

Licensing Sub Committee D - 18 July 2017

Minutes of the meeting of the Licensing Sub Committee D held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 18 July 2017 at 6.30 pm.

Present: **Councillors:** Satnam Gill (Chair), Marian Spall and Gary Poole

Councillor Satnam Gill OBE in the Chair

178 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Satnam Gill welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined.

179 APOLOGIES FOR ABSENCE (Item A2)

Apologies for absence were received from Councillor Nick Wayne.

180 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Poole substituted for Councillor Wayne.

181 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

182 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

183 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED:

That the minutes of the meeting held on 22 May 2017 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

184 ESSEX ALTERNATIVE SUPERMARKET, 360 ESSEX ROAD, N1 3PD - PREMISES LICENCE REVIEW (Item B1)

The trading standards officer reported that in December 2016 there had been a Challenge 21 test purchase and the premises licence holder sold to a 21 year old volunteer. He had not asked for ID. Officers had difficulty in engagement and the premises licence holder was quite hostile. He was asked to attend a training course but stated that he was too busy. A further test purchase operation was held in January 2017 and alcohol was sold to a 15 year old. The seller was uncooperative and hostile and did not hold a personal licence (a requirement of the premises licence). Trading standards did not consider that they could do anything more with the business. The licensee was not taking his responsibility or the conditions on the licence seriously.

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In response to questions it was noted that, following the failed Challenge 25 in December, trading standards had invited the designated premises supervisor and staff to training on age restricted products. The business was not interested. No officer panel had been held as the training was considered light touch enforcement and constructive to help improve systems. Following the underage sale in January, licensing officers visited the premises to offer advice and to undertake a check for condition compliance and found further conditions being breached and the owner hostile and not interested. The trading standards officer did not consider that the licensee had an understanding of the licensing objectives. The licensee had not considered training a priority. It was noted that the licence holder and the owner were the same person.

The police officer supported the review brought by trading standards. The police had visited on the 15 May and had found numerous breaches of conditions. The license holder was aggressive and not prepared to listen.

The public health authority raised their concerns regarding the Challenge 25 failure and the sale to an underage volunteer. They also raised concerns regarding the availability of super strength beer at the premises. Alcohol had a real impact on the health and well-being on the most vulnerable. Islington had the second highest rate of alcohol hospital admissions in London. High strength alcohol provided at low cost was an easy way to obtain cheap alcohol. The licensee had a disregard for the conditions on his licence.

In response to questions, it was noted that minors would be attracted to alcopops and also super strength alcohol sold at a cheap price which would cause people to get drunk quickly.

The licensing authority asked that the Sub-Committee consider licensing policy 25 regarding the sale of alcohol to children which expected licensees to have robust management arrangements in place. These arrangements were lacking in this premises. The licensing authority had no confidence that this would not happen again.

In response to questions it was noted that a previous licence had been revoked. An appeal against revocation had been withdrawn when a new licence was granted to the premises with reduced hours and additional conditions. The licensee had no connection to the previous owner. The licence was then transferred to the current licensee.

The licensee admitted that the accusations made were true. He stated that the business was a mess when he first began and did not know the business at first. The prices of alcohol stated in the report were prices taken from the old owners. As he did not have enough staff a friend of a friend had helped him out so that he could purchase alcohol from the cash and carry. He had invested a lot of money in the business, he was stressed and because he was young he got frustrated very quickly. He was working on this. He had now completed the training and was trying to run a responsible business. Alcohol was not sold by him but he accepted it was his responsibility. He had no experience and was trying his best. His father now had a personal licence and also had completed the training. He would like to stay at the premises and would not like a negative outcome. He hoped to be given a second chance.

In response to questions it was noted that the previous owner was no relation. The previous owner had helped him out initially. He had stayed for all the training session held but he stated his father had had to leave half an hour early due to health problems. He had not had any problems for three months with the business. He apologised for staff selling alcohol to children. It was noted that he attended the training after the review had been submitted. It was noted that he'd had the licence for just over a year and in that time there had been an underage sale and about 13 separate breaches of conditions. The licensee said that he had made a lot of mistakes but it was his first time in managing the business

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and he would like a second chance. He was frustrated and angry with officers who attended and could not communicate properly with them. He did not know that it would come to this. The training he attended had been helpful and he gave the Sub-Committee his word that there would be an improvement. He stated that you should not sell alcohol to those underage and the prevention of public nuisance were licensing objectives but could not remember others. He stated he could not handle officers in his premises and he got frustrated. He accepted he had not treated officers appropriately. He stated that he had the chair leg behind the counter because it was a dangerous area and he was sometimes scared for his life. The chair leg made him feel secure but it was not a weapon. He had rung the police in the past but they had not attended. He stated that the CCTV was working. He had been training staff properly. He did not have to be at the store at all times now. He had to close early previously as he had to be there. He was now finding it easier. He was slowly finding his way. He had four staff in the premises.

