

## **Licensing Sub-Committee**

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 30 June 2014 at 10.00 am at Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

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<b>PRESENT:</b>	Councillor Renata Hamvas (Chair) Councillor David Hubber Councillor Dora Dixon-Fyle MBE
<b>OTHER MEMBERS PRESENT:</b>	Waqas Choudhary, applicant Debra Silvester, applicant's representative P.C. Ian Clements, Metropolitan Police Service
<b>OFFICER SUPPORT:</b>	Debra Allday, legal officer Wesley McArthur, licensing officer Bill Masini, trading standards officer Ray Moore, trading standards 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 - APPLICATION TO TRANSFER A PREMISES LICENCE AND APPLICATION TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR (DPS) IN RESPECT OF SUPERWAY EXPRESS, 212 JAMAICA ROAD, LONDON SE16 4BD**

This was a reconvened meeting from 17 June 2014.

The licensing officer presented their report. They advised that they had been unable to locate copies of the licence transfer, that had been requested by the sub-committee on 17 June 2014.

The applicant and their representative addressed the sub-committee. They submitted a letter showing their employment during the relevant period. The applicant did not provide evidence that they had instructed a solicitor regarding the purchase of the business and the lease of the property. Members had questions for the applicant and their representative.

The Metropolitan Police Service representative and the trading standards officer, as the police witness, addressed the sub-committee. Members had questions for the police representative and the trading standards officer.

All parties were given five minutes for summing up.

The licensing sub-committee went into closed session at 10.54am.

The licensing sub-committee resumed at 12.00pm and the chair read out the decision of the sub-committee.

**RESOLVED:**

That having considered the objection notices submitted by the Southwark Police Licensing Officer relating to the applications submitted by Mr. Waqas Amin Choudhary to transfer the premises licence and to specify an individual as DPS under the Licensing Act 2003 in respect of the premises known as Superway Express, 212 Jamaica Road, London SE16 4BD, the licensing sub-committee has refused the applications.

**Reasons**

This was a reconvened meeting from 17 June 2014. This meeting had been adjourned for the applicant to provide evidence of his employment during the relevant period in addition to providing evidence of his attempts to purchase the lease of the premises named above.

The licensing sub-committee had also requested a copy of the application to transfer the licence from Waqas Choudhary to Shamoon Ali Chaudhary but this was not available as a hard copy was missing and an electronic copy had not been attached to the licensing case management system.

The licensing sub-committee heard evidence from the applicant who informed the sub-committee that during the relevant period (which covered the incidents that occurred on 14 September 2012, 8 December 2012, 25 March 2013 in addition to 10 February 2014) the

applicant had no involvement in the premises or the running of the business. To support this contention, Mr Waqas Choudhary provided a letter dated 23 June 2014 from NW Cars that stated that Mr Choudhary had worked for NW Cars as a self-employed mini-cab driver between 10 May 2012 and 23 December 2013. Mr Waqas Choudhary stated that he had not instructed solicitors in the purchase of the lease of 212 Jamaica Road from Southwark Council on the basis that he wanted to ensure that the licence was transferred to him in advance of any purchase of the lease. This was contrary to what Mr Choudhary had informed the licensing sub-committee on 17 June 2014 in which he stated that he had instructed solicitors. Mr Choudhary stated that the contents of the letter dated 18 October 2012 from Payless Group to Southwark Council were incorrect.

The licensing sub-committee heard from the representative from the Metropolitan Police Service who advised that they were calling trading standards officers as witnesses. The police representative stated that the letter from NW Cars (dated 23 June 2014) was of little benefit as it did not provide any specific dates where Mr Choudhary was physically working and that it was possible that he could run the premises at the same time. This was echoed by the trading standards officers who also referred to the Payless Group letter from 18 October 2012 which stated categorically that the property was given under management to Waqas Choudhary on 7 October 2008 and in April 2011 he purchased the property and was responsible for the incident on 14 September 2012 for the exposure of counterfeit goods (Bollinger Champagne) for sale.

A letter was sent from trading standards to Waqas Choudhary dated 9 October 2012 regarding the above incident. This letter was sent to the premises address at 212 Jamaica Road in addition to his home address at 165 Dollis Hill Lane, being the same address provided by Payless Group in the management agreement dated 6 October 2008 and their letter of 18 October 2012. Mr Choudhary never responded to this allegation.

The licensing sub-committee were not satisfied with the explanation provided by Waqas Choudhary regarding his involvement in the premises. The licence was transferred to Waqas Choudhary with immediate effect on 27 October 2008. No other application was made until 19 September 2012 when an application to transfer the licence to Shamoon Ali Chaudhary from Waqas Choudhary was submitted with immediate effect. No application to specify a new designated premises supervisor (DPS) was submitted on this date. Therefore, Waqas Choudhary remained DPS of the premises. A note was made by a licensing administrative officer onto the licensing case management system dated 28 January 2013 which stated that Waqas Amin Choudhary was the DPS. Therefore, Waqas Choudhary was the DPS and licensee between 14 September 2012 and 18 September 2012. Furthermore, he was the sole DPS from 19 September 2012 until 27 January 2013, meaning that he was the DPS when the test purchase was conducted on 8 December 2012.

The licensing sub-committee were not convinced by the letter from NW Cars showing that Mr Choudhary had been a self-employed mini-cab driver and took the view that he was involved in the premises at this time based on the other evidence (the Payless Group letter from 18 October 2012, the management agreement and the letter dated 15 October 2012). The licensing sub-committee was also concerned as to the reliability of Mr Choudhary's evidence given that it had changed since the meeting on 17 June where he stated that he had instructed solicitors in relation to the purchase of the lease of the premises, when in fact he had not. In all the circumstances the licensing sub-committee concluded that the transfer to Mr Waqas Choudhary would have an adverse effect on the licensing objectives

and was an attempt to undermine the licensing review process and there were exceptional grounds to object to these applications.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives.

The licensing sub-committee considered that this decision was appropriate and proportionate.

### **Appeal rights**

The applicant may appeal against any decision.

Any person who made relevant representations in relation to the application may appeal against the decision also.

Any appeal must be made to the magistrates' court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

## **6. LICENSING ACT 2003 - SUPERWAY EXPRESS, 212 JAMAICA ROAD LONDON SE16 4BD - REVIEW**

The licensing officer 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.

No representative from the premises was present.

The licensing sub-committee went into closed session at 12.45pm.

The licensing sub-committee resumed at 1.24pm and the chair read out the decision of the sub-committee.

### **RESOLVED:**

That the council's licensing sub-committee, having had regard to the application by the council's trading standards service for a review of the premises licence granted under the Licensing Act 2003 to Mr Nauman Malik in respect of the premises known as Superway Express, 212 Jamaica Road, London SE16 4BD, and having had regard also to all relevant representations has decided it necessary for the promotion of the licensing objectives to revoke the licence.

### **Reasons**

The licensing sub-committee heard from the applicant for the review, an officer in the

council's trading standards service, who submitted the following evidence in respect of the review:

On 28 January 2013 Sharmoon Ali Chaudhary was the premise licence holder. He accepted a simple caution for offences committed on 8 December 2012:

- Carrying on a licensable activity otherwise than in accordance with an authorisation, namely a premise licence, whereby that licence required a personal licence holder to be on the premise at all times alcohol is to be sold, when there was no personal licence holder on the premise contrary to section 136(1)(a) Licensing Act 2003
- Sale of alcohol to a person under 18 years of age
- Sale of cigarettes to a person under 18 years of age.

On 30 January 2013 Shamoon Ali Chaudhary transferred premise licence to Numan Malik.

On 10 February 2014 a test purchase was made by a 14 year old girl when Numan Malik was the premises licence holder. No personal licence holder was on premises. Trading standards spoke to Shamoon Chaudhary on the telephone who said Numan Malik "had let him down."

On 14 February trading standards visited the premises following the underage sale. No personal licence holder was on the premises when alcohol was sold that day. On the return to the office trading standards received a telephone call from Nauman Malik stating he had left the business on 3 February and was currently in Bradford. He agreed to attend Southwark Council offices on 18 February. Shortly after that telephone call, trading standards had a call from Shamoon Chaudhary saying he had sacked Nauman Malik after the underage sale. He also agreed to attend the office on 18 February.

On 18 February 2014 Shamoon Chaudhary and Nauman Malik both attended Southwark Council offices. They both agreed that Nauman Malik had sold the business to Shamoon Chaudhary on 12 February but Malik had taken leave on 3 February. Nauman Malik was interviewed under caution.

On 19 February 2014 Nauman Malik sought to transfer the premises licence to Shamoon Chaudhary.

On 21 February 2014 the police licensing team visited the premises. The person behind the counter identified himself as Mohammed Nawaz. He said he was running the shop but was not in charge. Alcohol was being sold. He said he did not hold a personal licence, this being a condition on the premise licence (336). He said only the boss had a personal licence and he had left the premise about an hour and a half earlier so he could go to his other shop. He confirmed he had sold alcohol since the manager had left. He made attempts to contact the manager by telephone. Police noted there was very little stock in the stock area and no office where CCTV should have been kept. Police noted a small wooden stair case and walked upstairs where they noted three rooms that had been converted into bedrooms, each with three or more beds in them. There were no working lights and the conditions seemed poor. In one of the rooms in a cupboard a box of Glens vodka was found. On examination of one bottle the officer noted it did not have a UK duty paid sticker on the reverse. An immigration check indicated Mr Nawaz was wanted for questioning by the Immigration Service and so he was arrested.

On 24 February 2014 trading Standards took a copy of the review application to the shop. No personal licence holder was present. The person working behind counter spoke poor English but refused to give his name though did say he did not have a personal licence. He went into the back of the shop and then went upstairs to the living accommodation. He did not return, leaving the shop open for customers to walk in and out as they wished.

On 14 March 2014 a visit was made by trading standards with the International Federation of Spirit Producers (ISFP) to check the authenticity of spirits sold. The ISFP confirmed that bottles of spirits were being sold where duty had been evaded in addition to counterfeit spirits.

On 18 March 2014 Mr Chaudhary sought to transfer licence to Shiraz Ahmed.

A test purchase of alcohol was made by trading standards on 20 March 2014. A sale was made by a female who confirmed that she did not hold a personal licence. No other person was working in the shop. She said she had received no training and could not produce any such records. She also explained she worked six shifts each consisting of 10 hours per week and was paid £180 cash (thus equating to £3 per hour). Trading Standards advised her that this was below the national minimum hourly rate and was in excess of the maximum working hours.

Shiraz Ahmed was cautioned on 6 March 2014 by Tower Hamlets trading standards following the sale of alcohol to a 15 year old child on 16 February at his shop called Shiraz Food and Wine of 178 Hackney Road London E2 7QL.

On 3 April 2014 a visit was made by the police licensing officer. No personal licence holder was on the premises. Staff were unable to operate the CCTV system or provide a copy of the licence or training records.

On 11 April 2014 police and trading standards attended the premises. The only person working in the shop was the same female from the 20 March 2014 visit. Alcohol was on sale and she did not have a personal licence. She knew nothing about the CCTV and stated that she had not received any training and that the manager, Shiraz had been in two days previously.

The licensing sub-committee noted that the health and safety officer had withdrawn their representation.

The licensing sub-committee noted the representation from the other person supporting the review who was not in attendance.

There were neither written representations nor attendance from either Mr. Malik or a representatives from Superway Express.

In the absence of any evidence from Mr. Malik or Superway Express, the licensing sub-committee felt that on this occasion that it had no alternative but to revoke the licence in view of the very serious and prolific breaches of the licence conditions and the blatant disregard to the Licensing Act 2003 in particular to the crime and disorder and protection of children from harm licensing objectives.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives.

The licensing sub-committee considered that this decision was appropriate and proportionate.

### **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
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

The meeting closed at 1.30pm.

Meeting ended at Time Not Specified

**CHAIR:**

**DATED:**

**[CABINET ONLY]**

**DEADLINE FOR NOTIFICATION OF CALL-IN UNDER SECTION 21 OF THE OVERVIEW AND SCRUTINY PROCEDURE RULES IS MIDNIGHT, [DATE].**

**THE ABOVE DECISIONS WILL NOT BE IMPLEMENTABLE UNTIL AFTER THAT DATE. SHOULD A DECISION OF THE CABINET BE CALLED-IN FOR SCRUTINY, THEN THE RELEVANT DECISION WILL BE HELD IN ABEYANCE PENDING THE OUTCOME OF SCRUTINY CONSIDERATION.**