

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 4 May 2017 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Sunny Lambe
Councillor Bill Williams

OTHERS PRESENT: P.C. Ian Clements, Metropolitan Police Service
Naresh Kumar, owner, Best Food and Wine
Tanut Uppal, legal representative, Best Food and Wine
W.S. Fernandin, translator (observing), Val's Store

OFFICER SUPPORT: Debra Allday, legal officer
Helena Crossley, legal officer (observing)
Bill Masini, trading standards officer
Wesley McArthur, licensing officer
Jayne Tear, licensing officer representing the council as a responsible authority
Carolyn Sharpe, public health authority officer
Andrew Weir, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: VAL'S STORE, 387 LORDSHIP LANE, LONDON SE22 8JN

There were no representatives from the premises present and it was agreed that the meeting would proceed in the absence of the premises licence holder. A gentleman who said he was a translator who would report back to the premises licence holder was present.

The licensing presented their report. Members had no questions for the licensing officer.

The trading standards officer, the applicant for the review addressed the sub-committee. Members had questions for the trading standards officer.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had questions for the licensing officer.

The Metropolitan Police Service representative addressed the sub-committee. Members had questions for the police representative.

The officer representing the public health authority addressed the sub-committee. Members had questions for the officer representing the public health authority.

All parties were given five minutes for summing up.

The meeting went into closed session at 11.38am.

The meeting resumed at 11.40am. The chair did not read out the decision of the sub-committee as none of the parties were present.

RESOLVED:

That the council's licensing sub-committee, having considered an application made under Section 51 of the Licensing Act 2003 by the council's trading standards service for the review of the premises licence issued in respect of the premises known as Val's Store, 387 Lordship Lane, London SE22 8JN and having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to revoke the licence.

Reasons

It was noted from the outset that neither the premises licence holder nor a representative attended the licensing sub-committee. A letter was handed by a gentleman who claimed he was a translator for the licence holder to the sub-committee. The letter requested an adjournment due to the unavailability of counsel. The letter was from Prime Property Management, which did not appear to be either a licensing consultant or solicitors firm. The counsel named in the correspondence had various spellings and one of the enclosures (being a letter from the hospital, being the reason for counsel's non-attendance) was not enclosed. The documentation suggested that Prime Property

Management/counsel had only been instructed the day before, 3 May 2017, despite knowing of the review application since 7 March 2017. In any event, the officer for the Metropolitan Police Service advised that he had been provided 2 days notice and regardless cancelled a hospital in order to attend. In view of this, the licensing sub-committee refused to adjourn the matter, the Licensing Act (Hearings) Regulations 2005 are clear that applications may proceed in a licence holder's absence.

The licensing sub-committee heard from the representative from trading standards, the applicant to the review who advised that there had been a previous review of the premises licence to Val's Store, 387 Lordship Lane London SE22 8JN.

Trading standards made an application to review this premise licence in late 2015 for trading standards and Licensing Act offences, namely: sale of alcohol to 15 year old girl; sale of alcohol after permitted hours of 23:00 hours; offering for sale of duty evaded cigarettes and failure to pay those working in the shop the minimum wage as required by the National Minimum Wage Act 1998. As result, the licensing sub-committee suspended the licence for 8 weeks and conditions were imposed, including (but not limited to):

- a. Requirements around age verification (training, adoption of "Challenge 25" and use of a refusal book.
- b. Ban on the sale of a super strength beers, lagers and ciders above 6% ABV.
- c. A requirement for there to be a personal licence holder on the licensed premise in order to supervise the sale of alcohol.
- d. Additional requirements relating to the verification of people to be able to legally work in the UK.

On 15 July 2016 trading standards visited the premise with the police officers from night time economy team and officers from UK Border Force. The purpose was to check that the business was now operating in compliance with the modified premises licence following the 2015 review. A man who was behind the counter, but denied he was employed by the premises said he would get his boss and went to the back of the shop and promptly exited from the premise from a first floor kitchen window. The officer notes that there residential rooms above the shop with tenants and the only safe means of leaving was via the shop front door. The shop is permitted to trade between 08:00 and 23:00 and outside those hours a metal shutter on the outside comes down to secure the shop, thereby leaving no means of escape in the case of an emergency. As a result of this safety hazard, the London Fire Service is prosecuting the premises licence holder.

The premises licence holder later attended the shop and advised that he knew the male that fled the premises, he had a mobile contact number, but this was never answered. The premises licence holder admitted that he had no details and had failed to comply with condition 843 (verification of people to be able to legally work in the UK).

Officers checked the stock area during this visit and in breach of condition 842 found cans of Skol Super (ABV 8%), Tennents Super, some bottles of White Ace cider (two and three litres 7.5% ABV) and bottles of Guinness Extra (7.5% ABV) were found in opened trays or on the shelves. The premises licence holder said he had bought these drinks prior to the maximum strength condition had come into force on and they were not for sale.

During the inspection trading standards also identified four "Apple Style" chargers for sale,

known within the profession to be unsafe and contravene safety legislation (the Consumer Protection Act 1987). The premises licence holder was unable to provide any purchase invoices for these items. Checks with the manufacturer showed they had been produced well after the review hearing date of 5 November 2015 with some manufactured many months later in April 2016.

A further visit was conducted by trading standards on 12 October 2016 with the night time economy team. A young Latvian male was working behind the counter in the shop and the only person on the premises. He claimed that he did not work there and was "looking after the shop" He said he did not have a personal licence and there was no written authorisation for him to sell alcohol which because he had been selling alcohol was in breach of conditions 101 and 841 of the premises licence. He did however say he was not selling alcohol. A print off of the sales for the morning revealed he had sold 16 items of alcohol during this period. A red lined book entitled "Staff" was handed to officers. The first entry was dated 6 August 2015 and showed the hours personnel he had worked, including the officer that fled on 15 July 2017 who appeared to have been working in the shop for some 15 months. Entries in the book show staff being paid between £3.50 and £4.00 per hour contrary to the national legal minimum hourly rate (pursuant to the Minimum Wage Act 1998) of £7.20 which came into force on 1st April 2016. Prior to that date the minimum hourly rate was £6.70; when interviewed under caution on 30 July 2016 the premises licence holder said his staff were paid £5.00 per hour, but was unable to say what the legal minimum hourly rate was at that time.

The male working at the shop of 12 October 2016 was unable to explain what Challenge 25 was (breach of condition 8AA), nor was he able to say what were acceptable forms of ID or say what a refusals book was (breach of condition 8A1), nor training record (breach of condition 8AB). Officer advised that alcohol could not be served without a personal licence and as a result a Section 19 closure notice was served. Officers returned two hours later and undertook a test purchase with the young male present, earlier the same day. A bottle of cider for £2.69 was sold.

Details were also provided by the officer as to how the premises licence holder also fabricated evidence by making false entries in a refusals book and knowing them to be false with the intention of inducing Southwark Council to accept the book as genuine. By doing this the premises licence holder persuaded officers to accept the book and to accept there had not been a breach of condition 8A1. The trading standards officer submitted that these were prima facie offences under The Forgery and Counterfeiting Act 1981.

A further visit was conducted on 18 October 2016. A further test purchase of alcohol was made using a young looking male Southwark Council employee who had just turned 21 years of age, who was sold a bottle of Heineken lager with no questions asked to verify his age, this being in breach of condition 8AA about operating a Challenge 25 policy. The person who had made the sale was the same male as that on 12 October 2016, who was again, on his own in the shop (breach of condition 841).

The officer representing licensing as a responsible authority addressed the sub-committee whose representations was based on the prevention of crime and disorder and protection of children from harm licensing objective. The premises licence had previously been reviewed by the licensing sub committee in November 2015 when the licence was suspended for eight weeks and ten conditions were added to the licence. Following this, an induction meeting was conducted with the premises licence holder and designated premises supervisor of the premises, when the new conditions were explained in detail. Advice on compliance was also given. The breaches detailed by the trading standards

show a disregard for the licensing legislation. The officer was of the view that the premises licence holder was not capable of running a licensed premises and supported the trading standards review and recommended a revocation of the premises as a reasonable, appropriate and proportionate action to take.

The Metropolitan Police Service supported the trading standards review application in its entirety representative. The premises had extremely bad compliance, and had been given ample opportunity to amend its operating. The offences detailed by trading standards in this review application are extremely similar to those detailed in the 2015 review application. The premises licence holder has failed to promote any of the licensing objectives. In addition to the breaches of the premises licence and licensing legislation, offences of dishonesty have been committed (i.e the falsification of the refusals register contrary to Forgery and Counterfeiting Act 1981). The officer recommended that it was appropriate and proportionate to revoke the premises licence.

The officer representing the public health authority addressed the sub-committee also supporting the review in respect of the prevention of crime and disorder, prevention of public nuisance and public safety licensing objectives. At the 2015 review of the premises licences, amongst other conditions was that there be a maximum ABV of 6% for ciders and lagers. This condition had been persistently breached; and it was highlighted that a single can of some of the super strength ciders and lagers being sold by the premises exceeded the NHS daily alcohol consumption guidelines. The officer also recommended a revocation of the licence.

The premises licence was reviewed in November 2015 when 10 additional conditions were imposed in addition to an 8 week suspension. Despite this, the premises licence holder has chosen to ignore the warnings and recommendations from this review and have continued to operate in contravention of the licence. The business continues to be run in a casual and illegal manner where numerous breaches of the licence have been identified and not rectified. The additional conditions put on the premise licence at the previous review hearing have not been heeded. On this occasion, there is no other alternative but to revoke this licence.

The licensing sub-committee considered that this decision was appropriate and proportionate in order to promote the licensing objectives.

Appeal rights

This decision is open to appeal by either:

- a) The applicant for the review
- b) The premises licence holder
- c) Any other person who made relevant representations in relation to the application

Such appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court for the area within the period of 21-days beginning with the day on which the appellant was notified by this licensing authority of the decision.

This decision does not have effect until either

- a) The end of the period for appealing against this decision; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

6. LICENSING ACT 2003: BEST FOOD AND WINE, 171 QUEENS ROAD, LONDON SE15 2ND

The chair advised that the sub-committee had been notified that applications to transfer of the licence and designated premises supervisor had been submitted and that this item would be postponed to a future date.

RESOLVED:

1. That the review application submitted by Trading Standards (dated 7 March 2017) be postponed to 10.00 am on 12 June 2017.
2. That time be extended to determine the review application pursuant to regulation 11 of the Licensing Act 2003 (Hearings) 2005.

Reasons

A transfer of the premises licence and designated premises supervisor was received on 3 May 2017. These applications have a direct and immediate impact on the review application. Should the Metropolitan Police Service submit a representation objecting to the applications, then they are to be heard on 12 June 2017 in advance of the review application in respect of the same premises.

Direction

The Licensing Sub-Committee directs that the following documentation be made available at the hearing on 12 June 2017:

1. Lease between Naresh Kumar, Paramjit Kuar and Ajanthini Arularajah Geethanjali Arularajah in respect of 171 Queens Road, SE15 2ND or any subsequent lease to these premises.
2. Any Lease registration documents.
3. Any Business registration documents.
4. Any other documents regarding the ownership of 171 Queens Road, SE15 2ND.

7. LICENSING ACT 2003: BELUSHI'S AND ST CHRISTOPHER'S VILLAGE, 161 - 165 BOROUGH HIGH STREET, LONDON SE1 1HR

It was noted that this item had been conciliated prior to the meeting.

The meeting ended at 11.41 am.

CHAIR:

DATED:

