

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Tuesday 28 June 2016 at 10.00 am at Ground Floor Meeting Room G03 - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Sunny Lambe
Councillor Charlie Smith

**OTHERS
PRESENT:** Councillor Catherine Rose (observing)
Councillor Barrie Hargrove, ward councillor
Aranpreet Kaur, designated premises supervisor, Bottles Off Licence
Sharanjit Singh, owner, Bottles Off Licence
Graham Hopkins, legal representative, Bottles Off Licence
Jagdish Singh Bhinder, designated premises supervisor, Bhinder Off Licence
Karen Reid, legal representative, Bhinder Off Licence

**OFFICER
SUPPORT:** Debra Allday, legal officer
Wesley McArthur, licensing officer
Bill Masini, trading standards officer
David Franklin, licensing officer as a responsible authority
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. However, Councillor Hamvas advised that Councillor Hargrove had spoken to her prior to the meeting regarding item 5 of the agenda. Councillor Hamvas advised that this would not be taken into account until Councillor Hargrove addressed the sub-committee as a witness for trading standards.

5. LICENSING ACT 2003 - BOTTLES OFF LICENCE, 27 PECKHAM HIGH STREET, LONDON SE15 5EB

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 ward councillor, Barry Hargrove, addressed the sub-committee as a witness for the trading standards officer. Members had questions for the ward councillor.

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

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

The legal representative for the premises, the owner of the premises and the designated premises supervisor addressed the sub-committee. Members had questions for the representatives for the premises.

All parties were given an opportunity for summing up.

The meeting went into closed session at 12.15pm.

The meeting resumed at 1.15pm.

RESOLVED:

That the council's licensing sub-committee, having had regard to the application made under Section 51 of the Licensing Act 2003 by the Southwark Council trading standards team for a review of the premises licence issued in respect of the premises known as Bottles Off Licence, 27 Peckham High Street, London SE15 5EB and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives to revoke the licence.

Reasons

The reasons for this decision are as follows:

The licensing sub-committee heard from the trading standards officer, the applicant for the review, who advised that there had previously been a review of the licence in September 2014 when the licence had been suspended for two weeks and modified with conditions.

The review application to which this decision relates had been submitted in respect of the prevention of crime and disorder and the protection of children from harm licensing objectives and related to matters witnessed at the premises on 4 and 9 December 2015. On 4 December 2015 trading standards attended the premises with the police to carry out a check for compliance with the premises licence and also in respect of other trading standards matters. The designated premises supervisor (DPS) was in the shop with her husband and two young children.

The DPS' husband appeared to be intoxicated. Upon examination of items offered for sale there was the display of smuggled/non duty paid alcohol, non-EU labelled spirits that infringed food labelling regulations; beers and ciders with an alcohol by volume (ABV) of more than 7% were on display and offered for sale at the premises in breach of condition 840 of the premises licence; no training records were available in breach of condition 8AB; there was no signage in regards to the Challenge 25 in breach of condition 8AC and they failed to use a refused sales register in breach of condition 8AI

Trading standards also alleged the offer for sale / sale of super strength beers, lagers and ciders to alcoholics and street drinkers. This was evidenced by individual cans being sold.

Trading standard interviewed the DPS under caution who had exercised her right not to answer questions. She was, however, apologetic. The DPS' husband was interviewed under caution during which he stated that Bottles Off-Licence was his business and that he was the sole trader. He was unable to explain why he was not on the premises licence either as the premises licence holder and/or the DPS. He was evasive about where the non-duty paid spirits came from. Concerning the super strength beers and ciders, he stated that he knew of the maximum strength condition, but it was old stock which was bought before the previous review hearing. Both accepted simple cautions for the offences.

The licensing sub-committee heard from the Metropolitan Police Service (MPS) representative who supported the review and stated that the review application detailed serious breaches of the premises licence in particular, the conditions that were placed on the licence following the review hearing in September 2014. Since this time, the premises had been found in breach of licence conditions on separate occasions. As a result, the MPS advised that they had serious concerns over the integrity and honesty of the DPS and her husband being involved in the running of the premises and recommended that the premises licence is revoked. The Metropolitan Police Service also called as a witness a local ward councillor who gave evidence of the anti-social behaviour and street drinking in the area, which was fuelled by premises that sold super strength lagers and ciders.

The licensing sub-committee heard from the licensing officer representing the council as a responsible authority and who supported the review and who advised that there had been a previous review of the premises licence in September 2014 which concerned an underage sale. As a result of the review, the licence had been suspended for 2-weeks, and an additional 9 conditions were added to the licence. The incidents that had occurred on 4 and 9 December followed on from other trading standards offences. The DPS and her husband have demonstrated that they were either unwilling or unable to promote any of the licensing objectives and as a result, licensing was of the view that neither was capable of running licensed premises. Licensing recommended that the licence be revoked.

The legal representative for the premises informed the licensing sub-committee that they

did not contest any of the evidence that had been submitted by the responsible authorities. The legal representative also advised that the licence holder recognised the seriousness of the situation and the both she and her husband were remorseful. The legal advisor further advised that premises were the family's only income and that the situation had put considerable pressure on the licence holder. The legal representative appreciated that in view of the circumstances, and comments made at the previous licensing sub committee in September 2014, revocation was likely to be in the forefront of the committee's mind. As an alternative, the sub-committee were invited to suspend the licence for a maximum of 3-months, remove the DPS and modify the licence with conditions.

The licensing sub-committee carefully considered all the written and oral representations before it, and deemed that these breaches were unacceptable. The incidents in 2015 took place just over 1 year after the September 2014 review. At that review the licensing sub-committee found the circumstances "extremely serious and considered revoking the licence"; The licensing sub-committee on that occasion generously gave the licence holder a second chance. Unfortunately, the two week suspension that was imposed clearly had not had any effect on the licence holder. Additional licence conditions had been imposed, but were blatantly breached almost immediately. Despite imposing condition 840 (concerning the beers, lagers and ciders above ABV of 7%), the licence holder's husband advised that the alcohol found in the premises was old stock; trading standards produced evidence demonstrated that above ABV of 7% beers, ciders and lagers were regularly purchased from cash and carriers following the September 2014 review.

This licensing sub-review committee is satisfied that it was the DPS' husband who controls the business and as a result, the DPS is unable to carry out her responsibilities as the premises licence holder and DPS.

There was therefore, no alternative to revoke the premises licence.

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.

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.

6. LICENSING ACT 2003 - BHINDER OFF LICENCE, 149 PECKHAM HIGH STREET, LONDON SE15 5SL

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 police representative.

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

The legal representative for the premises, and the owner of the premises addressed the sub-committee. Members had questions for the representatives for the premises.

All parties were given an opportunity for summing up.

The meeting went into closed session at 2.33pm.

The meeting resumed at 2.50pm 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 made under Section 51 of the Licensing Act 2003 by the Southwark Council trading standards team for a review of the premises licence issued in respect of the premises known as Bhinder Off Licence, 149 Peckham High Street, London SE15 5SL 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 a period of two weeks

and

Modify the conditions of the licence as follows:

That the following additional conditions as agreed by the licensing sub-committee shall apply:

1. That the premises shall operate an agecheck 'Challenge 25' policy That a challenge 25 scheme shall be maintained at the premises requiring that staff selling alcohol request that any customer who looks under 25 years old, and who is attempting to purchase alcohol, provides valid photographic identification proving that the customer is at least 18 years old. Valid photographic identification is composed of a driving licence, passport, UK armed services ID card and any Proof of Age Standards Scheme (PASS) accredited card such as the Proof of Age London (PAL) card.
2. That all staff involved in the sale of alcohol shall be trained in the prevention of sales of alcohol to underage persons, and the challenge 25 scheme in operation at the premises. A record of such training shall be kept / be accessible at the premises at all times and be made immediately available for inspection at the premises to council or police officers on request. The training record shall include the trainee's name (in block capitals), the trainer's name (in block capitals), and the signature of the trainee, the signature of the trainer, the date of training and a declaration that the training has been received.

3. That clearly legible signs shall be prominently displayed where they can easily be seen and read by customers stating to the effect that a challenge 25 policy is in operation at the premises, that customers may be asked to provide proof of age and stating what the acceptable forms of proof of age are. Such signage shall be displayed at all entrances, points of sale and in all areas where alcohol is displayed for sale. The signage shall be kept free from obstructions at all times.
4. That a register of refused sales of alcohol shall be maintained in order to demonstrate effective operation of the challenge 25 policy. The register shall be clearly and legibly marked on the front cover as a register of refused sales, with the address of the premises and with the name and address of the licence holder. The register shall be kept / be accessible at the premises at all times. On a monthly basis, the Designated Premises Supervisor (DPS) shall check the register to ensure it is being properly completed. The DPS shall sign and date the register to that effect and where appropriate take corrective action in a timely manner if the register is not being completed correctly. The register shall be made immediately available for inspection at the premises to council or police officers on request.
5. That there shall be a personal licence holder on the premises at all times alcohol is available for supply for the purpose of supervising such sales
6. That no beers, lagers or ciders in single cans, bottles or multi-packs with an ABV of more than 6.5% will be displayed, sold or offered for sale from the premises unless written authority is obtained from the Police Licensing Unit in advance. The written authority must be kept and made available for inspection immediately on request by any responsible authority.
7. That an approved CCTV system shall be installed at the premises that records clear images of both the interior and exterior of the premises. The CCTV installed inside the premise shall be positioned to capture the sale of alcohol and tobacco products. The CCTV system shall have a minimum of 31 days recording facility and will be maintained in full working order at all times and be continually recording at all times the premise is in use under the licence. The CCTV System must be capable of capturing a clear facial image of every person who enters the premise. All CCTV footage shall be kept for a period of thirty one (31) days and shall, upon request, be made immediately available to The police and/or authorised officers from Southwark Council
8. That all staff working at the premise shall be trained and be fully conversant in the correct operation of the CCTV and be able to demonstrate its operation on immediate request by police and/or authorised officers from Southwark Council.
9. That all off-sales of alcohol shall be supplied in closed containers.

