

Licensing Sub Committee A - 18 June 2019

Minutes of the meeting of the Licensing Sub Committee A held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 18 June 2019 at 6.30 pm.

Present: **Councillors:** Sheila Chapman (Chair) and Alice Clarke-Perry and Satnam Gill.

Councillor Sheila Chapman in the Chair

58 INTRODUCTIONS AND PROCEDURE (Item A1)

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

59 APOLOGIES FOR ABSENCE (Item A2)

Apologies for absence were received from Councillor Marian Spall.

60 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Satnam Gill substituted for Councillor Marian Spall.

61 DECLARATIONS OF INTEREST (Item A4)

Councillor Alice Clarke-Perry stated that she was a ward councillor for St Peter's Ward.

62 ORDER OF BUSINESS (Item A5)

The order of business would be Item B2, B3 and B1.

63 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED:

That the minutes of the meeting held on 23 April 2019 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

64 HARVEYS OFF LICENCE, 295 CALEDONIAN ROAD, N1 1EG - PREMISES LICENCE REVIEW (Item B1)

The licensee did not attend the meeting and the Sub-Committee agreed that it would be in the public interest to hear the application in his absence.

The licensing officer reported that the licensee attended training on 14 May and had also sought advice from the licensing team. However, since that time they had not heard from him. The licensing team had visited the premises twice and both times the shutters had been down.

The trading standards officer reported that the licensee had engaged initially and had attended training but there had been a further underage test purchase and seizure of illicit

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alcohol following an officer panel in February. There were no refusals logs or training logs and no traceability for the illicit alcohol.

The licensing authority fully supported the review. There had been significant breaches of the licence and there had been illicit alcohol for sale in the premises. The licensing authority supported revocation of the licence.

The police stated that this was a very challenging part of the borough and a crime hotspot. The police had no confidence in the licensee and considered that the licence should be revoked.

The public health officer reiterated the concerns raised.

RESOLVED

That the premises licence, in respect of Harveys Off Licence, 295 Caledonian Road, N1 1EG, be revoked.

REASONS FOR DECISION

The licensee did not attend the hearing and had given no notice that he would not attend. The Sub-Committee considered under Regulation 20 whether it was in the public interest to adjourn and agreed to continue with the hearing.

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 the Trading Standards team that, although the licensee had engaged initially, there had followed a further failed test purchase of alcohol by a minor and the seizure of illicit beer. There were no training records, no refusals log and no traceability of illicit alcohol.

The Sub-Committee heard evidence from the Licensing Authority that the licensee seemed unaware of his legal obligations or the licensing objectives and there were significant breaches of conditions. He had attended training on the 14 May 2019 and had asked advice but the premises were apparently closed when two visits had been made on the previous Wednesday and Friday. He had not responded to the review. The Sub-Committee heard evidence from Public Health that they recommended revocation and reiterated the concerns raised.

The Sub-Committee heard evidence from the police that it was a very challenging area, a crime hotspot. The police had zero confidence in the ability of the licensee to manage his premises and recommended revocation. It was essential that someone competent should be in charge of the premises.

The Sub-Committee noted that the licensee had failed to engage or to implement advice given despite attending training and going before the officer panel meeting. These were serious offences and could result in prosecution. It was also significant that he had not attended the Licensing Sub-Committee meeting and seemed to show his lack of concern.

Paragraph 11.27 of the home office guidance date April 2018 states that certain criminal activity arising in connection with licensed premises must be treated particularly seriously. This includes the use of the licensed premises for the illegal purchase of alcohol by minors

which impacts on the health, educational attainment, employment prospects and propensity for crime of young people and the use of the premises for the sale or storage of smuggled alcohol.

The Sub-Committee took into account Licensing Policy 29 in relation to reviews, Licensing Policy 8 in relation to management standards and Chapter 11 of the Home Office Guidance, particularly paragraphs 11.23 and 11.27.

The Sub-Committee considered it appropriate to the licensing objectives, proportionate and in the public interest to revoke the licence.

65 SILVER STAR SUPERMARKET, 265 NEW NORTH ROAD, N1 7AA - PREMISES LICENCE REVIEW (Item B2)

The licensing authority stated that they had nothing further to add to the representation on pages 33-35 of the agenda. She highlighted that she was very concerned about the standards of management. The licensee had sold alcohol to a 15 year old. He had previously failed to attend an officer panel arranged following a Challenge 25 test purchase failure. She considered that due to the serious nature of the issues the licence should be revoked or, if the licence holder could persuade the Sub-Committee otherwise, a three month suspension with additional conditions. She stated that the team had visited on Friday 14th June and high strength alcohol was still being sold.

The police officer reported that it was the designated premises supervisor who had sold to the 15 year old. At the time Mr Patel had seemed disinterested in the customer when serving. He stated that selling alcohol to those underage had a direct impact on anti-social behaviour and in March 2019 80 of the 402 crimes reported in the area were related to anti-social behaviour. He was concerned that the licensee had been invited to an officer panel but had not attended. He had no confidence in the licensee and fully supported the recommendations of the licensing authority.

The public health officer highlighted that her representation was on pages 58-60 of the agenda. Islington had the highest rate of alcohol specific admission in London among those under 18 years. Off licences played a significant role in underage access to alcohol. Around half of young people aged between 11 and 15 who had drunk alcohol reported buying alcohol rather than being given alcohol by someone else. She fully supported the recommendations of the licensing authority.

The Trading Standards officer reported that, following a Challenge 25 test purchase operation in January 2019, the licensee was advised that an underage test purchase in the near future would be likely. No contact was made by the licensee and on the 19 March 2019, the licensee sold alcohol to a 15 year old. He stated that he had been too busy to attend an officer panel. There was a serious lack of management control and a revocation or long term suspension was supported.

The community safety officer stated that he had been working with a nearby hostel for adult men with mental health needs. He had received about 13 complaints from the public about the service users from the hostel which were alcohol related. Although they could not be directly attributed to the Silver Star, it was the nearest premises. He had spoken to the licensee and tried to convince him not to sell high strength alcohol because of the number of complaints received around aggressive begging and drinking in a public place. Following a complaint, the hostel manager had spoken to a service user who had confirmed that he had purchased alcohol from the Silver Star. The park was very close to the off licence and the residents of the hostel congregated in this area.

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In response to questions it was noted that the hostel manager had been informed by a service user about a tab being run by the licensee, although there was no evidence to support this.

A local resident, in support of the licensee, stated that the residents of the hostel engaged in a pattern of harassment of the licensee. He had not seen any evidence of a tab or any exploitation from the licensee. He had not seen the licensee sell to those underage but he had been asked to buy alcohol by underage children outside the premises.

The licensee stated he was a local person and was always helpful. There were often people outside drinking and scaring customers. He did not run a tab. A customer stole from his shop, he followed him and he paid him the next day. When he sold to the 15 year old it was an innocent mistake as he did not notice. He did not do it to make money. The hostel manager blamed the licensee, but the licensee stated that the manager was not responsive to complaints and did not control residents when they got out of hand.

In response to questions, the licensee stated that he had removed some 9% abv beer from the shelves but then he started to sell it again. He didn't sell it to those who were drunk or had a problem. He stated that he removed all high volume beer on Monday 17th. When asked what he was doing differently since the review application he stated that he always followed the rules, he had made a mistake, he promised not to sell high volume/cheap beer and would stop selling to people from the hostel. When asked why he did not go to the training, a local resident stated that he had been away and had not opened the letter. The licensee stated he was very busy and a bit lazy as well. He had not thought this was a serious matter, but now realised it was. The Sub-Committee noted he was still selling single cans on Friday 14th. The licensee stated that he thought the beer he sold was low volume until it had been explained again. He said he did not have any alcohol on his shelves that was over 6.5% but he did sell single cans. He said that if customers did not have ID he could not sell alcohol. Customers would not agree to giving their name for the refusals log. He started the log and then stopped using it. He stated that he did not have any training record. He confirmed that he remembered the refusals and training log being explained to him but he had not done it. When he was asked what steps he had taken to demonstrate he was responsible he stated that he would ask for ID if underage and would do whatever the Council asked. All staff would take training and he would be more careful.

In summary, the licensing authority said that they maintained the recommendation for revocation. It appeared that the licensee did not understand about the importance of training or the need to record incidents. It was stated that these were conditions of his licence and he had to comply by law. He would have benefitted by the training that he failed to attend. If the Sub-Committee considered a suspension, this would be time used to take stock of the business and get some training.

The trading standards officer stated that he should have used his time to put up Challenge 25 posters and to start training. The licensee had made no attempt to comply even in the last few months.

The police stated that the licensee had a responsibility to the children. He had a lack of knowledge and did not engage. There were other issues but he could not defend selling alcohol to a 15 year old. The licensee had not moved forward and he had great concerns at keeping the premises open with the licensee as designated premises supervisor.

The public health officer echoed these concerns and was particularly concerned regarding the licensing objective, protection of children from harm.

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The community safety officer stated that he knew of one occasion that the licensee had spoken to the local authority regarding the intimidation he received whilst there were numerous instances of service users of the hostel being drunk.

The licensee said that he gave his word and would do whatever he was told. The hostel blamed him for issues and he would get training from the Council.

RESOLVED

That the premises licence, in respect of Silver Star Supermarket, 265 New North Road, N1 7AA, 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 heard evidence from the Licensing Authority that they were very concerned about the standards of management regarding anti-social behaviour and the sale of alcohol to children. They recommended revocation given the very serious nature of the allegations and Mr Patel's failure to attend the officer panel or free training that was offered despite reminders of the importance of this training. They were disappointed to see, as recently as Friday night when they visited, that Mr Patel was still selling high strength cider, lager and beer. In summary, they still recommended revocation as he did not seem to understand the importance of training or the refusals log, which were conditions on his licence. He showed very poor management skills.

The Sub-Committee heard evidence from the police that they had no confidence in Mr Patel and recommended revocation. He had failed to attend the officer panel meeting and had then served an underage person. It was a challenging area with a large number of crime and anti-social incidents, many of which were alcohol related. When spoken to about the underage sale Mr Patel seemed uninterested. The police noted Mr Patel's complaints about the residents from the hostel but found the sale to the 15 year old indefensible. He had bought high strength alcohol because it was available at a low price and after beginning to remove it from his shelves, had put it back again.

The Sub-Committee heard evidence from Public Health that the sale of alcohol to children was a significant issue in Islington with the highest rate of alcohol specific admissions among those in London between 2015/16 – 2017/2018.

The Sub-Committee heard evidence from the Trading Standards team relating to Challenge 25, condition 9 on the licence. The licence holder had failed Challenge 25 on the 29 January and he had not implemented the measures suggested in a warning letter. It indicated a lack of engagement and he had said he was too busy to attend. They recommended revocation or a long term suspension. The licensee needed to put up challenge 25 posters and as a minimum, go on training. He had begun making changes and then had stopped. He had made no effort at all to attend training although courses were given at regular intervals and could have been arranged around him.

The Sub-Committee heard evidence from the Community Safety officer that he had been informed by the hostel manager that the shop was keeping a tab for vulnerable residents of St Martins, the residential hostel for adult men with complex mental needs. Mr Patel denied this. There were problems with the hostel and in Wilton Square, which was very close to

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the premises. A service user had reported to the hostel manager that he had purchased alcohol from the Silver Star. There were many complaints of drunken behaviour in the park including urination and one complaint of a service user exposing himself. He himself had attended with the licensing team to try to persuade the licence holder not to sell high strength alcohol which encouraged aggressive begging in the area and drinking in public places.

