

Licensing Sub Committee B - 30 October 2018

Minutes of the meeting of the Licensing Sub Committee B held at Committee Room 4, Town Hall, Upper Street, N1 2UD - Islington Town Hall on 30 October 2018 at 6.30 pm.

Present: **Councillors:** Flora Williamson (Chair), Phil Graham (Vice-Chair) and Sheila Chapman

Councillor Flora Williamson in the Chair

18 INTRODUCTIONS AND PROCEDURE (Item A1)

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

19 APOLOGIES FOR ABSENCE (Item A2)

There were no apologies for absence.

20 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

There were no substitute members.

21 DECLARATIONS OF INTEREST (Item A4)

Councillor Phil Graham stated he was a Councillor for Bunhill ward but had not had any involvement regarding Item B1 – 38 Charterhouse Street, EC1.

22 ORDER OF BUSINESS (Item A5)

The order of business would be B1, B2, B4 and B3.

23 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED:

That the minutes of the meeting held on 30 August 2018 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

24 38 CHARTERHOUSE STREET, EC1M 6JH - NEW PREMISES LICENCE (Item B1)

The licensing officer reported that the noise and police conditions had been agreed with the applicant. A certificate of lawful use for planning consent had been applied for and the licensing team could confirm that the premises had been operating to the hours requested for over ten years.

The applicant's representative advised that the licence holder had gone away owing money and had refused to transfer the licence. A new 'shadow' licence had therefore been applied for which had additional police and noise conditions. A new tenant was proposed who was unlikely to make full use of the late hours.

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RESOLVED

- 1) That the application for a new premises licence, in respect of 38 Charterhouse Street, EC1M 6JH be granted to allow:-
 - a) The supply alcohol for consumption on and off the premises: 9am to midnight Sunday to Wednesday, 9am to 2am on Thursday, 9am to 4am on Friday and Saturday.
 - b) Late night refreshment, 11pm to midnight on Sunday to Wednesday, 11pm to 2am on Thursday, 11pm to 4am on Friday and Saturday.
 - c) Showing of films 9am to midnight on Sunday to Wednesday, 9am to 2am on Thursday, 9am to 4am on Friday and Saturday.
 - d) Live music from 9am to midnight Sunday to Wednesday, 9am to 2am on Thursday and 9am to 4am on Friday and Saturday.
 - e) Recorded music 9am to midnight Sunday to Wednesday, 9am to 2am on Thursday, 9am to 4am on Friday and Saturday.
 - f) Performance of dance 9am to midnight Sunday to Wednesday, 9am to 2am on Thursday, 9am to 4am on Friday and Saturday.
 - g) Opening hours to be:- 9am to half past midnight Sunday to Wednesday, 9am to 2.30 am Thursday and 9am to 4.30am Friday and Saturday.
- 2) That conditions detailed on pages 56 – 59 of the agenda be applied to the licence.

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 took into consideration Licensing Policies 2 & 3. The premises fall within the Clerkenwell cumulative impact area. Licensing policy 3 creates a rebuttable presumption that applications for the grant or variation of premises licences which are likely to add to the existing cumulative impact will normally be refused following the receipt of representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

The Sub-Committee noted that the premises were currently licensed to the same hours as detailed in the application which had been in place for over ten years. The applicant had explained that this application was for a 'shadow' licence. The reason for this was that the previous licence holder had refused to transfer the licence to the applicant unless the applicant paid him £25000 and therefore it was easier for the applicant to seek a new premises licence.

Sixteen local resident objections had been received but the licensing Sub-Committee noted that no residents attended. Conditions had been agreed with the police and the noise team.

The Sub-Committee noted that the application for a shadow licence provided the opportunity for robust conditions to be added which also dealt with the concerns of the residents.

The Sub-Committee considered that with the addition of these new conditions there would be no negative cumulative impact on the licensing objectives. It also considered that this was an exceptional situation.

It was appropriate to the licensing objectives, proportionate and in the public interest to grant the premises licence.

25 **GRIN AND BEER IT, 172 BLACKSTOCK ROAD, N5 1HA - NEW PREMISES LICENCE (Item B2)**

The licensing officer reported that there had been no response from the objector to the letter sent by the applicant to try and alleviate concerns.

The applicant advised that information had been provided to the objector, hours applied for were limited and conditions had been proposed and agreed by the police and the noise team. They had tried to meet the concerns of the resident with conditions.

RESOLVED

- 1) That the application for a new premises licence, in respect of Grin and Beer It, 172 Blackstock Road, N5 1HA be granted to allow:-
 - a) The sale of alcohol, on and off supplies, Sundays to Wednesdays from 11am to 9pm and Thursdays to Saturdays from 11am to 10pm;
 - b) Opening hours to be:- Sundays to Wednesdays from 11am until 9pm and Thursdays to Saturdays from 11am until 10pm.
- 2) That conditions detailed on pages 87 and 88 of the agenda be applied to the licence.

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 took into consideration Licensing Policy 4. The Council has adopted a special policy relating to cumulative impact in relation to shops and other premises selling alcohol for consumption off the premises. Licensing policy 4 creates a rebuttable presumption that applications for the grant or variation of premises licences which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following the receipt of representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

One resident objection had been received. The Sub-Committee noted the letter of reply from the applicant to the resident which addressed his concerns. There had been no representations made by the responsible authorities but conditions had been agreed with the police and the noise team.

The Sub-Committee noted that the hours sought were within the hours specified in licensing policy 6 and conditions had been proposed and agreed by the police and the noise team.

The Sub-Committee took into account licensing policy 2 and the views of the responsible authorities, the proposed hours of operation, the type of customer likely to attend the premises and the potential impact on residents living in close proximity to the premises. The Sub-Committee was satisfied that the applicant had rebutted the presumption against granting the licence by demonstrating in his operating schedule that, with the additional conditions agreed with the responsible authorities, there would be no negative cumulative impact on the licensing objectives through the grant of the licence. It was appropriate to the licensing objectives, proportionate and in the public interest to grant the premises licence.

26 SAVESTORE EXPRESS, 495-497 HORNSEY ROAD, N19 3QL - PREMISES LICENCE REVIEW (Item B3)

The licensee was not present at the meeting.

The legal officer advised that under Regulation 20(2) of The Licensing Act 2003 (Hearings) Regulations 2005, the hearing could continue where the licensee had failed to attend or be represented at the hearing but that any representations made by him should be considered. The hearing should only be adjourned if the Sub-Committee considered it to be necessary in the public interest.

The licensing officer reported that notice had been served and the licensee had made no contact. Notice had been served by both post and by email. The licensee had appointed an agent and they had been served notice of the meeting.

The Sub-Committee agreed that it would not be in the public interest to adjourn the meeting.

The trading standards officer who had brought the review stated that there had been a lack of engagement throughout the whole process. In summary, there had been a test purchase conducted on the 12 July, no challenges regarding identification were made by the business, indicating that Challenge 25 was not in operation. They were advised that training could be offered to them but no response was received. A further test purchase was conducted on the 24 July and alcohol was sold to a person under the age of 18 years. The father of the licensee sold the alcohol. When spoken to by the trading standards officer it appeared that his command of English was poor and it was considered that he was not equipped to deal with Challenge 25 situations. A previous premises holder, Cern Aytac, was heavily involved in the business, despite a condition of the licence preventing this. There was a history of poor co-operation and engagement and it was recommended that the licence be revoked.

The licensing authority supported the review. The management had failed to contact the licensing team or trading standards on numerous occasions. The person who seemed to be running the business should not be involved. She asked that the Sub-Committee consider revocation. The police supported the review and stated that this was a poor level of management. The public health team echoed their support for the review reporting on the health impacts of underage drinking.

The community safety officer had also put in a representation in support of the review. She reported that it seemed that there had been no motivation for the licensee to improve their business. She was concerned about the long term issues in the area regarding street drinking. Off licences which were known to have less regard for their responsibility would impact anti-social behavior and harm reduction that needed to be managed in the area.

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Councillor Spall outlined her representation at page 105 of the agenda and highlighted that premises that sold to people who were already drunk and with poor management needed to be dealt with robustly.

RESOLVED

That the premises licence in respect of Savestore Express, 495-497 Hornsey Road, N19 3QL be revoked.

REASONS FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material and noted the absence of anyone representing the premises. 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 licence holder appeared to have instructed a legal adviser but no representations or communications had been received from either the legal adviser or anyone associated with management at the premises. Councillors had checked that sufficient efforts had been made by the licensing authority to ensure that the licence holder was aware of the review and the hearing. It appeared that this was characteristic of the management of the premises. The designated premises supervisor and licence holder had played a minimal part in the whole affair. It appeared that he was largely abroad and absent from the premises and no authorisation from him was produced to trading standards. The person selected to discuss the situation with the responsible authorities was a person prohibited from involvement with any licensable activity whatsoever at the premises. The seller of the alcohol had admitted that he had little command of English and the Sub-Committee questioned whether he would be able to deal with Challenge 25 or requiring identification from underage purchasers. Within a very short period the premises had failed Challenge 25, a test purchase to a 15 year old, had been evasive about meeting with trading standards officers and had sold high strength beer to officers in circumstances which suggested that the goods might be illicit. In addition, no training records were produced to trading standards. Councillor Spall confirmed that she had witnessed people whom she recognised as street drinkers coming out of the shop. The Community Safety officer spoke about the problems with street drinking in nearby Elthorne Park and the dangers of selling alcohol to vulnerable people.

The Sub-Committee took into account the licensee's lack of commitment to high standards of management under licensing policy 8 and the apparent inability of the licence holder and management generally to run the business lawfully and in accordance with good business practice. Written advice had been ignored. Conditions relating to training and Challenge 25 had been totally disregarded. The responsibility for running the premises and dealing with regulatory concerns appeared to have been passed to Mr Aytac who had been prohibited from being involved in any licensable activity by condition on the licence. Contrary to licensing policy 14 the premises had failed to operate to the highest standards of management or to cooperate to prevent the sale of alcohol to underage children or street drinkers in the local vicinity. Licensing policy 28, paragraph 141, states that restricting access to alcohol for children under 18 has been a high priority for Islington for many years to help reduce anti-social behaviour and health issues associated with underage drinking. The Sub-Committee noted the contribution made by public health to the discussion.

The Sub-Committee noted Home Office guidance 11.20 – 11.29 about powers on a review. It was clear that management of the premises did not operate a responsible policy towards sales of alcohol to children and had not exercised due diligence. Attempts by the responsible authorities to encourage better management had been ignored. The Sub-

Committee considered that revocation and no lesser step was appropriate and proportionate in this case.

The Sub-Committee concluded that it was appropriate to the licensing objectives, the protection of children from harm, the prevention of public nuisance and prevention of crime and disorder and proportionate to revoke the licence. The licence holder had failed to engage with either advice from the responsible authorities or the process of review. There was no explanation for his absence from the review hearing.

27 HORNSEY LOCAL SUPERMARKET, 504-506 HORNSEY ROAD, N19 3QW - PREMISES LICENCE REVIEW (Item B4)

The trading standards officer reported that test purchases were often carried out following concerns raised by local residents. He stated that, on the 24 July 2018 a test purchase was conducted and the employee sold alcohol to a person under the age of 18 years. It was the responsibility of the owner to ensure that they had done all they could to prevent the sale. In this instance the seller was not trained until the day after. This was too little, too late, in his view. However, this was the only negative history of the premises and therefore a short suspension of the licence was recommended.

The licensing authority supported the review and recommended a lengthy suspension so that the licensee could put things in order and it was also recommended that a condition be added to the licence preventing the sale of high strength alcohol. In response to a question from the Sub-Committee it was stated that this could be possibly be a suspension for two months for staff training and to get rid of old stock.

The police were in support of the review. It was noted that anti-social behaviour in this area was a major concern, a strain on police resources and also made life difficult for local residents.

The community safety officer welcomed the condition proposing lower strength alcohol. Street drinking in the area was an on-going issue and measures needed to be in place to ensure reduction in harm.

Councillor Spall advised that her objections were dealt with in her paper in the agenda. The authority had worked to deal with street drinking in the area. The licensee had continued to sell alcohol to those who were already intoxicated and was adding to the street drinking problem in the area.

The licensee reported that an employee sold alcohol to a 15 year old. The licensee reported that the employee had been trained but she had a learning disability which he was not aware of. Apart from this one issue they were fully compliant and it had not happened before. The employee was no longer working at the shop. Staff were all fully trained. The training record could not be found when requested but this was found afterwards.

In response to questions it was noted that the training for the employee had been carried out after the sale was made. The trading standards officer reported that the seller was culpable but had been trained after the sale had occurred. There was no training log or refusals book produced. In response to a question about Challenge 25 the licensee stated he asked customers for ID and if it was not produced he would ask them to leave. He did not maintain a refusals log. A refusal could happen about ten times a day. He stated that he would produce a refusals log from now on but had not done so before. The licensee was informed that keeping a refusals log was a condition of his licence. The Sub-

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Committee raised concerns that the licensee was not fully aware of his responsibilities and he responded by stating that he did not have the time. He stated that he trained new members of staff every six months. He sat with them and explained everything but he accepted that he had not been telling staff about the refusals log. When the Sub-Committee asked how they could be confident in his ability to manage the premises, the licensee said that this was the first time this had happened. The member of staff who sold the alcohol to the minor finished work at two o'clock each day and most refusals would have happened after this time.

In summary, the trading standards officer stated he was very concerned that a member of staff had been dismissed although they had not been trained and the licensee himself is not familiar with the licence. The licensing authority agreed that you could not blame the member of staff when the licensee had no understanding of the licensing conditions. The police officer, community safety officer and Councillor Spall stated that they had concerns about the management in the premises and that he did not have a grasp of the licensing conditions when selling alcohol.

The licensee had no further comment to make in summation.

RESOLVED

That the premises licence in respect of Hornsey Local Supermarket, 504-506 Hornsey Road, N19 3QW 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.

Taking into account licensing policy 8, the Sub-Committee considered that the licence holder had failed to demonstrate a commitment to high standards of management. He did not appear to have comprehensive knowledge of best practice, blamed the seller of the alcohol rather than considering his own role and seemed to have poor understanding of his responsibilities. He had failed to comply with conditions such as maintaining a refusals log and appeared not to be aware that one should be maintained although he accepted that there were numerous incidents each day when children were attempting to purchase alcohol in his shop. He had failed to produce training records to trading standards at any time other than one which showed that the seller had been trained the day after the incident. He seemed unfamiliar with the conditions on his licence or their importance and said that he was too busy.

There were also concerns about the sale of high strength alcohol at low prices which raised questions about the source of the supply. Councillor Spall said she had witnessed street drinkers who she recognised from Elthorne Park coming out of the premises and both she and the community safety officer referred to the ongoing problems with vulnerable street drinkers in nearby Elthorne Park. Under licensing policy 14 the licensing authority expects licensees to operate to the highest standards of management and to cooperate with responsible authorities to prevent the sale of alcohol to underage children and street drinking in the local vicinity.

The Sub-Committee concluded that it was appropriate to the licensing objectives, the protection of children from harm, the prevention of public nuisance and prevention of crime

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and disorder and proportionate to revoke the licence. It considered the removal of the designated premises supervisor and a suspension but did not think that these would deal with the underlying problems of management. There were sufficient conditions on the licence already but the licence holder did not seem to understand these conditions. In particular, a suspension would not help as there appeared to be no commitment on the part of the premises licence holder to address the problems.

The meeting ended at 7.50 pm

CHAIR