The trading standards officer stated that the licensee came across as humble but he was not competent. Selling alcohol was a big responsibility. This was not a sweetshop.

The licensee stated that he had not had any problems for four months and believed he could take on the responsibility. He would hate staff to sell alcohol to children but he had to leave someone in the shop while he went to the cash and carry. He had to pay his rent and bills.

RESOLVED

That the premises licence, in respect of Essex Alternative Supermarket, 360 Essex Road, N19 5RD be revoked.

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 decided to revoke for the following reasons:-

- 1) The outcome of test purchases at the premises evidenced management failures at the premises.
 - On 8th December 2016 a test purchase checking compliance with the licence condition for Challenge 25 failed. On this occasion the DPS was the seller and sold alcohol to a young adult aged 21 without asking for ID. It was a particular concern to the Sub-Committee that the seller was the DPS/licensee.
 - On 28 January 2017, trading standards carried out test purchase of alcohol using a minor and the minor was able to purchase alcohol from the premises.
 - The licensee failed to comply with licensing policy 25 which sets out that licensees are expected to implement measures to Challenge 25 standards and to have robust management arrangements in place to prevent staff making underage sales.
- 2) The licensee's failure to comply with licensing conditions.
 - On the 3 February 2017, licensing officers visited the premises and found a number of breaches of licensing conditions including failing to ensure that there was always someone holding a personal licence on the premises and failing to prevent super strength alcohol being sold at a price less than it cost the business. The Sub-Committee was concerned that, at the time of this

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visit the licensee was reported to be surprised that there were conditions on the licence and he questioned where they came from.

- On the 24 February 2017, when officers from licensing and trading standards attended the premises to see if the licensee had rectified the breached conditions, the licensee stated that licence conditions 'are not important'. The Sub-Committee were concerned at the licensee's failure to recognise the importance of the licence conditions to promote the licensing objectives.
 - On the 15 May 2017, trading standards officers accompanied by the police found that there were still breaches of license conditions.
- 3) The licensee's failure to co-operate and engage with the responsible authorities.
- On 8 December 2016, following the failed Challenge 25 test purchase, the licensee was offered training which he rejected saying that he was too busy to attend.
 - On the 24 February 2017 when officers attended at the premises, the licensee was aggressive, angry and obstructive. The Sub-Committee noted that the licensee accepted that he had behaved in this way.
 - The licensee was requested to provide invoices for the super strength beers on sale at the premises but has failed to provide these.
- 4) The licensee has failed to demonstrate that he has the competency to hold a premises licence.
- The licensee stated that this was the first premises licence he had held and he had no previous experience of working in or running a licensed premises. In this situation an inexperienced licensee would be expected to accept all the training and guidance offered to him by the responsible authorities and to ensure that he understood and was able to comply with his licence conditions and the licensing policy.
 - The licensee failed to employ any experienced staff to assist him in running the business. Of particular concern to the Sub-Committee was the fact that the licensee did not know the name of the person who made the underage sale even though he was often in the shop and the licensee trusted him to mind the shop while he was not present.
 - The licensee failed to arrange training for people working in the premises. The Sub-Committee noted that the licensee and his father had attended training on the 31 May 2017 after the review paperwork had been served. The Sub-Committee was of the view that this was too little too late.
 - The licensee had failed to devise an operating plan of how to run the premises to achieve the management standards required and ensure that there was full compliance with licensing conditions. The Sub-Committee considered that the licensee's submission that the only assurance he could give was his word would not ensure that the licensing objectives would be promoted.
 - On the 28 January 2017 trading standards found a chair leg with nails in, that had been behind the counter. The licensee submitted that it was an improvised weapon that he kept on the premises because it was a dangerous area. The Sub-Committee were concerned that this approach was not consistent with a responsible licensee and one that would be fully engaged with promoting the licensing objective for the prevention of crime and disorder.
- 5) Failure to promote the licensing objectives.
- In addition to the points above the Sub-Committee noted the representations from public health and were concerned about the responsibility of selling alcohol to vulnerable people in Islington particularly under 18s. In addition to

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the concern about the underage sale the Sub-Committee also noted the implications of selling high strength alcohol at low cost.

