

London Borough of Islington

Licensing Sub Committee D - 6 August 2019

Minutes of the meeting of Licensing Sub Committee D held at Islington Town Hall, Upper Street, N1 2UD on 6 August 2019 at 6.30 pm.

Present: **Councillors:** Nick Wayne (Chair), Vivien Cutler and Kadeema Woodbyrne

Councillor Nick Wayne in the Chair

61 INTRODUCTIONS AND PROCEDURE (Item A1)

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

62 APOLOGIES FOR ABSENCE (Item A2)

Received from Councillors Joe Caluori and Paul Convery.

63 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Vivien Cutler substituted for Councillor Paul Convery and Councillor Kadeema Woodbyrne for Councillor Joe Caluori.

64 DECLARATIONS OF INTEREST (Item A4)

None.

65 ORDER OF BUSINESS (Item A5)

The order of business would be as stated on the agenda.

66 RUST AND ROSES, 90 OLD STREET, EC1V 9AX - PREMISES LICENCE VARIATION (Item B1)

The Licensing Officer had no additional information to report.

The Licensing Authority's representative stated that the premises was situated in a cumulative impact area and the application sought to extend the hours operated. The current conditions required food to be sold with alcohol. However, there was photo evidence available in the agenda pack indicating that alcohol was being sold without food. Complaints had been made to the Council via the ASB reporting line about the numbers of people congregating outside the premises and not having a meal with their drinks. She further noted that current planning permission was not in line with the times proposed on the new application and asked whether it had been sought. There had been no representations received from the Noise Team, although complaints had been made to the Council's ASB line.

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One of the interested parties stated that, when the previous licence had been applied for in 2014, it had been for similar late hours, straight drinking, no food service and Sunday opening. The application was rejected by the Licensing Sub-Committee in 2015 and a condition was applied that alcohol should be ancillary to a meal. This had worked for local residents. Nothing had changed as far as the premises being in the Bunhill cumulative impact area was concerned, apart from more disturbances on the street as a result of alcohol. This application was for cocktails, made from strong alcohol, vertical drinking and gin parties, which had been advertised by the premises. There was no need for another unrestricted bar in the area, which would tempt people from the pubs to these premises. It did not matter whether people were standing or sitting down in the premises. The current conditions on the licence were admirable. There should be no change in hours at the premises, alcohol should remain ancillary to food and there should be no Sunday opening.

For the record, Councillor Wayne stated that he had been a member of the Sub-Committee which had agreed the conditions on the licence in 2014.

Another interested party stated that the current managers had wanted "over and above" since they had moved in and they clearly wanted to run a cocktail and gin bar, with stag and hen parties too. On social media and the website, alcohol was at the forefront of who the managers were. They had broken the terms of their licence by having tables and chairs outside the premises and vertical drinking both inside and outside the premises. They should not be rewarded by allowing any new arrangements. It was the wrong place for a cocktail bar.

Another interested party said that they lived opposite the premises and noted that fewer people had been congregating outside the premises. If permission was granted to extend the operating hours, it was likely that his sleep would be disturbed.

In response to members' questions to the interested parties, it was noted that the noise was from people congregating on the street rather than the premises and that the staff inside appeared unaware of the noise. Once people left the premises, the staff were unable to control them as there were no bouncers employed.

The applicants' legal representative stated that, mindful of the fact that the premises was situated in a cumulative impact area, the applicants had substantially amended their application and were now applying only to remove the conditions on the licence requiring that alcohol be ancillary to a meal and to request that opening hours on Saturdays commence at 11.00 hours, rather than 18.00 hours. The applicants were keen to ensure that their premises existed comfortably within the area and the amendments now sought to the licence were less likely to have impact.

The request for the removal of the conditions relating to the requirement for alcohol to be served ancillary to a meal related to historical legislation. Staff would have to be spread more thinly if dealing with food orders and serving alcohol, and he

suggested that it would be best for staff to concentrate on residents' concerns. On the proposed change to Saturday hours, he suggested that they were restrictive now but an extension to permit opening at 11.00hours would not heavily impact on the cumulative impact area and would not cause further disturbance to residents. Security staff at the premises would be increased, although there was no direct link to anti-social behaviour in the area and these premises. CCTV would be upgraded to ensure that the applicants were complying with all measures.

On planning, permission would be obtained and complied with. The applicants were aware that they needed to seek planning permission for their proposed extended hours. This was a nuanced and focused application to take account of the fact that the premises was situated in a cumulative impact area.

The Council's legal adviser sought confirmation from the applicant's legal adviser that the conditions proposed by the Licensing Authority at Annex 3 on page 25 of the agenda pack would be agreed by the applicant and this was confirmed. In response to a further question, the applicant's legal adviser stated that two SIA qualified security staff would be employed at the premises.

In response to a question from a member of the Sub-Committee, the applicants' legal adviser confirmed that the new variation application included the removal of Sunday opening. The only variation as to hours now related to Saturday and a request that opening hours commence from 11.00hours. He confirmed that the applicants wished to remove the condition requiring that the supply of alcohol must be ancillary to a meal, but would retain a table service in terms of alcohol sold ie "To remove Conditions 8 and 9 from Annex 2 of the premises licence and include the following condition : The supply of alcohol is restricted to persons seated within the premises and supplied by means of table service only" (page 28 of the agenda pack).

In response to questions from members about the capacity of the premises, the applicants' legal adviser said that it was currently 40 seats, including the yard. Members noted that, at present, if the variation to the premises licence was granted, the applicants would be in breach of planning conditions on the basis that it was being used as A4, rather than A3 use and planning condition 2 permitted opening hours from 11.00 to 22.30 hours on Monday to Saturday and not at all on Sundays or Bank Holidays. The applicants were asked why they were making the premises licence variation application now which, if granted, would mean that they would be subject to planning enforcement.

The applicants' legal adviser replied that the applicant would not do anything to breach planning conditions. The applicants would submit a planning application in due course.

Members of the Sub-Committee noted that, even with the more restricted variation now being sought, the premises would be changing from a restaurant to a bar. Members asked the applicants' legal representative to specify how the Council could be confident that there would be no adverse impact in this cumulative impact area.

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The applicants' legal representative stated that there would still be a full kitchen on the premises and a major part of the offering would be food. The character of the premises would change, but it was hard to say that it would bring no impacts to the area, but they were likely to be reduced impacts. The applicants were aware that their premises was situated in a cumulative impact area, the food offer would remain and there had had been a major investment in the kitchen. All of these would have minimal impact on the cumulative impact area.

Referring to the comments made by the interested parties, particularly that the premises had been operating as a cocktail bar for some months, the applicants' legal representative commented that the premises operated as a restaurant with cocktails and acknowledged that there had been promotion of the cocktail offer, but it was not a cocktail bar.

Noting references on page 40 of the agenda pack to "later collection by Deliveroo or Uber.....", the applicant's legal adviser confirmed that food orders delivered by Deliveroo linked back to the premises being a restaurant. He suggested that time limits could be considered to lessen any impact on local residents. However, the applicants would not be able to control Uber activities, since that was geared around people phoning for Uber services. He suggested that part of the role of the two SIA approved security staff could be to ensure that people do not congregate on the street, outside the premises. The primary aim would be to encourage people to come into the premises and not to send food deliveries out.

In summary, the interested parties said that the applicant was attempting to change the nature of the premises, which had operated under the current conditions for the past five years. She noted the sale of food having been described as an "offering" and said that deliveries to and from the premises were a nuisance. In response to a further question about the nights which the SIA security staff were expected to work, he said that they would certainly work on Friday and Saturday nights and other nights when the premises was busy. The applicants could not be certain at this time, but there would be flexibility in the hours worked by security staff. One of the interested parties suggested that the security staff would be under pressure on Saturdays, particularly if hen and stag parties were taking place on the premises. The applicants did not have a good track record of operating under their current licence conditions and did not have much experience of running a licensed premises. The street on which the premises was situated was very narrow and a busy highway.

The applicants' representative stated that the variation application did not fundamentally change the character of the premises. The applicants were aware that they were situated in a cumulative impact area and understood the concerns of the local residents. However, the application should be granted.

RESOLVED:

(a) That the application for a premises licence variation in respect of Rust and Roses, 90 Old Street, EC1V 9AX, be granted to permit the following:-

The sale by retail of alcohol, on supplies only, on Saturdays, from 14:00 to 23:00 hours;

(b) That all the existing conditions be retained, including those in Annex 3.

Reasons for the decision

The Licensing Sub-Committee considered all the written submissions and the oral submissions made at the hearing from the Licensing Authority, 3 local residents and the applicant's representative.

The variation application was substantially amended at the hearing.

The following two proposed amendments to the premises licence were left for consideration by the Committee:

Firstly, that the sale of alcohol, on supplies only, on Saturdays, be from 11am to 11pm, instead of 6pm to 10pm, and secondly, that Conditions 8 and 9 of the licence which required that the service of alcohol shall only be to a person seated at a table taking a meal and that the alcohol be ancillary to that meal be replaced by a condition that the supply of alcohol be restricted to persons seated within the premises at tables.

The Licensing Sub-Committee noted the residents' concern that the variations sought would enable the licensee to use the premises as a cocktail bar as opposed to a restaurant and that the extra hours on Saturday could be used for stag or hen parties. It also noted representations from residents and responsible authorities that the condition on the existing licence had been breached by the applicants.

The Licensing Sub-Committee was also mindful of the need to enable the applicant to operate a profitable and successful business at the premises.

The premises were in the Bunhill Cumulative Impact area and the applicant when seeking a variation of an existing licence or a new licence must demonstrate that there would be no negative cumulative impact on one or more of the licensing objectives.(Licensing Policy 3).

The additional hours requested on Saturdays were consistent with framework hours. (Licensing Policy 6).

The Licensing Sub-Committee was of the opinion that, by granting the application to extend the supply of alcohol, on premises on Saturdays from 2.00pm to 11pm and retaining the existing conditions on the licence, this would support the people visiting the area during the day, encourage people to stay in the area after work

and support the wider cultural offer in the area. The Licensing Sub-Committee decided that this was a proportionate and reasonable decision to the application, taking all the above mentioned concerns and representations into consideration.

67 **SHIVAS NEWSAGENT, 108 Highbury Park, N5 2XE - PREMISES LICENCE REVIEW (Item B2)**

The Licensing Officer had no additional information to report.

The Trading Standards representative reported that the premises had been included as part of a visit to all off licences in the Highbury Barn and Blackstock Road area on 29 May 2019 to remind them of the importance of checking young people's identification, operating Challenge 25 and maintaining refusal and training registers. Premises in this particular area were being targeted as information had been received from an Islington social worker that a 15 year old client of theirs had been repeatedly hospitalised after consuming alcohol purchased from off licences in the area. The social worker had indicated on the day following the visit by Trading Standards that it was this particular premises, Shivas Newsagent, who had sold the alcohol to the young person concerned. During the visit, the licensee appeared to be unaware of his responsibilities as a manager of a licensed premises and was not aware that it was an offence to sell alcohol to a person under the age of 18 years of age and that he did not keep a refusals register as he had never refused a sale. The Trading Standards representative advised him to attend the next training session on age restricted products and licensee responsibilities. She recommended that, as there were currently no additional conditions on the licence, a short term suspension of the licence would be appropriate to enable the Licensing policies and procedures to be put in place.

In response to a question from a member of the Sub-Committee as to whether the young person who had been hospitalised had been interviewed, the Trading Standards representative confirmed that they had not as no criminal proceedings had been instigated. There were a number of licensed premises in this vicinity and it would be difficult to prove that all of the alcohol purchases made by the 15 year old who had been hospitalised came from Shivas Newsagent.

The Trading Standards' representative reported that a sale from the premises to an under age person had been made on 4 June 2019 by the licensee and DPS of the premises, who had been spoken to on 29 May 2019, during a visit to the premises. In response to a question from a member of the Sub-Committee, she said that she had been outside the premises while the sale was made but had subsequently entered with Police officers once the sale had been made. She confirmed that a standard test purchase had taken place and that there had been no distractions to the seller whilst the purchase took place. A member of the Sub-Committee noted a reference on in the agenda pack to Polish lager available for sale on the premises and queried whether duty had been paid on this and whether enquiries had been made as to where it was purchased. The Trading Standards representative said that no invoices had been produced and that she had been advised that the alcohol

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was on the premises when the lease transferred to the current licensee. She was aware that it was sold by some wholesalers.

The Trading Standards representative reminded the licensee and his representative that the Licensing Authority expected the highest standards of management in licensed premises and would expect a DPS to have knowledge of all mandatory licence conditions. There was no refusals register on the premises and the licensee appeared to have no knowledge or understanding of the policy for challenging those aged under 25 years. She recommended a long suspension or revocation of the licence in these circumstances. If a suspension was agreed, she recommended that the conditions set out on page 87 and 88 of the agenda pack be applied to the licence. In addition, she hoped that the licensee would participate fully in Challenge 25 and the campaign to reduce the sale of strong alcohol.

The Police representative supported Trading Standards' review of the licence of this premises. He confirmed that a Police Officer had entered the premises when the test purchase was made and that the premises was quiet, with no distractions for the licensee who had made the sale. The area in which the premises was situated was known for anti-social behaviour and high level crime. Of particular concern was that the licensee had no knowledge of the Licensing Authority's Challenge 25 initiative. He noted that the refusals log had not been completed for a number of years. The Police worked with partners to ensure safeguarding of vulnerable young people and children. He suggested that a lengthy suspension at least be considered and supported the inclusion of the additional conditions suggested by the Licensing Authority.

The Public Health representative stated that her written representations had been included in the agenda pack. She supported the additional recommendations suggested by Trading Standards and the Licensing Authority.

The licensee's legal representative extended apologies from the licensee for the breach of conditions on his licence. He stated that the licensee was on his own in the shop at the time of the test purchase and that an adult and a youth had entered the premises together. The adult, who unknown to the licensee was a Police Officer, had watched the licensee. The licensee said that this had distracted and stressed him and caused him not to pay as much attention to the young person as he should have. The licensee had described the young person to be as tall as himself and wearing a peaked cap.

The licensee's legal representative then went on to say that the licensee had "got off on the wrong foot" with the Trading Standards Officer when she visited. English was not his first language and there were misunderstandings. The licensee was aware that he should not sell alcohol to under 18s and of the requirements of the Challenge 25 policy. The licensee had held the licence for just over a year, after a former director had been removed. This had all caused stress and nervousness to the licensee and he had language problems. The licensee had refused sales in the past. The Perla beer found by the Trading Standards Officer was part of the stock left behind by the previous owner. The licensee had now disposed of this stock and

also the high strength alcohol. In addition, the licensee had engaged in "self-directed" licensing training, through reading Islington's Licensing Policy documents. Copies of the documents which the licensee had read were passed around, together with a copy of the refusals register. Referring to the additional conditions suggested by the responsible authorities, including the display of posters on Challenge 25 and the installation and maintenance of CCTV, the legal representative said that the licensee had a CCTV system and that he had purchased a monitor and employed an engineer to install it. He passed to members of the Sub-Committee copies of the Challenge 25 posters now displayed on the premises and reiterated that the Perla beer and high alcohol beers were no longer for sale. He requested the Sub-Committee not to revoke the licence or to impose a lengthy suspension as this would devastate the licensee's business and his family. He apologised for the breach of conditions and stated that the licensee had paid out £1500 in legal fees and for CCTV installation. A repetition of the breach of conditions was unlikely and the licensee realised that he might be a target for future test. The legal representative stated that the licensee had addressed the concerns raised by the responsible authorities and noted that some of the suggested conditions on pages 87 and 88 of the agenda pack were duplicated. In addition, the licensee was due to attend licensing training on 13 August 2019. He suggested that a two week suspension, with the additional conditions suggested by the responsible authorities, would be proportionate.

In response to a question from a member of the Sub-Committee about the numbers working in the shop and why training offered by the Licensing Authority had been refused, the legal representative stated that training had not been refused, but it was due to crossed wires and language problems. The licensee was now booked on licensing training. A member suggested that the ability to successfully intercept under age alcohol purchasers depended on training and good relationships between licensees and their customers and that a good understanding of English would facilitate this. The Sub-Committee needed reassurance that the licensee would be competent to interrogate any young people coming into his premises to purchase alcohol who he was not convinced were at least 18 years old. The legal representative said that the licensee spoke English reasonably well and it was because he found himself in a stressful situation that his speech became garbled. The legal representative said that the licensee had paid too much attention to what he thought was a shoplifter at the time that the test purchase was being made.

In response to a question from a member of the Sub-Committee, the licensee's representative said that the licensee had had no training prior to taking the licence on in March 2018 and the experience with Trading Standards had taught him that he needed this training. The Sub-Committee member pointed out that the licensee had been running the premises for the past fifteen months, before receipt of the letter of 29 May 2019 from the Council's Trading Standards Officer. He asked whether the licensee had had any training during that period and whether there was any evidence that anyone had been refused a sale. The legal representative said that there was no evidence as a refusals register had not been maintained, although the licensee had told him that he had refused sales in the past. He

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maintained that the licensee and the Trading Standards Officer “had not understood each other”.

A member of the Sub-Committee queried whether, following the letter of 29 May 2019 from Trading Standards, which indicated the poor operational standards at the premises, the licensee had taken steps to ensure that Challenge 25 was being implemented. The legal representative passed a copy of the training log to members of the Sub-Committee. The Sub-Committee noted that it took the discovery of sale of alcohol during the test purchase to force the licensee to take licensing training. The legal representative pointed out that the licensing training undertaken by the licensee had been obtained from a booklet on Islington’s website on licensing requirements and Challenge 25. In response to a question, the licensee said that he and his sister had obtained the information from the Council’s website. The Sub-Committee noted that this did not constitute formal training.

It was noted that the licensee had held a personal licence since 1998 and, as part of that, he would have received two days licensing training, with a certificate from Hackney Council. The Sub-Committee asked for any proof that the licensing training had taken place. The Licensing Officer suggested that Hackney Council, who had granted his licence, would have issued a certificate.

In summary, the Trading Standards officer said that the young person making the test purchase was not wearing a cap at the time. He would not have been permitted to as there were rules about how a young person used in a test purchase should be attired. She understood that English was not the licensee’s first language. The visit by Trading Standards had been a friendly one, with an invitation to training. The licensee had not contacted her after receipt of her letter of 29 May 2019.

The Licensing Authority’s representative said that there appeared to be some confusion about the personal licence held by the licensee, granted by Hackney Council. Given that the Licensing Act came into force in 2005, the licensee would have had to attend licensing training to obtain a new premises licence. She queried whether his personal licence was still valid and whether he had held a premises licence in 1998. The applicant’s legal representative said that it appeared that the licensee’s training had taken place a long time ago and not since the Licensing Act had been introduced.

The Police’s representative commented on the consequences of young people drinking alcohol and, in particular, the 15 year old who had been hospitalised as a result of drinking alcohol sold either from these premises, or another in the vicinity. As a personal licence holder, the licensee should act responsibly. He had declined training in the past and was only now accepting it. The Police would question whether the licensee could run the premises safely.

The applicant’s legal representative said that the licensee admitted a breach of conditions on the sale of alcohol to a person under 18. His licensing training had taken place a long time ago. The licensee had admitted that he had not responded

as well as he should to the letter from Trading Standards and the invitation to attend training. However, he had learned from his mistakes and now displayed Challenge 25 posters on the premises, had CCTV installed and was booked onto licensing training. The Police had reasonable concerns but these were covered by the conditions which would be applied to the licence, including the use of CCTV during opening hours. He asked for a second chance for the licensee and suggested a short suspension of the licence, with the additional recommendations suggested by the responsible authorities.

RESOLVED:

That the licence in respect of Shivas Newsagent, 108 Highbury Park, N5 2XE be suspended for a period of 2 months.

That the additional conditions set out on pages 87 to 88 of the agenda be included on the suspended licence, subject to the deletion of conditions 4 and 14.

Reasons for the decision

The Licensing Sub-Committee considered all the written submissions and the oral submissions made at the hearing by Trading Standards, the Police, Public Health, the Licensing Authority and the licensee and his Counsel. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee heard evidence from the Council's Trading Standards Service representative that a formal test purchase had been conducted on 4 June 2019 at the premises and that one 440ml can of Guinness Draught, with an ABV of 4.1%, had been sold to a person under the age of 18. Following enquiries from the Trading Standards Officer and Police Officer who had carried out this visit, the licensee and DPS of the premises acknowledged that he did not keep a refusals log. He claimed that he had refused sales in the past, but no records were produced. In addition, Trading Standards had been notified by a social worker that a 15 year old client had been repeatedly hospitalised after consuming alcohol purchased from these premises and others in the area. However, as the young person concerned had not been interviewed, there was no evidence that the alcohol consumed by the young person came directly from these premises.

The Sub-Committee considered the recommendation of the Responsible Authorities that the licence should be revoked, or alternatively suspended, and that additional conditions be added to the licence. The Licensing Authority recommended specific additional conditions.

The Sub-Committee noted the apparent inability of the licensee to manage the premises, given his apparent lack of training in licensing matters.

The Sub-Committee decided not to revoke the licence at this stage. It determined that a two months' suspension, coupled with the additional conditions as

recommended by the Licensing Authority, was a proportionate and reasonable response to the application.

The two months suspension would allow sufficient time to the licensee to implement policies to comply with the conditions and to receive the appropriate training which should enable the licensee to meet the licensing objectives.

Note of the Sub-Committee

The Sub-Committee recommended that the position of the personal licence held by Mr Altun be clarified.

68 KORKMAZ FOOD CENTRE, 363-365 HOLLOWAY ROAD, N7 0RN - PREMISES LICENCE REVIEW (Item B3)

The Licensing Officer had no additional information to report.

The Trading Standards Officer reported that a failed test purchase of alcohol by a minor had been made at the premises on 30 April 2019. A follow up letter sent by Trading Standards about this incident and to extend an invitation to a training session for staff at the premises had received no response from the licensee.

A further failed test purchase was made on 4 June 2019, resulting in the Police serving a Penalty Notice for Disorder on the seller. Although Challenge 25 posters were displayed in the premises, the licensee had said at the time of the visit that he had provided refresher training to staff on Challenge 25, but there were no records available of this training. She suggested that a suspension of the premises licence would be appropriate in the circumstances.

The Police Licensing Officer reported on Islington's concern about the importance of protecting children from harm. The sales of alcohol to young people under the age of 18 were concerning. He re-iterated that, although Challenge 25 posters were on display on the premises, there was no real substance paid to them by staff. There was a lack of formal training displayed by the staff and the refusals register had not been completed since 2014. He supported the Trading Standards request for a review of the premises licence and concurred with the view that a suspension of the licence should be considered.

The Licensing Authority's representative stated that she fully supported Trading Services' review. She was worried about the lack of training of staff, that a refusals' register was not being maintained and that staff were not following the Challenge 25 policy. She noted that high strength beers were sold at the premises and requested that they join the Council's "Reduce Strength Campaign". She noted further that the licensee of these premises also managed another off licence premises nearby, which was operated 24 hours, and neither premises was involved in the campaign. The licensee had displayed a disregard for the conditions on his licence. She was particularly concerned that the Korkmaz Food Centre premises licence was from 06.00am to 02.00am.

The Public Health representative echoed the concerns of colleagues in Trading Standards, the Police and the Licensing Authority. The health risks and high levels of harm associated with the consumption of alcohol by young people was detailed in her written representation.

The Licensee's legal representative gave some background details on the premises, stating that the licensee, who was also the DPS and a director, had purchased the premises in 2011. The premises was a supermarket and alcohol sales represented just 10% of sales, so it was not an off licence. The DPS attended the premises day to day, but the premises manager did not attend every day. Twelve staff worked at the premises, five of whom operated the tills. The premises was fairly large and well established. The breach of condition was very serious and went to the heart of the most important licensing condition. The licensee accepted that the sale of alcohol made to a person under 18 was unacceptable. The DPS had been out of the country when the letter from Trading Standards was received. However, the premises manager, who was at the premises, had not picked up the letter. The premises manager carried out training of the staff when notifications came around from the Licensing Authority. When the test purchase was made on 4 June 2019, the licensee was not there as he was dealing with health and safety matters. The staff member who had sold the alcohol to the young person had just returned to work that day. Although he had received training in Challenge 25, he fell short of what was required. This was a failure of management which should have been more robust. The high strength Perla beer had been purchased in good faith from Hares Wines, but was no longer stocked or for sale. In fact, only beer which bore the English language labelling was for sale.

He went on to describe the steps which the licensee had taken to ensure confidence in the manager:

- i) Premises staff had received formal training at a properly accredited virtual college. The five staff who operated the tills had attended the four to five days training (- copies of their certificates were shown to the Sub-Committee)
- ii) A shadowing regime had been instigated, whereby staff who needed to challenge young people buying alcohol were shadowed and advised on approaches
- iii) A new refusals register had been introduced (- which was passed to the Sub-Committee for review). The register had operated since the day after the test purchase, indicating that the licensee had acted quickly.
- iv) Challenge 25 posters were on display in the premises and only alcohol with English language labelling was on display.

In addition, the licensee would abide by the full range of conditions and the following proposed new condition: "No alcohol to be sold unless a personal licence holder is on the premises", to ensure that if a member of staff was unsure of what to do if a young person wanted to purchase alcohol, they could seek advice from a manager. The licensee accepted that the breach of conditions on his licence was serious and, if he had not already taken steps to reassure the Licensing Authority that he understood his role as a manager, then he could understand why the Council would need "persuading that the licensee is fit to hold a licence....", as set out on page 100 of the agenda pack. The licensee was due to attend licensing

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training on 13 August 2019. The problems had been associated with the manager and they would be remedied by training and he suggested that a suspension would be disproportionate.

In response to members' questions, the licensee's legal representative stated that the manager owned two premises, with a total of 14 staff. Five staff in the larger premises had been trained and two in the smaller shop, the latter of which had traded for 18 years.

In response to members' observations that the premises were not well managed and whether this could be attributed to complacency or the need for training to be updated, the licensee's legal representative suggested that it was a bit of both and that the licensee had traded for so long with no problems.

Referring to page 114 of the agenda pack, a member of the Sub-Committee queried why the alcohol refusals register had not been maintained since 20 January 2014 and the tobacco refusals register not since 2017. The licensee said that he had been away and it was a mistake that neither register had been completed by staff in his absence. However, both registers would be maintained going forward. In response to a further question about the training he had attended, the licensee said that he and two members of staff had retrained and he pointed out that he had held his licence for ten years.

In summary, the Trading Standards' representative stated the DPS and licensee had not always been on the premises when she had visited the premises. The breaches of conditions related to mis-management. Although some action had been taken by the licensee to address the breaches, the Council needed to be reassured that all conditions on the licence were being adhered to. In order to ensure that no harm could be caused to young people, she suggested that a suspension would be appropriate.

The Police's representative noted the steps taken by the licensee to address the breaches of condition and suggested that further conditions be added to the licence as follows: "No alcohol over 6.5% strength to be sold on the premises" and "No alcohol to be sold on the premises unless a licence holder is on the premises"

The Licensing Authority's representative stated that, considering the hours of operation of the premises, from 06.00am to 02.00am, and given that there were other off licences nearby operating a 24 hour alcohol licence, she supported Trading Standards' application for a suspension of the premises licence.

In summary, the licensee's representative stated that the licensee did not prioritise profit for his business. He had a well established and long history of compliance with the conditions of his licence. He could have acted more quickly in response to the communications from the Council about the breaches of condition. His client had been honest in acknowledging his complacency and absence of training for staff in sales to young people. However, suspension of the licence would be disproportionate. The new condition proposed viz "No alcohol to be sold unless a

personal licence holder is on the premises” went to the heart of the matter. His client would accept the other new condition about not selling very strong strength alcohol

RESOLVED:

(a) That the licence in respect of Korkmaz Food Centre, 363-365 Holloway Road, London N7 ORN be suspended for a period of 28 days.

(b) That the following condition be added to the licence:

No beer, lager, cider or spirit mixer over 6.5% to be sold on the premises.

Reasons for the decision

The Sub-Committee considered all the written submissions and the oral submissions from the Licensing Authority, the Police and Public Health, as responsible authorities and the applicant’s representative. 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 premises was situated in the Holloway and Finsbury cumulative impact area where alcohol induced based anti-social behaviour and crime was a local concern often in connection with the sale of alcohol to underage children.

The management of the premises had been shown to be inadequate with significant compliance and training failures, which had led to the test purchase failure on 4 June 2019.

The Sub-Committee heard evidence from Trading Standards that, although Challenge 25 posters were displayed in the shop, there was no evidence of staff having been trained and that the refusals logs had not been completed since 2014 for alcohol and 2017 for tobacco.

The Sub-Committee noted that, in response to a request from Trading Standards, the licensee had agreed that no high strength beers would be sold on the premises.

The Sub-Committee noted the representations made by the licensee’s legal adviser in relation to action to be taken by the licensee to ensure good management in accordance with the Licensing Conditions, namely: i) formal licensing training had been undertaken by the licensee and his staff at an accredited college ii) a shadowing regime had been instigated to enable staff to be confident in challenging anyone who looked underage and wanted to purchase alcohol iii) a new refusals book was being used and iv) Challenge 25 posters were on display in the premises and all alcohol with non-English labelling had been removed.

The Sub-Committee concluded that the proportionate and reasonable response to the application was to suspend the licence for 28 days and to add the additional

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condition agreed to by the licensee in relation to the strength of alcohol sold at the premises.

The meeting ended at 9.55 pm

CHAIR