

Licensing Sub Committee B - 15 August 2017

Minutes of the meeting of the Licensing Sub Committee B held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 15 August 2017 at 6.30 pm.

Present: **Councillors:** Alex Diner (Chair), Osh Gantly and Nick Wayne

Councillor Alex Diner in the Chair

163 INTRODUCTIONS AND PROCEDURE (Item A1)

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

164 APOLOGIES FOR ABSENCE (Item A2)

Apologies for absence were received from Councillors Diarmaid Ward and Aysegul Erdogan.

165 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Osh Gantly substituted for Councillor Diarmaid Ward and Councillor Nick Wayne substituted for Councillor Aysegul Erdogan.

166 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

167 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

168 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED:

That the minutes of the meeting held on 19 June 2017 be confirmed as an accurate record of proceedings, subject to the following amendments, and the Chair be authorised to sign them.

Page 4, paragraph 1 – Deletion of the comment ‘and had asked that it be disregarded’.

Page 5, last paragraph –

The addition of the word ‘some’ residents were not happy with an application beyond 11pm. The addition of the sentence ‘Some residents said that they would be happy with core hours’.

Insertion of the words ‘but stated that the hours would be looked at’ following ‘ the applicant had never stated that she would accept these hours’.

Page 6 paragraph 2 –

Following the words ‘tabled submission’ additional sentence to read. ‘Gareth Hughes stated that this was his fault and not that of the applicant.

Page 6 paragraph 3 –

Change ‘Residents’ to ‘A resident’ stated that the applicant had bristled at the meeting.

Page 6, last paragraph, second sentence before resolution to read ‘This application was not a smokescreen but a female venue with the support of the Mayor of London’.

169

ESSEX ROAD MINI MARKET, 234 ESSEX ROAD, N1 3AP - REVIEW APPLICATION
(Item B1)

The licensing officer reported that, following a request from the licence holder, officers had visited the premises and found that all proposed conditions were being complied with except for the high strength alcohol condition. The licensee had stated that he would be removing high strength alcohol. Licensing officers gave the licensee a week notice of the visit for the licensee to comply with the new conditions.

The trading standards officer reported that they had acted on information received. He stated that the list of items in the report were believed to be non-duty paid. The licensee had tried to justify a small amount of the stock with invoices although the majority of stock was without an invoice. If alcohol was non duty paid it was cheating the government of tax which paid for essential services, other businesses would be undercut and also the public would not willingly buy non-duty paid alcohol. The contents of alcohol sold could also be contaminated which was a risk to the public, although he was not saying that this was the case in this instance. It was a special responsibility to hold an alcohol licence and the licensee made a deliberate decision to buy from a van. He asked that the licence be modified with additional conditions and recommended a minimum suspension of four weeks.

In response to questions it was noted that the alcohol was believed to be non-duty paid but not counterfeit, the amount of alcohol was significant and the recommendation to suspend for four weeks was in line with previous decisions. The trading standards officer would be pleased if the suspension was longer or if there was revocation.

The police officer stated that management standards were not those that would be expected. It was clear that the licensee had purchased alcohol from a non-reputable source. There was no evidence that youths were attracted to the venue because it sold to underage. The CCTV would need to be updated and he recommended a period of suspension of four weeks in order to enable the CCTV installation and for the licensee to learn about his licence conditions and the licensing objectives.

The licensee apologised for his mistake and stated that he was not going to buy again from a van. He had brought the invoices with him and the CCTV was up to date. He stated that four weeks was too long to be suspended.

In response to questions the licensee stated that he had purchased the alcohol from one of his friends and he did not bring the invoices until three weeks later. His friend usually brought the invoices at the same time. The licensee stated that the trading standards officer had not believed him about the invoices. The trading standards officer attending the meeting informed the Sub-Committee that there was some discrepancy as to whether the invoices were bona fide. The licensee stated he would not buy from vans anymore. He said this was the first time that he had purchased goods from a van and it would not happen again. With the cost of rent and rates he might have to close down with a four week

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suspension and he had already learnt his lesson. He stated that he spent £300 to £400 on the alcohol and expected to make £60 - £80 profit.