Reasons

The reasons for this decision are as follows:

The licensing sub-committee heard from the trading standards officer, the applicant for the review who advised that the review application was made on behalf of Southwark Council's trading standards service. On 29 January 2016 trading standards and the police attended Bhinder Off Licence to check for compliance of the premises licence, trading standards legislation and other criminality. On display were bottles of alcohol that had been imported without payment of duty or which had otherwise been unlawfully imported.

A refusals book had also not been maintained, in breach of condition 340. Officers also noticed that there was a huge amount of beers, ciders and lagers with an ABV of more than 6.5% being offered for sale. The designated premises supervisor (DPS) was subsequently interviewed under caution and admitted all offences and informed the trading standards officer that he had bought all the super strength beers, ciders and lagers from the owner/DPS of Bottles Off-Licence (whom he was related to), who were prohibited from selling such products under there licence. He was unable to provide invoices for the alcohol, stating that he had bought the alcohol for £400 from a man he had never met and had not seen since.

The trading standards officer called a local ward councillor as a witness who supported the review application and gave evidence of anti-social behaviour fuelled by alcohol. He also witnessed a high level of street drinkers in the local area. Whilst the ward councillor was unable to say that alcohol was purchased from the premises, he felt curbing the sales of the high strength beers, cider and lagers from licensed premises would alleviate such issues in the vicinity.

The licensing sub-committee heard from the Metropolitan Police Service representative, who supported the review and stressed their concerns that Bhinder Off-Licence had clear links with Bottles Off Licence who had just had their premises licence revoked.

The licensing sub-committee then heard from the licensing officer representing the council as a responsible authority, supporting the review and stated that the current premises licence had few conditions within the operating schedule for the control of the sale of alcohol to children, intoxicated persons and street drinkers.

The licensing sub-committee heard from the legal representative for the premises who advised that the licence holders ran were husband and wife and the premises was run as a family business. The business was the only source of income for the family, which was reasonably successful. Mr Bhinder accepted that the alcohol subject seized by trading standards on 29 January 2016 was purchased for £400 and in good faith, that he requested an invoice from the person who sold the goods, but one was never provided. They also agreed all of the conditions proposed by the responsible authorities, with the exception of the condition concerning super strength beers, ciders and lagers, which the legal representative said was disproportionate.

The licensing sub-committee considered all the written and oral representations before it and deemed that these were serious breaches.

The premises licence held is a very generous 24-hour licence that is located within the Peckham cumulative impact area with that, comes additional responsibilities. The Peckham cumulative impact policy was renewed in November 2015 as there is a high level of crime and disorder and nuisance occurring in the area that pose a threat to public safety. Furthermore, paragraph 204 of Southwark's statement of licensing policy 2015-2020 specifies that a measure in support of the public safety licensing objective is to restrict the sale of beer or cider over a specified ABV. Coupled with the evidence of the local ward councillor, this licensing sub-committee are satisfied that it would be proportionate

The licensing sub-committee accepts that the breaches are not related to the hours of operation and as such, have agreed not to reduce the premises hours of operation.

The sale of alcohol that has been imported without payment of duty (or which had

otherwise been unlawfully imported) is serious. In selling such non-duty paid alcohol not only seeks to avoid taxes and gets an unfair commercial advantage of neighbouring premises, it is also irresponsible, with the potential health consequences. The licensing sub-committee are concerned with the premises connection with the Bottles Off-Licence and the purchase of their super strength beers, ciders and lagers from the owner/DPS of Bottles Off-Licence knowing they were prohibited from selling such products under there licence. For this reason, this sub-committee imposes a two week suspension of the premises licence.

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.

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.

Meeting ended at 2.58 pm

CHAIR:

DATED: