

**Licensing Sub Committee C - 21 November 2019**

Minutes of the meeting of the Licensing Sub Committee C held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 21 November 2019 at 6.30 pm.

**Present:**      **Councillors:**      Michelline Safi-Ngongo (Chair), Ben Mackmurdie and Gary Poole.

**Councillor Michelline Safi Ngongo in the Chair**

- 58      **INTRODUCTIONS AND PROCEDURE (Item A1)**  
Councillor Michelline Ngongo 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)**  
None.
- 60      **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**  
There were no declarations of substitute members.
- 61      **DECLARATIONS OF INTEREST (Item A4)**  
There were no declarations of interest.
- 62      **ORDER OF BUSINESS (Item A5)**  
The order of business would be as the agenda.
- 63      **MINUTES OF PREVIOUS MEETING (Item A6)**  
**RESOLVED:**  
That the minutes of the meeting held on 17 September 2019 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.
- 64      **MEAT LIQUOR N1, COLLIER'S GARAGE, 133B UPPER STREET, N1 1QP - PREMISES LICENCE VARIATION (Item B1)**  
The Sub-Committee noted that this application had been withdrawn by the applicant.
- 65      **SMART SAVE SUPERMARKET, 1-2 HILLMARTON TERRACE, N7 9JR - PREMISES LICENCE REVIEW (Item B2)**  
The licensing officer reported that there had been an application for a new designated premises supervisor. There was unlikely to be any objections to this

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application. Details of a compliance check which had taken place on the 25 October 2019 were at page 67 of the agenda.

The trading standards officer reported that free training had been offered but had not been taken up by the licensee. It was stated that on the 20 August 2019 the premises licence holder sold alcohol to a 14-year old. The police were in attendance. During the visit it was noted that beers were on sale with no English labelling which was illegal. Nine of the seventeen licence conditions were being breached on the day of attendance. The change in designated premises supervisor (dps) was seen as a positive step in the first instance, however, the sale of alcohol to a person underage did take place and the Sub-Committee was asked to consider paragraph 11.27 of the Home Office guidance which stated that the sale of alcohol to minors was a criminal activity and should be treated particularly seriously.

In response to questions it was noted that an email had been sent on the 30 November 2018 which offered free training by Trading Standards and this had not been responded to by the licensee. This was a standard offer made to all applicants. The test purchase visit was made due to intelligence received. Following the review application, the applicant had appointed a consultant and a change of designated premises supervisor had been proposed. These had both been positive steps.

The public health officer referred the Sub-Committee to the representation on pages 58 and 59 of the agenda. It was highlighted that Islington had the highest rate of alcohol specific admissions in London among those under 18 years.

The licensing authority referred the Sub-Committee to the representation on pages 56/57 of the agenda. It was advised in the representation that a short suspension be considered following the compliance visit on the 25 October 2019.

In response to questions it was noted that there had still been some issues outstanding at the compliance visit. The trading standards officer reported that the replacement of the designated premises supervisor was not an exceptional measure but was considered normal when a licence was being reviewed. It was noted that a suspension could be used as a punishment and the police stated that the licensee could use this time to engage with trading standards and improve the training for staff.

The licensee's representative stated that the licensee apologises for the breaches. This was a family business. The father was the licence holder but the recent problems had encouraged the rest of the family to become involved in the business. The proposed dps was the daughter of the licensee. She attended the premises daily as did the son of the licence holder. They took responsible action following the review by employing a consultant to make sure they were compliant. The dps was being changed. Training had been provided in both English and Turkish. Staff would attend the training offered by Trading Standards. The legal representative offered additional conditions; that a personal licence holder would be on the premises at all times when alcohol was sold, that the father would not have any

involvement in licensable activities on the premises and that a new till system would be installed. It was stated that a suspension would reflect the seriousness of the breaches and there would be consequences. The licensee recognised that measures needed to be taken. It was accepted that the responsibility for sales was with the licence holder however, the alcohol was all purchased from a cash and carry and was assumed to be legal. Officers accepted that there had been improvements and the Sub-Committee were asked to suspend the licence rather than remove it.

In response to questions it was noted that speaking/understanding English may have been an issue where the licence holder was concerned but not for the rest of the family. There was concern that the letter from Trading Standards offering free training had been ignored. The legal representative stated that the family had sought help. He had been unaware that free training had been offered. In response to a question from the Sub-Committee, the proposed dps outlined the four licensing objectives. It was noted that the current licence holder would not be involved in licensable activities. The legal representative stated that he would still prefer the licence holder to have some involvement in the business but accepted it would not be for licensable activities. There would be a personal licence holder on the premises in any event.

In summary, the trading standards officer welcomed a condition regarding a till prompt in addition to a suspension of the licence and also requested a condition that invoices be kept available for inspection. The licensing authority stated that suspension should be considered.

The licensee's representative stated that suspension should be considered by the Sub-Committee with some modifications to conditions including a till prompt and that invoices would be made available and kept for a period of 12 months.

**RESOLVED**

That the premises licence, in respect of Smart Save Supermarket, 1-2 Hillmarton Terrace, N7 9JR be suspended for a period of three months and modified to add the following conditions to the licence:-

- That a till system be installed giving an age till prompt at the point of sale.
- That the current licensee, Mr Kazim Cinpolat senior, will not be involved in any licensable activities at the premises.
- That a personal licence holder, other than Mr Kazim Cinpolat senior, be present at all times that the premises is open for licensable activities.
- The licensee shall keep invoices for its purchase of all age restricted products from its suppliers, which should be made available for inspection upon request by the licensing team, police or trading standards.

**REASONS FOR DECISION**

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy

The Sub-Committee noted that the premises licence was issued on the 8 January 2019 and the test purchase was carried out on the 20 August 2019 following intelligence received by Trading Standards. The Sub-Committee noted that the seller of the alcohol was the premises licence holder and designated premises supervisor (dps) and that these were aggravating factors. The Sub-Committee heard evidence from the Police that, on the 20 August 2019, nine breaches of the licensing conditions were also observed. The Sub-Committee also noted that high strength polish beer, which did not have English labelling on it, was available for sale at the premises.

The Sub-Committee noted Trading Standards submissions that, on the face of it, the licensee had taken steps to address the issues by employing a consultant and changing the dps. However, the licensee had still failed to take up the offer of training from Trading Standards and that there were further measures that could be implemented at the premises to promote the licensing objectives.

The Sub-Committee noted the submissions from the licensee as to how a period of suspension would be effectively used to promote the licensing objectives and to ensure that the premises were compliant. The Sub-Committee heard from Trading Standards and the Licensing Authority that the imposition of a suspension would serve both as a deterrent and allow the premises to implement the necessary improvements. The Sub-Committee also noted the submissions from Public Health regarding the association of alcohol use in young people with a range of health risks and also that Islington had the highest rate of alcohol specific admissions in London among those under 18 years.

The Sub-Committee considered paragraphs 11.27 and 11.28 of the Home Office revised guidance. The Sub-Committee noted that the sale of alcohol to minors was a criminal activity to be treated particularly seriously on review. The guidance set out that revocation of the licence should be seriously considered and that review procedures should be used effectively to deter such criminal activity.

The Sub-Committee took into account Licensing Policy 29 in relation to reviews, Licensing Policy 8 in relation to management standards and Licensing policy 28 which stated that the local authority expected the licensee to implement appropriate measures including Challenge 25.

The Sub-Committee decided that it was reasonable and proportionate to suspend the premises licence in view of the significant failures at the premises. The Sub-Committee concluded that revocation was not appropriate as the licensee had taken steps to promote the licensing objectives, had appointed a new dps and had offered the addition of conditions to the licence. However, in view of the seriousness of the

failures, in particular the sale of alcohol to the 14-year old volunteer by the licensee/dps, the Sub-Committee concluded that the maximum suspension of three months should be imposed as both a deterrent and to allow time for the Trading Standard training to take place and the other measures to be implemented.

**66** **JE FINE FOODS, 187 BLACKSTOCK ROAD, N5 2LL - PREMISES LICENCE REVIEW (Item B3)**

The licensing officer reported that the licence had been amended in October 2018 following a Council and Police Officer panel meeting. Notes of a compliance visit on the 25 October 2019 were detailed on page 102 of the agenda.

The trading standards officer reported that alcohol had been sold to a 14-year old in August 2019. A penalty notice was served by the police. Training records had not been produced although a refusals register appeared to be kept up to date. The minor was not in a group, so was not intimidating. The business should have been thinking Challenge 25 and if customers did not look 25 years they should be asked their age. The licensee had not engaged with trading standards and it was considered that a suspension be considered to act as a deterrent.

In response to questions, it was noted that the sale took place at 3.20pm during the after school period. The trading standards officer stated that, in mitigation, the alcohol was not sold by the licensee and had not been sold previously, however, it had been a catastrophic failure of the business to sell alcohol to a 14-year old at that particular time of day. This licence was a 24-hour licence and customers were even more vulnerable in the early hours of the morning.

The public health officer raised concerns that the 14-year old was able to purchase alcohol with such ease and stated that this premises was falling well below the expected standards of management.

The licensing authority stated that their representation was detailed on pages 96-98. Following the submission of the review there had been no contact from the licensee. Two staff members seemed unaware that a review of the licence was pending. Conditions were still not being complied with at the compliance visit on the 25 October. There had been a previous history of non-compliance and a panel hearing following a fight in the premises involving staff and breaches of licence conditions. This was a 24-hour operation which required very good management standards. The licensing authority considered that revocation or a long suspension be seriously considered in this instance.

In response to questions, it was noted that the sale had been a major failure of the business and the compliance visit was a concern. Revocation of the licence was a suggested option. The panel visit had been at the request of the police licensing team following a fight in the premises involving staff and a weapon.

The police reported that they had assisted with the visit by Trading Standards. The previous panel had been arranged and the licence modified and it was hoped that there would be some improvement in standards. It was expected that management

standards should be very high in a premises with a 24-hour licence. There had been inconsistencies in management standards. They were concerned that the designated premises supervisor was not doing all necessary to prevent crime and disorder. Irresponsible sale of alcohol could significantly fuel problems with crime.

In response to questions, it was noted that there was no evidence to suppose that further conditions would be complied with. Should the licence be revoked a fresh application could be made in the future. There had been previously been two panel meetings but there had been no previous suspension of the licence.

A member of staff, on behalf of the licensee, stated that she was very sorry for the sale of alcohol. She stated that this had been the first incident in around 13 years. This was a family business and ID was always being requested. There was an incident log at the premises.

In response to questions it was noted that at the compliance visit on the 25 October, issues had still been outstanding. Verbal feedback regarding the outstanding issues had been given at the time. The designated premises supervisor was present at the time of the compliance visit. The licensee hoped that he would be able to manage the risk in the future and would be very careful. No drinking was allowed in the premises. There were four members of staff.

In summary, the trading standards officer reported that no training record produced. The licensee and staff were considered to be lovely people but incompetent and officers had no confidence that they would be able to manage licensed premises. The licensing authority stated that high standards were required to manage a 24 hour premises and this business was incompetent. The police stated that they had no confidence in any of the family members. The licensing panel had added conditions which had been breached. The licensing objectives needed to be upheld and management needed to be robust, particularly for a 24-hour licence. Revocation should be considered, although all options should be explored. The officer from public health stated that she echoed the concerns of the responsible authorities.

The licensee and member of staff had nothing to add to their previous statement.

**RESOLVED**

That the application for a premises licence, in respect of JE Fine Foods, 187 Blackstock Road, N5 2LL, 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 noted that a test purchase was carried out on the 20 August 2019 following intelligence received by Trading Standards. The Sub-Committee

noted that the licensee/ designated premises supervisor (dps) was not present at the time of the sale. A refusals register was produced but the Sub-Committee noted that training records were not available and that these still have not been submitted to Trading Standards.

The Sub-Committee noted that a previous underage test purchase was carried out at the premises on 11 December 2018 and no alcohol was sold to the minor. However, the Sub-Committee also heard evidence from the Licensing Authority of instances of non-compliance at the premises and officer panels that the licensee was called to on 15 August 2013 for selling no duty paid alcohol and on 11 October 2018 following a fight at the premises involving staff and a weapon, breaches of licence conditions including lack of CCTV coverage.

The Sub-Committee noted the submissions from the Police that the licensee was a nice person but the premises were run inconsistently. As the premises operated with a 24-hour licence, the highest standards of management were required. The Police submitted that, as conditions already imposed on the licence were not being complied with the licensing objectives would not be promoted by the addition of further conditions. The Sub-Committee also noted the submissions from Public Health regarding the association of alcohol use in young people with a range of health risks and also that Islington had the highest rate of alcohol specific admissions in London among those under 18 years.

The Sub-Committee heard evidence on behalf of the licensee that this was the first time that an underage sale had been made and that it wouldn't happen again in the future. However, the licensee had not set out any action plan to address all the concerns raised and in summing up, the responsible authorities agreed that the licensee and his staff were affable people but did not display the competence required to promote the licensing objectives.

The Sub-Committee considered paragraphs 11.27 and 11.28 of the Home Office revised guidance. The Sub-Committee noted that the sale of alcohol to minors was a criminal activity to be treated particularly seriously on review. The guidance set out that revocation of the licence should be seriously considered and that review procedures should be used effectively to deter such criminal activity.

The Sub-Committee took into account Licensing Policy 29 in relation to reviews, Licensing Policy 8 in relation to management standards and Licensing policy 28 which stated that the local authority expected the licensee to implement appropriate measures including Challenge 25.

The Sub-Committee noted that in their application and in their opening address, Trading Standards invited the Sub-Committee to consider a short suspension. However, in summing up and after hearing the evidence submitted by the other responsible authorities and the licensee, trading standards submitted that they had no confidence that the licensee could undertake the sale of alcohol and ensure the licensing objectives would be promoted. The police summed up that revocation should be considered and the licensing authority highlighted that very high

standards of management were required for 24 hour businesses and the licensee had not demonstrated the necessary competencies.

The Sub-Committee considered whether it would be appropriate to impose further conditions, including a reduction in hours of operation. However, the Sub-Committee concluded that the licensee had failed to comply with conditions already in place and were not confident that the licensing objectives would be promoted even with a reduction in hours.

The Sub-Committee considered whether a suspension, would be appropriate both as a deterrent and to allow the licensee to implement improvements. However, the Sub-Committee concluded that a suspension would not ensure the promotion of the licensing objectives and in view of the history of the management of the premises and the failure of the licensee to engage with the responsible authorities and provide any credible plan of action, revocation was the appropriate and proportionate decision.

**67 KALE FOOD AND WINE, 169 HORNSEY ROAD, N7 6RE - PREMISES LICENCE REVIEW (Item B4)**

The licensing officer reported that the licence holder was transferred onto the licence in May 2017. The licensee attended an officer panel on 25 September 2018 following an underage sale. Following a sale after permitted hours the licence holder attended a further officer panel in November 2018. A compliance check was then carried out on the 25 October 2019 where there was found to be breaches of the licence conditions. The Sub-Committee noted that a representation from the local councillor had not been printed in the agenda. This email outlined support for the review and the proposed actions.

The trading standards officer reported that, following intelligence received, trading standards officers and the police found illicit tobacco hidden on the premises. A significant amount was found, some being counterfeit and some illegally labelled. This was considered to be a deliberate act and not due to negligence.

In response to questions it was noted that, on the day of the search, there were three adults in the premises and a member of staff declined to provide their name. The licence holder was present at the time.

The licensing authority referred to her representation on pages 128/129 of the agenda and referred to the compliance visit. At the compliance visit on the 25 October it was stated that there were four conditions that had not been complied with, which included no incident book, CCTV had not been checked and high strength Polish alcohol was for sale. There had been an officer panel on the 25 September 2018, following a failed Challenge 25 test purchase, and additional licence conditions were agreed. There had been a further officer panel on the 1 November when alcohol was sold after hours. This premises had a significant history of non-compliance and there had been no response from the licence holder since the review had been submitted and revocation was deemed appropriate in this case.

The licence holder, through an interpreter who as a family member, stated that a family member had stated that the tobacco was for personal use. The person who would not give their name was intending to buy the premises and wanted to look at the shop. The letters handed in on the 12 August were handed to a male working behind the counter and the licensee was not aware of this. She stated that she would not allow anything illegal in the premises.

In response to questions about training it was noted that the licence holder held a personal licence and her husband had always worked in shops so had this experience. The licence holder was on holiday during August and September so had not responded to letters. It was stated that the uncle would have called in and told officers that she was not in the country.

In response to questions, the licence holder said that she remembered the compliance visit. She had been informed that items had still been outstanding but she thought if she did everything she would be fine. The Sub-Committee noted that there had previously been two officer panels. The licence holder stated that she would try her best after this.

In summary, the trading standards officer stated that it was not usual to find a small amount behind the counter and a larger amount further away if the tobacco was only to be for personal use. Tobacco should be kept at home if only for personal use.

The licensing authority stated that the licence holder had always spoken English well at the officer panels.

The licence holder stated that she would not do anything illegal again.

### **RESOLVED**

That the licence in respect of Kale Food and Wine, 169 Hornsey Road, N7 6RE 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 noted that on the 17 April 2019, Trading Standards, as part of an illicit tobacco operation found a significant quantity of illicit cigarettes on the premises. The licensee was invited to a PACE interview but failed to respond to this request. Trading Standards submitted that there was an element of dishonesty in relation to this incident as the licensee couldn't have accidentally had tobacco hidden behind the counter.

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The Sub-Committee noted that there had been other non-compliances at the premises and the licensee had attended two licensing officer panels for failure to challenge a person under 25 years of age when they bought alcohol and for selling alcohol after permitted hours. The Sub-Committee also noted that at the compliance visit on 25 October 2019 there were breaches of the licence conditions. The Sub-Committee heard evidence from the licensing authority that there had been no response or interaction from the licensee.

The Sub-Committee heard evidence from the licensee that the cigarettes were not hers and were for the personal use of her family member. The licensee recalled the compliance visit on the 25 October 2019 and that she was trying her best.

The Sub-Committee considered paragraphs 11.27 and 11.28 of the Home Office revised guidance. The Sub-Committee noted that the sale or storage of smuggled tobacco was a criminal activity to be treated particularly seriously on review. The guidance set out that revocation of the licence should be seriously considered and that review procedures should be used effectively to deter such criminal activity.

The Sub-Committee took into account Licensing Policy 29 in relation to reviews, Licensing Policy 8 in relation to management standards and Licensing policy 28 stated that the local authority expected the licensee to implement appropriate measures including Challenge 25.

The Sub-Committee also took into account Licensing Policy 17 which set out that licensees should have arrangements in place to prevent the sale of illicit goods and where such arrangements were not in place appropriate sanctions for the promotion of the licensing objectives would be imposed. The Sub-Committee noted that the licensee had failed to demonstrate compliance with legal requirements regarding illicit goods and were not confident that the licensee would deliver her responsibilities under the Licensing Act 2003 and run her business lawfully.

The Sub-Committee also noted under Licensing Policy 17 that the sale of illicit goods, such as non-duty paid tobacco will be considered as evidence of poor management. Foreign tobacco should not be kept anywhere on the premises, except for one single pack for the legitimate personal use for members of staff, and quantities in excess of this will be deemed to be tobacco intended for sale to customers.

The Sub-Committee considered whether a suspension, would be appropriate both as a deterrent and to allow the licensee to implement improvements. However, the Sub-Committee concluded that a suspension would not ensure the promotion of the licensing objectives and in view of the history of the management of the premises and the failure of the licensee to engage with the responsible authorities and provide any credible plan of action, revocation was the appropriate and proportionate decision.

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The meeting ended at 9.20 pm

**CHAIR**