In summary, the trading standards officer reported that alcohol could not be purchased from a van. A van was transport and not a shop. The licensee did not inspire confidence but generated concern. The police stated that the licensee had apologised and produced invoices. He had stated that his CCTV had been updated and he would check this. He had stated that he would now buy from a cash and carry. He stated that the licensee should have done all this before. He considered that people generally did not get caught the first time. He had stated that his friend normally produced invoices, which indicated that this was not the first time he had purchased alcohol from him. The licensee needed to look at the licence and licensing objectives to ensure that he was meeting all requirements necessary. He was sure that the licensee would make more profit on the consignment than £60 and a four week suspension was the minimum course of action.

The licensee informed the Sub-Committee that he had all the invoices. The CCTV could be checked, he had all posters up in the premises and operated Challenge 25. He would not sell high strength beers.

RESOLVED

That the premises licence, in respect of Essex Road Mini Market, 234 Essex Road, N1 3AP, be suspended for a period of four weeks and the licence be modified to include the conditions detailed on page 34 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 from the report that the licensee attended a training course on the 17th January at which it was highlighted that goods should not be purchased from people calling at the store. Trading standards then witnessed the licensee purchasing alcohol from a green van on the 28 March for which there was inadequate paperwork and which was believed to be non-duty paid.

Despite the apology from the licensee, the Sub-Committee was uncertain whether he failed to understand that he could not buy alcohol from a van or whether he understood but did so anyway. There was significant amount of illicit alcohol found on the premises with some being high strength. The Sub-Committee was not satisfied with the response from the licensee in answer to a question about how much profit he would have made. He stated that he would have made £60 or £80 profit. It seemed likely on an entire consignment there would have been a much larger profit, as noted by the police. Licensing policy 10 concerns the licensee's ability to demonstrate a commitment to high standards of management. The Sub-Committee accordingly took into account the licensee's failure to understand the legal requirements of purchasing alcohol from suppliers and his lack of knowledge of his responsibilities under the Licensing Act.

The Sub-Committee viewed with some scepticism the licensee's assertion that he had been found out the first and only time he had purchased alcohol from a van. They noted the importance of alcohol sales to a small shop and the loss of revenue that the licensee would suffer as a result of a suspension.

The Sub-Committee considered Home Office guidance, paragraph 11.27 stated that the use of the premises for selling or storing smuggled alcohol was a criminal activity which should

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be taken particularly seriously and review procedures must be used to deter such activities. Paragraph 11.28 expected that revocation of the licence should be seriously considered. However, the Sub-Committee considered that a suspension for four weeks with the additional conditions was appropriate and proportionate as a deterrent and to promote the licensing objective of crime and disorder.

The Sub-Committee took into account the fact that there would be detrimental financial impact on the licensee but considered that four weeks was an appropriate period of suspension. Paragraph 11.26 of the Home Office guidance states that the Licensing Authority duty in taking steps to promote the licensing objectives was in the interests of the wider community and not the interests of the individual licence holder.

170 **BONHILL STREET, EC1 - TEMPORARY EVENT NOTICE (Item C1)**

The Sub-Committee noted that this item had been withdrawn.

171 **THE OLD SESSIONS HOUSE, 22 CLERKENWELL ROAD, EC1 - TEMPORARY EVENT NOTICE (Item C2)**

The Sub-Committee noted that this item had been withdrawn.

172 **THE OLD SESSIONS HOUSE, 22 CLERKENWELL ROAD, EC1 - TEMPORARY EVENT NOTICE (Item C3)**

The Sub-Committee noted that this item had been withdrawn.

The meeting ended at 7.30 pm

CHAIR