

Licensing Sub-Committee

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

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Lorraine Lauder MBE
Councillor Adele Morris

**OTHERS
PRESENT:** Councillor Jon Hartley (observing)
Councillor Maria Linforth-Hall (observing)
Yilmaz Kara, representative from Oli Centre
Leo Charalambides, legal representative for Oli Centre
Joanne Surguy, representative from Sainsbury's
Robert Botkai, legal representative for Sainsbury's

**OFFICER
SUPPORT:** Debra Allday, legal officer
Wesley McArthur, licensing officer
Dorcas Mills, licensing officer
Bill Masini, 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

The chair agreed to vary the order of business to hear item 6 first. The order of the minutes follows the original order of the items as they appeared in the agenda.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003 - OLI CENTRE, 332- 334 WALWORTH ROAD, LONDON, SE17 2NA

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.

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

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

All parties were given five minutes for summing up.

The licensing sub-committee went into closed session at 11.35am.

The licensing sub-committee resumed at 1.15pm 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 trading standards for a review of the premises granted under the Licensing Act 2003 granted to Ozkan Ugudur and Yilmaz Kara in respect of the premises known as Oli Centre, 332-334 Walworth Road, London SE17 2NA and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives to suspend the licence for the period of two weeks and to modify the conditions of the licence as follows:

1. That refresher licensing training be provided to key members of staff of the Oli Centre by an independent trainer within 14 days of the decision of the sub-committee.
2. That the premises shall operate an age check 'Challenge 25' policy whereby customers purchasing alcohol who look or appear to be under 25 years of age will be asked for an approved form of age to verify their age. Approved forms shall include a driving licence, passport or a PASS approved proof of age card such as the Southwark proof of Age (SPA) card.
3. That all staff involved in the sale of alcohol shall attend a recognised training scheme which will include training in the age check 'Challenge 25' policy. They must obtain a certificate of competence. A record of their training, including the dates that each member of staff is trained, shall be available for inspection at the premises on request

by the Council's authorized officer of the Police.

4. That age check or 'Challenge 25' signage shall be displayed at entrances to the premises, areas where alcohol is displayed for sale and at points of sale to inform customers that an age check 'Challenge 25' policy applies and proof of age may be required.
5. That all tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
6. That a register of refused sales of alcohol and if applicable, cigarette sales which is clearly marked with details of the premises, address and name of licence holder shall be maintained in order to demonstrate effective operation of the policy. The register shall be available for inspection at the premises on request by the Council's authorized officers or the Police.
7. That no beers or ciders in single cans, bottles or multi-packs with an ABV of more than 7% will be displayed, sold or offered for sale from the premises
8. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol
9. That a record shall be kept detailing all purchases of alcohol stock for the premises. The record should include the date, time and details of the supplier of the alcohol stock for the premises and include receipts of all stock from bona fides suppliers. This record shall be made available on request to an authorized officer of the Council or the police.
10. That the management and staff of the premises will report any suspicious or unidentifiable itinerant salesmen purporting to supply alcohol to the trading standards and the police. Noting where possible a brief description of the person/s and any vehicle registration.

Reasons

The licensing sub-committee heard from the trading standards officer, the applicant for the review, who informed the licensing sub-committee that on 27 March 2014 trading standards attended the premises with the International Spirits Federation (ISF). 37 bottles of diversion fraud spirits were identified and were being offered for sale to the public. These bottles did not hold the correct duty stamp label and was an offence under duty evasion legislation. It was also an offence under the Trade Marks Act 1994. The sole director of the company, premises licence holder and designated premises supervisor (DPS) Mr Yilmaz Kara was interviewed under caution on 28 April 2014 and he admitted that he bought the alcohol through someone from the street with the intention of not putting it through the business in order to avoid tax. He accepted that he did not know whether the alcohol had been counterfeit and therefore, was potentially putting the public's health at risk.

The licensing sub-committee was informed that Mr Kara and the company were cautioned in September 2012 for exposing for sale illegal shisha tobacco, where duty had been evaded, in addition to possessing 25 tobacco blunts that failed to comply with tobacco

regulations. These were purchased from an unknown person without any identification or paperwork.

Trading standards again cautioned Mr Kara's company in 2011 for exposing 89 bottles of counterfeit Jacobs Creek. Again, no receipts or details of the person who supplied the alcohol were available.

The licensing sub-committee heard from the Metropolitan Police Service representative who advised that he was in agreement with trading standards. The representative from the police informed the sub-committee that the premises were not known to be a "problem premises" and was not linked to any local anti-social behaviour.

The licensing sub-committee noted the representation from the other person who sought leniency from the sub-committee in this review.

The licensing sub-committee heard from the representative of Oli Centre who accepted that the representations from trading standards and the Metropolitan Police Service were fair. The premises licence holder and DPS, Mr Kara, accepted his wrong doing in exposing for sale the alcohol without paid duty. He accepted that he was seeking to avoid the payment of taxes.

Regarding the incidents that occurred in 2011 and 2012, to which Mr Kara had accepted cautions, he advised the sub-committee that these purchases had been done by his father believing that he was helping the business, but accepted that this was wrong also.

They advised that the Oli Centre was an independent store which had 18 members of staff that serviced the local community. They advised that there was a second operation in Lewisham which had not had any problems.

The sub-committee also noted the representative's proposal of training of ten key members of staff within 14 days. The representative submitted a list of amended and proposed conditions that had been approved by trading standards and the police.

Whilst it was accepted that the premises licence holder and DPS, Mr Kara had admitted his wrong doing, the sub-committee were very concerned that despite receiving cautions he had continued to place the public at risk and evade duty.

However, the sub-committee accepted that this was not a problem premises and was not linked to local anti-social behaviour.

Mr Kara is the sole director of the company and DPS who was the sole individual who could bring about the necessary changes to ensure the safe and proper running of the licence. The sub-committee have concluded that on this occasion it would be wrong to remove the DPS and it is for this reason that this sub-committee decided to suspend the licence for 14 days to allow full independent training to be given to members of staff at the premises.

The sub-committee ask that trading standards inspect the premises before the end of the suspension to ensure that it is fully compliant with the conditions of the licence.

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.

6. LICENSING ACT 2003 - SAINSBURY'S, 17A SPA ROAD, LONDON, SE16 3AS

The licensing officer presented their report. Members had questions for the licensing officer.

The applicant addressed the sub-committee. Members had questions for the applicant.

The licensing sub-committee went into closed session at 10.20pm.

The licensing sub-committee resumed at 10.45pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the application submitted by Sainsbury's Supermarkets Ltd for the grant of a premises licence issued under the Licensing Act 2003 in respect of 17a Spa Road, London SE16 3SA is granted as follows:

Licensable Activity	Monday to Sunday
Sale and supply of alcohol (on the premises)	07.00 to 23.00
Hours premises are	00.00 to 00.00

open to the public	
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Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions and conditions derived from the operation schedule in Section M of the application form.

Reasons

This was an application submitted by Sainsbury's Supermarkets Ltd for the grant of a premises licence issued under the Licensing Act 2003 in respect of 17a Spa Road, London SE16 3SA.

The licensing sub-committee heard evidence from the applicant who referred to the policies they had in place regarding staff training, underage sales and CCTV. They advised that they had offered a number of additional conditions to be put on the licence in respect to other Sainsbury's premises which are Southwark specific.

The applicant also advised that they had offered a conciliation meeting to the objector via the council's licensing service, however the objector had not replied to the invitation.

The licensing sub-committee noted the written objection of the local resident who was not in attendance.

Whilst the licensing sub-committee understood the concerns of the objector, the complaints were not specific to the premises and the conditions offered by Sainsbury's in the operating schedule satisfied these concerns.

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:

- a) To impose conditions on the licence
- b) To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a) The licence ought not to be been granted; or
- b) on granting the licence, the licensing authority ought to have imposed different or additional conditions on the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the magistrates' court for the petty sessions 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.

The meeting closed at 1.20pm.

CHAIR:

DATED: