the premises and that a refusals book is in place. The Sub-Committee noted that the licensee had agreed all the conditions put forward by the responsible authorities and that he had purchased UV lights in order to check the duty stamps on alcohol purchased. The Sub-Committee noted that the licensee accepted that he had made mistakes and the seriousness of those mistakes and that the licensee had out in place various measures to ensure that it did not happen again.

The Sub-Committee concluded in light of the steps taken by the licensee that the licensing objectives would be promoted by the addition of conditions.

In reaching their decision, the Sub-Committee considered Licensing policy 028 which requires licensees to operate to the highest standards of management and to prevent the sale of alcohol to underage children, licensing policy 039 regarding the sale of smuggled goods and licensing policy 032 regarding the illegal sale of alcohol to children.

CHAIR