

Licensing Sub Committee C - 9 December 2014

Minutes of the meeting of the Licensing Sub Committee C held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 9 December 2014 at 6.30 pm.

Present: **Councillors:** Osh Gantly, Michelline Ngongo and Gary Poole.

Councillor Gary Poole in the Chair

41 INTRODUCTIONS AND PROCEDURE (Item 1)

Councillor Poole welcomed everyone to the meeting, asked members and officers to introduce themselves and informed those present that the procedure was as detailed in the agenda.

42 APOLOGIES FOR ABSENCE (Item 2)

Apologies received from Councillor Gill.

43 DECLARATIONS OF SUBSTITUTE MEMBERS (Item 3)

Councillor Gantly substituted for Councillor Gill.

44 DECLARATIONS OF INTEREST (Item 4)

None.

45 ORDER OF BUSINESS (Item 5)

The order of business was as the agenda.

46 MINUTES OF PREVIOUS MEETINGS (Item 6)

RESOLVED

That the minutes of the meetings held on the 22 September 2014, the 2 October 2014 and the 18 November 2014 be confirmed as a correct record of proceedings and the Chair be authorised to sign them.

47 MINI FOOD STORE, 8 KINGS CROSS ROAD, WC1X 9AQ - APPLICATION FOR A PREMISES LICENCE REVIEW. (Item 1)

The Sub-Committee heard from the license Mrs Kidane, that she had not received the notification of hearing but was only aware of the meeting following the receipt of an email the previous day. She had also been unable to contact her solicitor. The licensing officer reported that the notification of the hearing had been sent to both the home and the business address.

The Sub-Committee was satisfied that notification had been despatched in good time and informed the licensee that the majority of licensees did not have legal representation. The Sub-Committee agreed to proceed with the review on that basis.

The trading standards officer reported that they recommended that the licence be suspended and conditions added. The trigger for the review was that wine was seized, believed to be non-duty paid, in March 2014. The licence holders were out of the country at the time and had left Mr Habetesellaisse in charge of the shop. He was a personal licence holder and should have been suspicious of the wine. Wine had also been seized in

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September 2012. The licence holders were out of the country on business at this time and the matter could not be resolved promptly. The officer stated that in their favour there had been no further problems with underage sales since one had been made in February 2011, despite three test purchases. All spirits seemed legal when recently checked. He stated that the business did not seem to have any other regulatory issues. The business was offered the option of voluntarily not selling alcohol and adding conditions to the licence but the licensees chose not to accept this offer. He invited the Sub-Committee to impose a suspension, add proposed conditions and also add an additional condition relating to the responsiveness of the designated premises supervisor or the licensee.

In response to questions the trading standards officer reported that the extra condition suggested was not usual, but in this particular case, where there had been issues with prolonged absences of the licensees, it was believed to be proportionate.

Mrs Kidane, the licensee, stated that they had left Mr Habetesellaise in charge while away. He had bought the alcohol during this time. He had now been removed from the business. Mrs Kidane had been full time at the business for the past six months and was taking responsibility. A friend supporting Mrs Kidane stated that Mr Habetellaise had been the manager for about a year and he was the problem. Mrs Kidane knew the proper way to purchase alcohol and had CCTV. The solicitor had advised not to accept the voluntary suspension. All other proposed conditions were met.

In response to questions the Sub-Committee noted that Mrs Kidane had read the Licensing Policy. She understood that the standards of management would need to be robust. She would be responsible for the premises and would be on-site. It was stated that she would not be returning to Ethiopia but would be permanently in this country.

In summary, the trading standards officer reports that the business had not caused undue problems but issues arose during the prolonged absence of the licensees. He considered that the additional conditions proposed would overcome these problems. Mrs Kidane stated that she was aware of the mistakes made and would continue to manage the premises.

RESOLVED

That the premises licence in respect of Mini Food Store, 8 Kings Cross Road, WC1X 9AQ be suspended for a period of two weeks and conditions as detailed on pages 49 and 50 of the agenda be added to the licence with the following additional condition.

- The licensee or the DPS must be able to present themselves to responsible bodies in person within seven days of notice being left at the premises, unless prior agreement has been given by the Licensing Authority.

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 Sub-Committee heard evidence from Trading Standards that the trigger for the review was the seizure of wine on 31st March 2014. There was no evidence of duty having been paid by the business for the wine. Invoices had been provided to Trading Standards but these were not acceptable to Trading Standards. The wine had been purchased by Mr Habetesellaise, an employee who had been left in charge of the shop whilst the licensees and DPS were out of the country.

The Sub Committee heard further evidence that illicit alcohol had also been seized from the shop in September 2012, when Mr and Mrs Kidane were abroad on business.

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The Sub-Committee heard that there was an underage sale in February 2011, but following this, three subsequent tests had been passed. The business did not seem to have any other regulatory issues and trading standards officers considered that the matter could be dealt with by a suspension and the imposition of additional conditions.

The Sub-Committee noted that there had been no further problems of underage sales since the one in 2011.

The Sub-Committee heard evidence that the previous problems referred to above had arisen as a result of poor management. This fact was accepted at the hearing by Ms. Kidane and she informed the Sub-Committee that she was now more directly involved and that the staff who had accepted illicit goods in the past had been dismissed. This was accepted by Trading Standards.

Trading Standards informed the Sub-Committee that their proposed conditions had been accepted by the licensees and that the only area of disagreement was the fact that Trading Standards had asked the Sub-Committee to suspend the licence for a period.

Section 52 Licensing Act 2003, provides that the conditions of a licence may be modified if it is considered necessary for the promotion of the licensing objectives. The authority may also suspend the licence for a maximum period of 3 months.

The Sub-Committee was of the opinion that the inclusion of the extra conditions together with a 2 week suspension was both reasonable and proportionate.

The meeting ended at 7.10 pm

CHAIR