The Sub-Committee heard evidence from the licensee and the two people supporting him, who were customers at the shop, that the residents of the hostel had harassed him as well as previous licensees and engaged in aggressive begging. Mr Patel emphasised that he was a local person opposed to anti-social behaviour and drove drunks away from his shop. He had called the hostel to complain about the behaviour of residents but had been told to call the police. He blamed the hostel manager and the hostel manager had blamed him. The community safety officer said they had one record of complaint about the hostel and asked if the licensee had called the police. Mr Patel said that he had often called the police. He was a hard working man and when he sold to the 15 year old he was distracted because he was on the phone. He had admitted his mistake. Young adults under 25, if challenged, made racist remarks and became aggressive. When the Sub-Committee asked about requiring identification from under 18s he stated that if he asked for identification he could not sell if they did not have any. He stated that young people would not give a name so he could not complete a refusals register. He had started keeping a log but there were just too many children trying to buy alcohol. The refusals log and training record had been explained to him but he had not done it.

In response to questions he explained that he had removed the 9% abv beer and but after a few weeks had put it back on the shelves again. He did not realise until it was explained to him two days ago that he should not sell alcohol of 6.5% abv but he did admit that he sold single cans. He did not sell to anyone who was drunk and the previous day he had removed all 7% beer. He did not attend the officer panel or training because he had been away and did not open the letters. He did not think this was a serious matter and did not seek further advice because he was too busy and admitted he was too lazy. The Sub-Committee asked what steps had he taken to demonstrate that he was a responsible licence holder and what more could he do. Mr Patel stated that if they looked underage he would ask for ID. He would go on training and send all staff on training. He would be more careful. He gave his word.

Paragraph 11.27 of the home office guidance dated April 2018 states that certain criminal activity arising in connection with licensed premises must be treated particularly seriously. This includes the use of the licensed premises for the illegal purchase of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people.

Paragraph 2.5 of the home office guidance states that the designated premises supervisor is the key person responsible for the day to day management of the premises including the prevention of disorder and the Sub-Committee considered Chapter 11 of the Home Office Guidance, particularly paragraphs 11.23 and 11.27 above.

The Sub-Committee took into account Licensing Policy 29 in relation to reviews, Licensing Policy 8 in relation to management standards and took into account that Mr Patel had failed to seek advice from responsible authorities, nor had he implemented advice that he had been given and could not demonstrate comprehensive knowledge of best practice. He appeared not to understand written advice or legal requirements. Also, Licensing policy 14

which expects licensees to operate the highest standards of management and to co-operate with responsible authorities to prevent street drinking in the local vicinities, alcohol induced anti-social behaviour in the near vicinity and the sale of alcohol to underage children.

The Sub-Committee concluded that a responsible licence holder should be able to manage difficult situations relating to the location of the shop. The licence holder did not seem to see the connection between selling high strength beers, ciders and lagers and anti-social behaviour outside his premises and did not seem to understand the importance of complying with his conditions.

The Sub-Committee considered it appropriate to the licensing objectives, proportionate and in the public interest to revoke the licence.

66 B AND B CONVENIENCE STORE, 271 NEW NORTH ROAD, N1 7AA - PREMISES LICENCE REVIEW (Item B3)

The licensing authority reported that their representation was on pages 71-73 of the agenda. The licensing team had visited the premises on Friday 14 June in the evening and noted that the premises was closed. There were two licensees for this premises. Should it not be considered necessary to revoke the licence, it was suggested that there may be the option of suspending the licence and removing the designated premises supervisor (DPS). There was a possibility that the wife of the DPS could obtain a personal licence.

The trading standards officer reported that the licensee failed a Challenge 25 test purchase operation in January 2019. The licensee was invited to training. The training was not booked by the licensee. A further test purchase was held in March 2019 but no sale occurred. The licensee had failed to engage, had not submitted a minor variation and failed to attend the free session for licensees.

The community safety officer reported that there had been approximately 11 complaints over the past year or so about the service users and alcohol related incidents. The two off licences B and B and Silver Star were nearby. In May, two service users were seen drinking by the shop, although it was accepted that the alcohol may not have come from this premises.

The licensee stated that he had nothing further to add to the statement he had made in the previous case for Silver Star. (see minute 65)

In response to questions it was noted that the difference between the two premises was that B and B was more focussed on by his wife. It was noted this his wife did not have a personal licence and she was unable to attend the meeting as she had family at home.

RESOLVED

That the premises licence, in respect of B and B Convenience Store, 271 New North Road, N1 7AA, be suspended and modified as follows:-

- a) The designated premises supervisor be removed from the licence.
- b) That the following conditions be applied to the licence.
 - No high strength beer, ager or cider of 6.5 % abv or above shall be sold other than premium beer, lager or cider.
 - No single cans are permitted to be sold at the premises
 - The licensee shall adopt a 'Challenge 25' policy and promote it through the prominent display of posters.

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- The licensee shall put arrangements in place to ensure that before serving alcohol to persons they believe to be less than 25, staff ask to see accredited proof of age: that is, proof of age cards carrying the 'PASS' logo (and no others), a passport, or UK Driving Licence bearing the photograph and date of birth of the bearer.
- The licensee shall ensure that staff are trained about age restricted products and ensure that they sign to confirm that they have understood the training. The licensee shall keep records of training and instructions given to staff, detailing the areas covered, and make them available for inspection upon request by the licensing team, police or trading standards.
- The licensee shall require staff to note any refusals to sell to young people in a refusals log. The refusals log shall be made available for inspection upon request by the licensing team, police or trading standards.

REASONS FOR DECISION

The Sub-Committee observed that Mr Patel was joint owner of these premises with his wife and was also the designated premises supervisor (DPS). They had just heard evidence in a review of the Silver Star, where he was also DPS and licence holder, earlier at the meeting. However, they emphasised that this was a different shop and there were different circumstances, although the two shops were very close to each other.

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 the Licensing Authority that they recommended revocation but otherwise a suspension of up to three months with the removal of Mr Patel as dps and additional conditions. It was suggested that a way forward for the licence holder might be for Mrs Patel to obtain a personal licence and apply as DPS.

The Sub-Committee heard evidence from the Trading Standards team that there had been a Challenge 25 failure. This was not a condition of the licence but good practice and they had invited the licence holders to apply for a variation to the premises licence to include a Challenge 25 condition and come to free training. There had been no response. There had been no sale on test purchase to an underage person. They recommended adding further conditions.

The Sub-Committee heard evidence from the Community Safety officer that local residents had complained about the behaviour of drunken hostel users from a local hostel which provided for adult men with complex mental health issues and which was in the vicinity. On the 29 May, two service users were seen drinking by the corner shop, being noisy and approaching people.

The Sub-Committee heard evidence from the licensee that he did not wish to add anything to what he had said in the previous case in relation to the Silver Star.

In response to questions he said that his wife did not have a personal licence and that the difference between these premises and the Silver Star was that they managed B and B jointly. Different staff were employed at the two shops. When asked why his wife was not present at the meeting, he said that she was looking after their children.

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The Sub-Committee took into account Licensing Policy 29 in relation to reviews and Licensing Policy 8 in relation to management standards. The licence holders had failed to implement advice given by the responsible authorities about removing high strength alcohol despite Mr Patel signing up to an initiative to do so. He had failed to comply with it. They had not responded to a letter from trading standards suggesting a minor variation to include Challenge 25 and had not sought advice from the responsible authorities. They took into account Licensing policy 14 which states that the local authority expects licensees to operate to the highest standards of management and to co-operate with responsible authorities to prevent alcohol induced crime, disorder and anti-social behaviour in the near vicinity of the premises and licensing policy 28 which states that the local authority expects the licensee to implement appropriate measures including Challenge 25.

The meeting ended at 8.05 pm

CHAIR