The Sub-Committee noted the home office revised guidance and the types of criminal activity arising in connection with licensed premises which should be treated particularly seriously. This included the use of the licensed premises for the illegal purchase and consumption of alcohol by minors. Where the licensing authority is satisfied 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.

In this case the licensing Sub-Committee was satisfied that the imposition of additional conditions or a suspension would not effectively deter further breaches and ensure the promotion of the licensing objectives. In view of the seriousness of the licensee's failures and his lack of competency the Sub-Committee was satisfied that it was appropriate and proportionate to revoke the licence.

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CALEDONIAN STORE, 363 CALEDONIAN ROAD, N7 9DQ - PREMISES LICENCE REVIEW (Item B2)

The trading standards officer stated he had brought the review following the witnessing of a delivery of alcohol to the premises by white van, suspected to be non-duty paid. On the day of delivery, officers asked for evidence of purchase. This was followed by a document from the licensee's accountant with evidence of purchase. Following further enquiries it was established that the invoice was issued several hours after delivery and was an attempt to deceive which was the main aggravating factor. Evading duty was not a victimless crime but misled the public and cheated other competitors with smaller margins. The licensee went to great lengths which were calculated to mislead and concocted another purchase of alcohol. He considered this was very serious and should be sanctioned. The home office guidance at paragraph 11.23 referred to a suspension as a deterrent and welcomed a short to medium suspension with the addition of conditions.

In response to questions the trading standards officer stated that if someone was explicitly dishonest, they could not be trained to be honest. The trading standards officer stated that a suspension should be for at least two weeks to allow for training. The Sub-Committee noted that all staff had now been trained.

The police supported the review by trading standards and stated that the licensee was trying to evade excise duty. He stated that there had not been any incidents of crime and disorder at the premises.

The licensing authority raised concerns about the breach. He stated the discovery of illicit alcohol had been by chance and so they were not aware of the extent of this behaviour. Residents in their representations had stated they had not been offered non-duty paid alcohol, but he stated that customers would not be aware of items that were non-duty paid. The proposed CCTV condition was an effective tool for compliance.

In response to questions it was stated that proposed conditions that were outlined on page 83 of the agenda would be appropriate. There was a significant concern regarding the standards of management due to this cover-up. The licensee would need to restore credibility for faith to be regained. The guidance considered suspension for use as a deterrent. Confidence in the management was low and the licensing authority considered that this could be built up through a period of suspension.

One resident who spoke in support of the licensee stated that suspension would be catastrophic for this small business. No deceit had been intended and the licensee had

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been misinterpreted. She stated that the police had an app that connected shopkeepers and it would be useful for the licensee to be able to join that scheme. Another resident stated that the licensee's full record needed to be taken into consideration, not just the last couple of months. Local people benefitted from this business and it was important to look at both sides. The licensee had a good history of trading. There needed to be better communication on all sides to enable businesses to grow locally. The resident had moved to the area in 2011 and he considered that the licensee was a great person and had a good relationship with his customers.

The licensee's representative informed the Sub-Committee that the licensee unequivocally apologised for his initial mistake and the subsequent cover up. He stated that customers had taken time out of their day to come and support the licensee. This was a one off occurrence and evidence before and since the incident demonstrated that this was a one off mistake and gross error of judgement. The licensee was a proud man who had respect from his customers and had let himself down. The trading standards officer accepted this was a one off from the evidence and from talking to the licensee and there were no further incidents. The visits detailed by the licensing officers on page 100 of the report demonstrated that, at all times the licensee had promoted the licensing objectives and had operated high standards of management. This was a matter of trust and the licensee was aware that this trust had been damaged. The licensee had held the licence since 2015 and was the designated premises supervisor prior to that time. The business had been in the family for 11 years and the licensee had been involved in the business throughout that time. No other problems had been found with the business. Residents had come to the meeting to talk to the Sub-Committee and that is something which the licensee should be given credit for. The licensee acted out of character and panicked. The conditions proposed were already accepted and had been implemented. CCTV had been improved. Training had been undertaken and would be renewed on a regular basis. There had been responsible management both before and since the incident. This had been a sobering process; the licensee had made a mistake but had since tried to rebuild bridges for which he deserved credit. The licensee would never put himself in this position again but if he did step out of line he would be in front of another Sub-Committee and it would be clear he'd had a chance previously. He considered that the imposition of conditions would be sufficient to promote the licensing objectives, however if a short suspension was considered he proposed that the shortest suspension of days rather than weeks would be most appropriate. Three months was the maximum suspension. Any suspension would cause substantial aggravation to the licensee having to remove alcohol and replace it after the suspension.

Councillor Poole stated that he was not interested in causing punishment or aggravation to the licensee but would be looking to act constructively to uphold the licensing objectives. He did not consider that the licensee was panicking in the actions he had taken but was thinking clearly by generating false invoices to cover up his actions. The licensee's representative accepted that the false invoices had been a deliberate act but the licensee was driven by panic when he realised he had been caught. Councillor Poole stated that white vans were widespread on Caledonian Road and it was therefore safe to assume that the licensee had done this before. The licensee's representative stated that there was no evidence to suggest this had happened before. The licensee confirmed that he had never been approached by people selling from a white van previously. It was stated that the licensee had been tempted by the price of the alcohol from the white van. It was difficult to compete and it was a spur of the moment decision. He was the only person in the shop allowed to purchase alcohol. The licensee stated it was a spur of the moment decision. Customers had said that alcohol was too expensive. He had not thought his actions through clearly and he stated he would never do it again. The goods were still being retained in his cellar.

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The trading standards officer viewed these actions very seriously and stated that a message needed to be sent out to other licensees.

The residents stated that this was serious but stated that the licensee needed to grow as a business and hoped the decision would be supportive of his future development.

The licensee's representative stated that this was about the promotion of the licensing objectives which would be dealt with by the imposition of conditions rather than a suspension. He suggested that if it was considered that should a further deterrent was necessary, a suspension of a few days rather than weeks would be more appropriate. He would rebuild the trust that he had damaged.

RESOLVED

That the premises licence, in respect of Caledonian Store, 363 Caledonian Road, N7 9DQ, be suspended for two weeks and modified by the addition of conditions as detailed on page 83 of the agenda.

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 noted that the licensee had purchased illicit alcohol and that this was a serious matter in itself, however the aggravating feature was that the licensee had attempted to mislead trading standards and cover up his action. The Sub-Committee noted that trading standards would expect a responsible licensee to co-operate with their investigation and that the action of the licensee to concoct evidence to demonstrate a legitimate sale amounted to an obstruction of their investigation.

The Sub-Committee noted the licensee's unequivocal apology and his recognition that his actions had damaged the trust that he had established with the licensing authority. The Sub-Committee also noted the support for the licensee from residents.

The Sub-Committee noted that the licensee was willing to accept the conditions proposed and it was submitted that these had already been complied with. It was submitted that the review process had been very sobering for the licensee and that it had been a serious deterrent in itself. The Sub-Committee noted that the licensee put forward that, if the Sub-Committee was minded to impose a suspension, it should be for a short period of time.

The Sub-Committee noted the home office revised guidance and the types of criminal activity arising in connection with licensed premises which should be treated particularly seriously. This included the use of the licensed premises for the sale or storage of smuggled tobacco or alcohol. Where the licensing authority is satisfied 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 concluded that it was not necessary or appropriate for this licence to be revoked. However, the furtherance of the licensing objective for the prevention of crime and disorder, required a deterrence in the circumstances of this case and it was within the contemplation of the guidance that the licence should be suspended as a means of deterring the licensee from allowing the problems that gave rise to the review to happen again

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The Sub-Committee noted the licensee's recent attempts to rebuild the trust with the responsible authorities and in those circumstances decided that a short suspension would be appropriate. The Sub-Committee's decision was therefore to suspend the licence for two weeks as it was appropriate and proportionate for the promotion of the licensing objectives.

186 CUBANA, 59-61 CHARTERHOUSE STREET, EC1M 6HM - APPLICATION FOR TEMPORARY EVENT NOTICE (Item B3)

The Sub-Committee noted that this temporary event notice had been withdrawn by the applicant.

The meeting ended at 8.30 pm

CHAIR