



NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 15 JUNE 2017

LICENSING ACT 2003: ADAMS NEWS, 6 COLDHARBOUR LANE, LONDON SE5 9PR

1. 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

- 2 **Reasons for the Decision.**

The reasons for this 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/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, [REDACTED]. The Premises Licence Holder had 3 months previously accepted simple cautions for 7 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 [REDACTED] [REDACTED] between 2005 and June 2014 and again, similar issues arose including:- under 2 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 her 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 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.

Consideration was given to a suspension of the licence and removal of the premises licence holder as DPS, but it was felt that in this case this was not option, given that he is the owner of the premises, he is premises licence holder and 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 to him, that this Sub-Committee do not have such power. In the circumstances, the only option in this case is revocation.

In reaching this decision the Sub-Committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

3 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.

Issued by the Constitutional Team on behalf of the Director of Legal Services

Date: 15 June 2017