

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 15 June 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 Adele Morris

OTHERS PRESENT: Mohammed J Iqbal, premises licence holder, Adams News
Graham Hopkins, licensing representative, Adams News
P.C. Graham White, Metropolitan Police Service
Ghulam Rasool, premises licence holder, Superdeals (Food and Wine)
Mr S. Slater, licensing representative, Superdeals (Food and Wine)

OFFICER SUPPORT: Debra Allday, legal officer
Andrew Heron, licensing officer
Bill Legassick, environmental protection officer
Bill Masini, trading standards officer
Jayne Tear, licensing responsible authority officer
Carolyn Sharpe, public health 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: ADAMS NEWS, 6 COLDHARBOUR LANE, LONDON SE5 9PR

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 environmental protection officer addressed the sub-committee. Members had questions for the environmental protection officer..

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

The licensee and their representative addressed the sub-committee. Members had questions for the licensee and their representative.

All parties were given five minutes for summing up.

The meeting went into closed session at 11.48am.

The meeting resumed at 12.04pm and the chair advised all parties of the decision.

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 Adams News, 6 Coldharbour Lane, London SE5 9PR 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

The reasons for the decision are as follows:

The licensing sub-committee heard from the trading standards officer, the applicant for the review. They advised that on 8 December 2016 trading standards carried out a joint visit with police from Southwark's night time economy team (NTET) to check compliance with the premise licence, trading standards legislation and other criminality such as employing illegal workers.

On entering the premises it was discovered that the male behind the serving counter did not hold a personal licence, in breach of condition 336. Another member of staff was arrested as he was an Indian national who had entered this country illegally.

Officers examining the stock found a significant quantity of duty diverted spirits which could not be legally sold because duty had not been paid. The illegal alcohol found was namely: 11 x 35cl bottles of Glen's vodka, 12 x 70cl bottles of High Commissioner whisky and 6 x 1 litre bottles of Glen's vodka. The total duty and VAT therefore evaded for these spirits amounted to £234.14.

Also offered for sale were super strength beers, which are almost exclusively consumed by people who have serious alcohol dependency problems and contain a high number of units of alcohol per can. H.M. Government seeks to use price as part of its strategy to reduce consumption of these super strength beers, and introduced the mandatory condition 491. All the super strength beers were being sold nominally above the duty rate. Suspicious that these drinks were also subject to some form of evaded duty or other illegality, trading standards required the Premises Licence Holder to produce his purchase invoices for the super strength beers as well as for the seized spirits. Illegal novelty lighters were also seized.

Other breaches of the licence conditions were found, namely condition 225 (Maintenance of fire extinguishers) and condition 311 (customer notices).

The premises licence holder was interviewed under caution on 12 December 2016 and said he purchased the drinks from a cash and carry and produced seven invoices, 2 of which were dated after the visit. The remaining 5 invoices were dated May 2016 and none showed the purchases for the strong beers or bottles of Glen's. Concerning the novelty lighters, the premises licence holder admitted someone came into the premises offering them for sale and he bought some but did not get any paperwork.

On 16/17 December 2016 a further visit was made to the premise. The premises were observed from immediately across the road from 23.50. The premises door was open and no attempt was made to close the front door at midnight and only make sales through the secure window as per the condition on the licence. Numerous customers entered and left the shop.

At 00:26 the officer entered the shop and picked up a can of Special Brew (8% ABV) and purchased it for £1.50. None of the super strength beers were priced. The officer then introduced himself and asked if he held a personal licence, which he did not. The personal licence holder/designated premises supervisor (DPS) came from the back of the shop but was unable to offer an explanation for the sale other than to say the shop was closed. He stated that he had never used the secure window. When challenged about the price of the Special Brew, he stated it should be £2.29 and that the price stickers must have come off. Admitting the price was £1.50 would have made it obvious to an enforcement officer that they had been sourced illegally. Throughout the conversation customers continued to enter the shop buying alcohol. No steps to close the front door in breach of condition 340.

The premises licence holder was re-interviewed on 20 February 2017. He had failed to produce the invoices that were requested, stating the super strength beers came from the cash and carry; they delivered them to the shop and he paid for them in cash, but he did not get any invoices. He stated that one of the beers he had stocked (Oranjeboom (8.5% ABV)) he had obtained from a friend whose shop had closed. He was unable to say where

his friend's shop was.

The premises licence holder subsequently accepted a simple caution for having knowingly sold smuggled alcohol on his premise, failing to produce traceable invoices for the alcohol he was required to produce and for breaching condition 340 by allowing sales to take place inside the premise and not using the secure window.

The officer also informed the committee that the premises licence holder is also the premises licence holder and DPS for a business approximately 300 metres from Adams News at, London Food and Wine, 12 Camberwell Church Street London SE5 8QU. The premises licence holder had three months previously accepted simple cautions for seven similar offences including: having imported spirits without payment of duty or which had otherwise been unlawfully imported, no personal licence holder on premise when alcohol was sold, under age sales.

Further still, the premises licence holder had previously been the DPS for Price Cutter at 184 Norwood Road London SE27 9AQ between 2005 and June 2014 and again, similar issues arose including: two underage sales, counterfeit Bollinger Champagne being sold, sales beyond terminal hour, sale beyond terminal hour and the seller being the premises licence holder's son (who was under 16 years old), illegal workers in shop and duty evaded spirits being sold.

Trading standards advised that they had no confidence whatsoever with the premises licence holder and urged the licensing sub-committee to revoke the licence.

The officer representing licensing as a responsible authority addressed the sub-committee and stressed their concerns of the number and diversity of alleged criminal offences witnessed by trading standards officers. Furthermore, the premises licence holder was associated with other premises, both in and outside Southwark where a plethora of breaches of licence conditions and similar criminal acts had occurred.

The Metropolitan Police Service representative advised that when granting an individual/company a premises licence, the licensing sub-committee must have trust in that individual/company to run the premise well and comply with the operating schedule as agreed when the licence was applied for. The conditions are there for the promotion of the licencing objectives. The premises had operated in contravention of these conditions, but also committed acts of criminality. In the circumstances, there is no place for a premises that is operated in such a way, that is putting the public's health at risk and quite possibly having a negative impact on anti-social behaviour and crime and disorder. The police recommended that the licence be revoked.

The environmental protection officer addressed the sub-committee and stated that whilst there were no relevant records of public nuisance being caused directly by the premises, the warden service has dealt with persons linked to alcohol related anti-social behaviour over the last six months. They further stated that Camberwell has substantial problems with the on-street population and this area has been a hot-spot of vulnerable persons, many with addiction issues, who are street drinking, begging, rough sleeping, and causing anti-social behaviour (public urination, violence, nuisance gatherings). The environmental protection team are of the view that the main reasons for the street nuisance is due to the provision of high strength lagers from nearby licensed premises, proximity to the Maudsley and Kings hospitals which include accident and emergency services and both alcohol and drug high dependency units, which are health services frequently used by the vulnerable persons who make up south east London's street population. The officer recommended a

revocation of the licence.

The officer representing the public health authority addressed the sub-committee. They advised that they supported the review and also recommended that the premises licence be revoked. The premises is located in an area where there is a serious problem with alcohol abuse, very close to Kings College Hospital where there are alcohol dependency treatment facilities and premises abusing their licence conditions in the way described, undermined the licensing objectives.

The representative for the licensee of the premises addressed the sub-committee. They advised that he did not contest the facts of the case. He was an experienced licensee, who had 22 years of experience. That said, he stood by what he said in interview, that he acquired the premises in 2016 and a considerable amount of the duty evaded stock was part of the old stock and was covered by the certificate of valuation. The Oranjeboom was provided by a friend. The illegal worker was not working in the shop and had nothing to do with the premises. Ultimately, the premises licence holder sought a final chance. It would be unreasonable to revoke the licence and a substantial period of suspension, to allow for re-training to take place could be justified in this case. If the licence was not revoked, the licence holder accepted the need to reduce the sale of the super strength beers, but asked it be limited to ciders, beers (etc) of 5.5% ABV and also be allowed to sale alcohol until 02:00 on Friday and Saturday.

The licensing sub-committee considered all of the oral and written representations before it and found that the breaches of licence conditions and level of criminality completely unacceptable. The premises licence holder demonstrated he was unwilling to cooperate with authorities in their criminal investigations and quite clearly undeterred by previous enforcement action at other premises. He showed a total disregard to the consequences of selling alcohol responsibly and to adhering to premises licence conditions or promoting licensing objectives. The licensing sub-committee were unanimously of the opinion that the premises licence holder is not capable of running a licensed premises and promoting the licensing objectives and that the premises will continue to operate contrary to the terms and conditions of their premises licence.

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: SUPERDEALS (FOOD AND WINE), 4 CAMBERWELL CHURCH STREET, LONDON SE5 8QU

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 licensing officer read out a statement from the officer representing the public health authority.

All parties were given five minutes for summing up.

The meeting went into closed session at 3.37pm.

The meeting resumed at 3.44pm and the chair advised all of the parties of the decision:

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 Superdeals (Food and Wine), 4 Camberwell Church Street, London SE5 8QU 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

The reasons for the decision are as follows:

The licensing sub-committee heard from the trading standards officer, the applicant for the review. On Friday 6 January 2017, trading standards carried out a test purchase using a person who was under the legal age to purchase alcohol. At 20.15 the youth was observed entering the shop and took a bottle of Stella lager to the counter, gave the man behind the till a £5 note and received change of £3.70 having been charged £1.30. Nothing was said to him and the shop was not busy. The officer observing the youth bought a can of Special Brew for £1.50. After this, a trading standards officer attended the premises. The same man ("the seller") who had made the sales was still behind the counter and was a personal licence holder, accepted he should have checked the age of the youth.

Conditions on the licence were then checked for compliance and numerous breaches were identified, namely: condition 289 (CCTV footage was being retained 20 days and not the required 31 days), condition 293 (no evidence of staff training), condition 334 (no evidence of an age identification scheme), condition 340 (no refusals book), conditions

341, 342, 343, 344 and 347 (concerning notices), condition 100 (no designated premises supervisor - DPS). The seller was asked about the named individuals on the licence and advised that he had never met the DPS ("the absent premises licence holder") in the 15 months that he had worked at the shop. He said he only dealt with the premises licence holder who had another shop, in Lambeth. The officer spoke with that premises licence holder on the telephone who advised that his joint premise licence holder and designated premises supervisor (DPS) was on holiday. When challenged that the seller had not see the joint licence holder in 15 months, the premises licence holder said that he was at the cash and carry. Both were advised it was a further breach of the premise licence conditions to continue to supply alcohol when there was no DPS. Trading standards have never been able to speak to the absent premises licence holder, despite numerous attempts to do so.

On 10 January 2017 at 13:50 a further visit was conducted by trading standards and licensing officers. The only person in the shop was a man who did not hold a personal licence, had a limited command of English and did not know the basic requirements about the sell of alcohol ("the second seller"). He was told he could not sell alcohol as it would breach the premise licence. He said the seller from 6 January was his boss and that he was at the cash and carry. One of the officers spoke the seller who said that the DPS would come to the shop in the next hour in order to speak to the officers. Whilst that conversation took place the seond seller continued to sell alcohol to customers. A breach of condition 336 therefore took place

The prices of the super strength beers were noted. Special Brew and Skol Super (both 8% ABV) were priced at £1.50 this being 35 pence above the duty price. Karpackie (9% ABV) was priced at £1.20. Trading standards advised that the duty and VAT price for this brand in 2016-2017 was £1.29. This was a breach of condition 491 (alcoholic drinks to be sold above the duty plus VAT price)

Officers later met with the seller who was the only person present. He presented officers with two refused sales logs. The first log showed a list of entries relating to refused sales for about once a month, the last entry dated 5 September 2016. The second log showed one entry dated "6-2-2017", some 31 days after the date of the visit. The second seller was reminded again about the condition for there to be a DPS and that in the absence of one, alcohol could not be sold.

Trading standards returned later that day (10 January) at 22:35. Trading standards made a test purchase where a can of Karpackie beer was bought for £1.20. This seller ("the third seller") said he did not have any forms of identification on him to substantiate that name but he did not have a personal licence and was alone in the shop. He stated his boss was the first seller and that he had never heard of the premises licence holder or the absent licence holder. He was not aware of any age checks (condition 100) or any refusals book (condition 336). The officer advised that he was in breach of the licence and alcohol could not be sold.

Whilst the officer was in the shop, the third seller continued selling alcohol to customers. Further warnings were also ignored. Of concern was that the 3rd seller sold a can of Super Brew to a man with obvious alcohol dependency problems. This man put a £5 note on the counter and the 3rd seller gave him £3.00 change. The man thought he had been short changed and aggressively demanded the "correct" change. He was told the price was £2.00. The man was extremely unhappy about this, saying the price was £1.50 in Camberwell and demanded his money note back, threw the can back at the seller and retrieved his £5 note. It is believed that the higher price was being charged for the benefit

of Trading standards who were in the shop and that the real price to customers was still £1.50. The shelf prices for the Skol Super and Special Brew was still £1.50 though these price stickers had been removed when a further visit was made two days later on 12 January.

Super strength beers and ciders are almost exclusively consumed by people who have serious alcohol dependency problems and contain a high number of units of alcohol per can. H.M. Government seeks to use price as part of its strategy to reduce consumption of these super strength beers, and introduced the mandatory condition 491. All the super strength beers were being sold nominally above the duty rate. Suspicious that these drinks were also subject to some form of evaded duty or other illegality, trading standards required the premise licence holder to produce his purchase invoices for the super strength beers. Trading standards advised that it is completely unrealistic and unbelievable that such a legally sourced and duty paid beer can be sold by an independent retailer for anything less than at least £2.20. Retailing products, in the case of the Karpackie, nine pence below the duty price also completely undermines any government public health strategy and of course gives the retailer an unfair commercial advantage over its legitimate competitors. This illegal practice has been identified as a widespread and real problem in Southwark which officers are seeking to address.

Trading standards returned on 12 January 2017 and a further purchase was made and yet again £1.20 was the amount charged. In view of this and the test purchase two days before, 261 cans (130.5 litres) of Karpackie were seized from the shop. Condition 491 was breached again. The man behind the counter ("the fourth seller) was unable to give an address and did not produce any identification to substantiate his name. He said he did not work there but was the only person working in the shop. Conditions 336 and 100 were therefore breached again. Despite warnings not to, he continued to sell alcohol. He later said he worked for the boss who was the premises licence holder. The fourth seller left the shop unmanned. A few minutes later the 1st seller arrived at the shop. The seizure was explained to him and was asked for contact details for the DPS and absent licence holder, but advised he said he did not have it.

On 1 February trading standards visited the shop when the first seller supplied an invoice dated 14 January 2017, being two days after the seizure of Karpackie, showing a purchase price for super strength beers to be barely above the duty price. Kestrel Super (8% ABV) was purchased at £1.00 per can. The name of the seller is not stated, rendering such an apparent invoice untraceable.

On 8 February the premises licence holder was interviewed under caution, during which he confirmed that he was the sole owner of the business and that he had stopped selling alcohol since 1 February, despite test purchases being made on 1 and 4 February.

On 26 April 2017 trading standards and licensing officers returned to the shop with the Police and made a test purchase of a can of Skol Super alcohol. In the shop was a man (the fifth seller) who accepted that he did not hold a personal licence though said he had applied to Tower Hamlets for one. An enquiry indicated him to be a failed asylum seeker and he was not permitted to work. Since the fifth seller did not have a personal licence he was advised he could not sell alcohol.

The officer representing licensing as a responsible authority addressed the sub-committee and stressed their concerns of the number and diversity of alleged criminal offences witnessed by trading standards officers. Furthermore, the premises licence holder was associated with other premises, both in and outside Southwark where a plethora of

breaches of licence conditions and similar criminal acts had occurred.

The Metropolitan Police Service representative advised that when granting an individual/company a premises licence, the licensing sub-committee must have trust in that individual/company that they will run the premise well and comply with the operating schedule as agreed when the premises licence was applied for. The conditions are there for the promotion of the licensing objectives. The premises had operated in contravention of these conditions, but also committed acts of criminality. In the circumstances, there is no place for a premises that is operated in such a way, that is putting the public's health at risk and quite likely to have a negative impact on anti-social behaviour and crime and disorder. The police recommended that the licence be revoked.

The licensing sub-committee noted the representations from the public health Authority supporting the review and also recommended that the premises licence be revoked. The premises are located in an area where there is a serious problem with alcohol abuse. The premises are close to Kings College Hospital where there are alcohol dependency treatment facilities and premises abusing their licence conditions in the way described, undermined the licensing objectives.

The licensee and their representative addressed the sub-committee. They advised that the premises licence holder shared the obvious concerns that the sub-committee would have about the conduct of the premises. His client had been the freeholder to the premises, and premises licence holder since 2005 and a trawl of the premises records showed that there had been no breaches between 2005 and 2010. The recent infractions commenced in January 2017, when there had been a break of the chain of causation as the first seller had been granted a licence to occupy the premises on 1 January 2017. Despite this, he chose not to transfer the licence or the DPS to the first seller. The representative for the premises licence holder stated that the first seller was not in breach of his licence to occupy, so was unable to evict him. He had however, started to take remedial steps, by replacing the DPS, who ultimately would take over the management from the first seller. The representative was unable to explain how this would be done and no documentation concerning the licence to occupy was available at the meeting. The representative stated that a period of closure would assist and that the premises licence holder would be agreeable to give an undertaking to resolve the issues.

The licensing sub-committee considered all of the oral and written representations before it and found that the breaches of licence conditions and level of criminality completely unacceptable. The premises licence holder demonstrated he was unwilling to cooperate with authorities in their criminal investigations and quite clearly undeterred by previous enforcement action at premises in Lambeth (between 2008-2014). There had been a catalogue of breaches over a period, by at least 5 different members of staff, all of whom continued to sell alcohol in officer's presence, despite being warned not to. He showed a total disregard to the consequences of selling alcohol responsibly and to adhering to premises licence conditions or promoting licensing objectives. The licensing sub-committee were unanimously of the opinion that the premises licence holder was not capable of running a licensed premises and promoting the licensing objectives and that the premises will continue to operate contrary to the terms and conditions of their premises licence.

Consideration was given to a suspension of the licence and removal of the premises licence holder as DPS, but the sub-committee felt that in this case this is not option; given that he is the owner of the premises, he therefore will have a controlling factor over a new DPS. If this licensing sub-committee had the jurisdiction, it would have revoked the premises licence holder's personal licence. It is fortunate for him, that this sub-committee

do not have such power. In the circumstances, the only appropriate and proportionate option is revocation.

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.

Meeting ended at 3.46 pm

CHAIR:

DATED: