

## Minutes

### LICENSING SUB-COMMITTEE

4 March 2019

Meeting held at Committee Room 6 - Civic Centre, High Street,  
Uxbridge



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|     | <p><b>Committee Members Present:</b><br/>Councillor Teji Barnes (Chairman)<br/>Councillor Lynne Allen<br/>Councillor Brian Stead</p> <p><b>LBH Officers Present:</b><br/>Lois King, Principal Licensing Officer<br/>Anisha Teji, Democratic Services Officer<br/>Kerrie Munro, Legal Advisor</p> <p><b>Responsible Authorities:</b><br/>King-Yip Cheung, Trading Standards Officer<br/>Stephanie Waterford, Licensing Manager<br/>Jhini Mukherjee, Licensing Officer</p> <p><b>Applicant Present:</b><br/>PC Emly Mitchell, Metropolitan Police<br/>PC Damian Goddard-Lane</p> <p><b>Respondents Present</b><br/>Mr Sandeep Singh Nangpal, Licence Holder<br/>Mr Robert Jordan, Licence Holder's Representative</p> |
| 52. | <p><b>APOLOGIES FOR ABSENCE</b> (<i>Agenda Item 1</i>)</p> <p>There were no apologies for absence.</p>  |
| 53. | <p><b>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING</b><br/>(<i>Agenda Item 2</i>)</p> <p>There were no declarations of interest.</p>  |
| 54. | <p><b>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND ITEMS MARKED PART II WILL BE CONSIDERED IN PRIVATE</b> (<i>Agenda Item 3</i>)</p> <p>It was confirmed that the items of business marked Part I would be considered in public.</p>  |
| 55. | <p><b>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT</b> (<i>Agenda Item 4</i>)</p> <p>None.</p>  |

56. **APPLICATION FOR A REVIEW OF A PREMISES LICENCE : THE WINE CELLAR COMPANY** (*Agenda Item 5*)

***Introduction by Principal Licensing Officer***

Lois King, Principal Licensing Officer at the London Borough of Hillingdon introduced the report and photographs relating to a review of the premises licence for The Wine Cellar Company, 36 Station Road, West Drayton, UB7 7DD. Ms King provided a background and chronology of events.

The application was made by the Metropolitan Police Service and related to the failure to uphold the Protection of Children From Harm objective of the Licensing Act 2003. Two test purchases in relation to alcohol were carried out at the premises as part of the Police operation, 'Nebula'. On both occasions alcohol was sold onto minors. The Premises Licence Holder, Mr Sandeep Singh Nangpal, failed to put measures in place from the incident on 30 July 2018, as alcohol was served again to a minor on 22 October 2018 being a further breach of the licensing objectives within 3 months.

On 6 December 2018 Ms King and PC Mitchell visited the business, and noted Mr Nangpal has made some improvements. Mr Nangpal paid the fixed penalty notice issued. However, Ms King submitted that greater steps were necessary to uphold the licensing objectives.

Ms King made a recommendation that the Premises Licence should be suspended for a period not exceeding three months, with additional conditions, having regard to paragraph 11.19 of the government issued under s 182 of the Licensing Act 2003.

***Representation by Applicant for the review***

PC Emyl Mitchell and PC Damian Goddard-Lane on behalf of the Metropolitan Police Service addressed the Committee. PC Mitchell explained that as part of Operation Nebula, over 236 premises were test purchased by Police Cadets. 36 of those premises initially failed and were issued with fixed penalty notices. They were then revisited and the only premises that failed again was the Wine Cellar Company.

It was submitted that under s182 guidance, should a venue serve alcohol to a minor within a three month period, a review of the premises is required and the Licensing Authority should consider revocation. The dates of the visits were 30 July 2018 and 22 October 2018 and Mr Nangpal was in charge of the premises on both occasions.

On 30 July 2018, the Police Cadets entered the store and selected four cans of lager valued at £4.30. The alcohol was run through the till and placed in a black bag. The children were not challenged and no identification was requested. The Police Cadets left the store and handed the alcohol to the Police Officer. The person who sold the alcohol, Mr Pagnat Nangpal was issued a fixed penalty notice which has now been paid.

On 22 October 2018, Police Cadets entered the premises and selected a bottle of wine valued at £6.99. Trading Standards were also present on this occasion. The staff member did not challenge the children, ran the transaction through the till and put the item in a black bag.

On 6 December 2018, a compliance check was undertaken along with Licensing Officers from the Council. During this visit, it was noted that Mr Nangpal had a lack of understanding of the licensing objectives and legislation regarding the sale of alcohol.

The shop also had several items of paraphernalia and Mr Nangpal admitted that only one kind of client would be interested in this type of product.

The Police made a recommendation for the Premises Licence to be suspended for a period of three months and more stringent conditions to be added.

Following a request for clarification, PC Lane explained that Operation Nebula was set in the Borough to test purchase all 236 premises licences. It was run by Police Officers with two Police Cadets under the age of 16 and a half. The Cadets would enter the premises, shortly followed by a plain clothed Police Officer to act as the covering officer. The Cadets would then select alcohol to carry out the purchase and the Police Officer would be in sight and hearing. The sale would leave the premises and then the Police would go back into the premises and confront staff member about the sale. The main reason for Operation Nebula was to combat child sexual exploitation, anti-social behaviour and knife crime as a lot of child sexual exploitation was taking place close to licensed premises.

### ***Representation by Responsible Authorities (Trading Standards)***

King-Yip Cheung, on behalf of Trading Standards, reminded the Committee of the background of the case. He further explained that at the site visit on 22 October 2018, Mr Nangpal was asked whether he had a refusal book. Mr Nangpal confirmed that he had a refusals book but kept this inside his cabinet which was locked. He did not have the key to open the cabinet at that time.

On 24 January 2019, Mr Nangpal was invited to attend a formal interview with officers from the Trading Standards team as part of their investigation into the offences committed under s146 of the Licensing Act 2003. At the interview, Mr Nangpal admitted that he had authorised Mr Singh to sell the alcohol to the child. Mr Nangpal allowed the sale to take place as he thought they were over 18 and he made this decision based on the child's height. Mr Nangpal said he had a refusals book but he could not find this during the time the sale took place. This was inconsistent with what Mr Nangpal said at the site visit where he said that the book was locked in a Cabinet.

Mr Nangpal undertook his Personal Licence course in May 2018 when he took over the shop. It was submitted that Mr Nangpal was unable to exercise his responsibilities to avoid sales of alcohol and other age restricted goods to children. Mr Cheung submitted that Trading Standards fully supported the Metropolitan Police's case.

Following Member clarification questions, it was confirmed that the refusal book was untearable and although it was not a condition of the licence, it showed due diligence in taking precautions to not sell alcohol to under age users. It was a good recommendation to have one but it was not a necessity. It was noted that the log-book was not an existing condition of the Premises Licence.

### ***Representation by Responsible Authority (Hillingdon Licensing Team)***

Stephanie Waterford and Jhini Mukerjee, Licensing Services, attended the Committee to answer any questions. Ms Waterford confirmed that they supported the Police's recommendation and highlighted a number of other areas of non-compliance. It was submitted that a period of suspension would serve as an opportunity to get the "house in order", make improvements to the general management and staff training.

### ***Representation made by the Licence Holder and their representative***

Mr Robert Jordan, on behalf of Mr Nangpal, submitted representations to the Sub Committee.

Mr Jordan accepted that there had been some shortcomings and this was recognised by Mr Nangpal. Mr Jordan submitted that Mr Nangpal was going to retake his APLH exam level 2, night training with designated premises supervisor award and this could be done by the end of next week. The training would consist of 1:1 training and attendance at sites.

Mr Jordan made a request to submit a staff training programme. The Legal Advisor advised that this would not be accepted as it may cause prejudice to all parties. Further, not all parties would have had the opportunity to properly reflect on the document, causing them a disadvantage.

Mr Jordan explained that he would be going through all the recommended conditions with Mr Nangpal and would stress the importance of failing to comply with them. Mr Jordan went through each of the proposed conditions, and informed the Committee that he would ensure that training would be complied with.

A refusal book would be obtained and training would commence by Wednesday 6 March 2019. The CCTV would be checked to ensure that it operated with 30 days and all staff members would be trained. Mr Jordan confirmed they would include all of the proposed terms, and would work with the business.

Mr Nangpal recognised and realised that steps needed to be taken. He showed willingness. Mr Nangpal informed that he met his staff at the temple and invited him to work at the shop, and he was working that day. Mr Nangpal informed that he had since got rid of those staff members.

Mr Jordan submitted that suspension would be unnecessary as the measures could be in place by 15 March 2019. The financial consequences on the business would be horrendous if a suspension period was decided, particularly given the actions and measures that were going to take place.

Mr Nangpal submitted that that he had already made changes to the store including removing paraphernalia, making arrangements for CCTV footage for a 30 day period, placing alcohol with a volume of more than 35 % behind counters, moving alcohol away from the entrance, using a refusal book and all staff members had been trained. Mr Jordan was coming to provide further training and Mr Nangpal submitted that he had applied everything to ensure that the business ran as smoothly as possible. Further, deliveries were not to arrive before 10 am and after 6 pm to ensure that there was sufficient staff around.

### ***Discussion***

During the Sub Licensing Committee's discussion, the following points were noted:

- Mr Nangpal confirmed that he had a licence since 2018 and accepted that the alcohol sold was from his premises and under his supervision. On the first occasion he was not at the premises. On the second occasion Mr Nangpal did not put the transaction through, but saw the lady from the back and made the assumption that as it was early in the morning, children would be at school. If he had seen the child himself he would have challenged them.
- The new employee was properly trained and the till was fully managed by Mr Nangpal. Mr Nangpal informed the Committee that he would not be making any

- sales to children until he had seen some form of identification including a passport, driving licence or photo cards showing a date of birth. Mr Nangal also had a light to check the authenticity of the documents.
- Mr Nangpal gained his original licence doing a course at Mr Panchal's licensee department, a year ago. The course consisted of a day from 9:00 – 3/4:30
  - Mr Nangpal notified the Council that he had taken over the process however this was not done until August 2018. Mr Nangpal took over the shop from 1 May 2018.
  - CCTV currently only ran for 14 days. Mr Nangpal accepted that it was his mistake that he had not checked the licence and he was not aware that CCTV needed to be for 30 days not 14 days.
  - PC Mitchell confirmed that the shutters were shut when she went to the shop and she had lifted them to see the cigarettes. Mr Nangpal further explained that only one shelf with cigarettes was on display and demonstrated how he shut the shutters as they often jammed.
  - It was confirmed that Mr Jordan had only been involved with the application since yesterday. There had never been issues with the training he provided and he was not involved with Mr Nangpal's original training.
  - Mr Nangpal informed the Committee that it was not just about training but it was also about being in a position to implement the training and use it properly to avoid being carelessness like before. Mr Jordan confirmed that this training would be reinforced by Mr Nangpal taking the DPS exam and APHL course.
  - Mr Nangpal explained what he understood by the protection of children licensing objective and explained the significance of the challenge 25 scheme, proxy and group sales.
  - It was noted that after 6pm there would be two members of staff on the premises and all staff members would be trained.
  - PC Mitchell and PC Lane confirmed that it was shocking that the incident was repeated during Operation Nebula. PC Mitchell provided the Committee with some health statistics.
  - The first sale took place at 11:50 and the second sale took place at 10:48.

### ***Closing Submissions***

All parties in attendance were asked if they had any closing submissions.

Mr Jordan assured the Committee that Mr Nangpal would receive additional training and realised the consequences of further breaches of the licensing objectives. Hoped that Committee could see he is making steps forward and including the APL supervisor and the suspension would be minimal as everything would be in place before any suspension could even take place.

There were no further submissions from the Licensing Authority.

Trading Standards confirmed that they would be visiting the premises to provide Mr Nangpal with trading standard books to enable him to record refusal sales and training logs to enable him to record training provided to employees.

There were no further submissions from Lois King, the Licensing Officer.

During closing submissions, PC Mitchell informed the Sub-Committee that if there was the possibility to request a longer suspension, she would have done so. There seemed to be a lot of training offered and in this case three months would give Mr Nangpal time to get all the relevant training in place.

It was clarified that reference to punitive deterrence was really an opportunity for Mr Nangpal to "get his house in order".

## Committee Deliberation

All parties were asked to leave the room while the Sub-Committee considered its decision.

All parties were invited back into the room for the Chairman to announce the decision of the Sub-Committee.

### ***The Decision***

The Sub-Committee has had due regard to all the relevant representations made available to it and in doing so has taken into account the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, specifically 2.22, 11.2, 11.19, 11.23, 11.27, 11.28, 13.10 and s.5 licensing authority policy.

The Sub-Committee has taken into account its duty to take all steps necessary in order to determine the application in a manner which upholds the Licensing objectives and Licensing Policy.

The Licensing Sub-Committee considered it just and proportionate to determine that it is necessary and appropriate to suspend the Premises Licence for a three months duration.

The sub-committee gave very serious consideration to revoking the premises licence, but on balance the sub-committee considered that the licensing objectives were best upheld, by suspending the licence and attaching the following additional conditions to the licence:

1. There must be at least 2 trained adult members of staff on the premises from 18:00 hours (6 pm) hours to close of business, each day;
2. The Premises Licence Holder must attend and complete a Level 2 course operated by the BIAAB for DPS's within 3 months and pass the course, and provide the Council with a copy of his certificate on completion;
3. The Premises Licence Holder must ensure his staff are trained on Award for Personal Licence Holder (APLH) training by a course operated by the BIAAB, and pass the course;
4. All staff are to undergo 3 month intervals of refresher training for 1 year, in respect of the sale of all aged restricted goods and protecting children from harm (including awareness / prevention of proxy sales, signs and systems of intoxication, dealing with refusals of sales and any other confrontational behaviour from customers). Thereafter, all staff must attend refresher training every 6 months;
5. Products with above 35% volume must be stored behind the counter;
6. The business tills shall be fixed to the counter;
7. The counter shall be protected by a lockable door;
8. There will be a Challenge 25 policy operating at the premises. Challenge 25 means that the holder of the premises licence shall ensure that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises, shall produce identification proving that individual to be 18 years of age or older. The form of identification shall contain their photograph, date of birth and a holographic mark;
9. The Cigarette shutters are to be in working order at all times;
10. The CCTV shall be capable of recording a clear facial identification of all persons entering the premises by the main entrance door;

11. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public and must be able to produce/download/burn CCTV images upon request by a police officer or any authorised officer of the London Borough of Hillingdon. Any footage must be in a format that can be played back on a standard personal computer or standard DVD player, this is to replace the reference of 'the images shall be capable of being downloaded by staff in the shop on request', the rest of the conditions regarding the CCTV in the original premises licence are to be retained.
12. No sale of alcohol shall take place when the CCTV system is not fully in good working order.
13. An incident log shall be maintained to record all instances when the CCTV is not fully in good working order. The log will record the date the malfunction was noted, the date repair work was requested and the date that the repair work was carried out.
14. An incident log shall be kept with records of:
  - a. all refusals of sale of alcohol;
  - b. any complaints regarding crime, disorder and nuisance;
  - c. any authorisations to staff for the sale of alcohol;
  - d. any visit from the Local Authority;
  - e. All instances when the CCTV is not fully in working order.

The Premises Licence Holder shall ensure that the incident log is checked, signed and dated on a weekly basis by himself or an authorised employee acting in place of the Designated Premises Supervisor.

### ***Right Of Appeal***

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

The applicant for review, holder of the Premises Licence, or any other person who made relevant representations to the application may appeal against the Council's decision to the Justice Clerk at the Uxbridge Magistrates Court. Such an appeal may be brought within 21 days of receipt of this Notice of Decision. A copy of the appeal should be sent to the Council's Licensing Service.

Mr Nangpal will be deemed to have received the Decision Notice, two days after the date on the accompanying letter, which will be posted by 1st class mail.

The meeting, which commenced at 10.00 am, closed at 12.32 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Anisha Teji on 01895 277655. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

**The public part of this meeting was filmed live on the Council's YouTube Channel to increase transparency in decision-making, however these minutes remain the official and definitive record of proceedings.**