

Minutes

LICENSING SUB-COMMITTEE

5 February 2020

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



HILLINGDON
LONDON

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| | <p>Committee Members Present: Councillors Tejie Barnes (Chairman) Lynne Allen Allan Kauffman</p> <p>LBH Officers Present: Neil Fraser, Democratic Services Officer Daniel Ferrer, Licensing Team Manager Chantelle McLeod, Legal Officer Jhini Mukherjee, Licensing Officer Mark Gloc, Senior Trading Standards Officer</p> <p>Also Present: Graham Edwards, Licensing Sergeant (MET Police)</p> |
| 52. | <p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>None.</p> |
| 53. | <p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>None.</p> |
| 54. | <p>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 (<i>Agenda Item 3</i>)</p> <p>It was confirmed that all items would be considered in public.</p> |
| 55. | <p>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT (<i>Agenda Item 4</i>)</p> <p>None.</p> |
| 56. | <p>REVIEW OF THE PREMISES LICENCE IN RELATION TO BOTTLE N BREW OF 1A DAWLEY ROAD, HAYES, UB3 1LS (<i>Agenda Item 5</i>)</p> <p>Introduction by Licensing Officer</p> <p>Jhini Mukherjee, Licensing Officer at the London Borough of Hillingdon, introduced the report relating to the application for a review of a premises licence for the Bottle N Brew, 1A Dawley Road, Hayes UB3 1LS. A background and chronology of events was provided, wherein it was confirmed that the review had been brought by Trading Standards on the grounds of prevention of crime and disorder, following the seizure of</p> |

illicit tobacco and medicinal products from the premises.

The Licensing Officer recommended that the Sub-Committee suspend the premises licence for a period of 3 months, and apply conditions, as it was felt to be a proportionate response to the Licensee's failure to uphold the Licensing Objectives.

Representations by Applicant for the review – Trading Standards

Mark Gloc, Senior Trading Standards Officer, set out a chronology of events relating to the inspection of the premises carried out on 7 February 2019, which had resulted in the seizure of counterfeit cigarettes, rolling tobacco, and Sildenafil Citrate tablets. These items had been found in various hidden compartments and locations within the premises.

It was believed that the business had contravened the following trading standards legislations: the Trade Marks Act 1994 (possession of counterfeit tobacco); the Consumer Protections from Unfair Trading Regulations 2008 (possession of unlicensed medicines); the Tobacco and Related Products Regulations 2016 (possession of tobacco containing health warnings in languages other than English); and the Standardised Packaging of Tobacco Products Regulations 2015 (possession of tobacco not in standardised packaging).

The potential for serious public harm through selling unlicensed tobacco and medicinal products was highlighted.

Mr Gloc concluded by confirming that he supported the officer's recommendation that the Sub-Committee suspend the premises licence for 3 months and apply conditions to the licence.

Representations by Responsible Authorities - Metropolitan Police

Graham Edwards, Licensing Sergeant for the Metropolitan Police Service, confirmed that he supported the officer's recommendation that the Sub-Committee suspend the premises licence for 3 months and apply conditions to the licence.

Representations by Responsible Authorities – Licensing Authority

Daniel Ferrer, Licensing Team Manager, confirmed that the authority shared the views of the previous parties, and confirmed that a further visit to the premises had been undertaken by the Licensing Authority on 3 January 2020. This visit had resulted in further concerns, as detailed within the meeting papers.

Mr Ferrer concluded by stating that the Licensing Authority supported the officer's recommendation to suspend the licence for 3 months, though suggested that any conditions applied include further conditions to address the issues raised following the January 2020 premises visit.

Representations by Licence Holder and Licence Holder's representative

Mr Avtar Singh Malotra was present as the Director of the company which owned Bottle N Brew, and was supported by his representative, Mr Panchal.

Mr Panchal spoke on behalf of his client, confirming that they did not dispute the facts presented by the previous parties. However, it was suggested that this was a one-time mistake that would not be repeated moving forward.

The officer's recommendation that conditions be applied to the licence was supported, as the company understood the importance of upholding the licensing objectives. With regard to the suggested further conditions resulting from the premises visit in January 2020, the company had instigated a programme of staff training detailed within a training manual, and were also maintaining an incident log book.

With regard to the recommended 3-month suspension, it was argued that, if applied, this would result in significant financial hardship for the business. It was therefore requested that this be reduced to 1 month.

Mr Malotra apologised for the incidents, and requested a second chance to prove that the company could be responsible business owners.

The Sub-Committee requested confirmation of how long Mr Malotra had been involved with the business. Mr Malotra confirmed that he had obtained his personal licence in 2017, following training provided by Mr Panchal's service, since when he had been working at the premises.

Discussion

All parties discussed the matters at hand. Following questioning, the licence holder asserted that:

- All employees were now required to undergo a 1 hour training session, with further training offered through Mr Panchal;
- Section 57 notices were now displayed in the premises;
- All employee Right To Work documents were being checked and secured prior to starting employment;
- Mr Malotra did not have any medical training that would allow him to safely administer medicines such as Sildenafil Citrate tablets;
- All purchases moving forward were being made from VAT registered stores, with VAT receipts retained;
- The licensing objectives would be upheld, with specific reference to the legal sale of alcohol;
- No staff would be at the point of sale without having undergone the requisite training; and
- Mr Malotra worked and was present at the premises throughout each day, except for those times when he was away purchasing stock. In such instances, other staff were left in charge at the premises. Staff could be asked to apply for their own personal licences, if required.

The Sub-Committee expressed their serious concerns that the premises owners would ever choose to buy and sell counterfeit goods. In response, Mr Malotra reiterated his apology and asserted that this would not happen again.

Closing remarks

Mr Panchal spoke on behalf of his client, confirming that the business would abide by any suspension or conditions mandated by the Sub-Committee, and would ensure that the licensing objectives would be upheld in full moving forward.

Mr Malotra again apologised to the Sub-Committee and requested that the company be given another chance to prove that they could be responsible business owners.

Mr Ferrer confirmed that, having now heard directly from Mr Malotra, he continued to have concerns, with particular reference to the quality of training being undertaken by staff at the premises and Mr Malotra's suitability to be involved with the business. Mr Ferrer expressed his concern that a suspension of 3 months would not be sufficient to allow the business to install sufficient measures to ensure that the licensing objectives would be upheld. Mr Ferrer concluded by stating that, if the business was allowed to continue trading, the Licensing Authority would ensure that regular inspections were carried out.

Mr Edwards confirmed that he felt that a 3 month suspension of the licence was the minimum that should be applied in this instance. Mr Edwards echoed Mr Ferrer and confirmed that, if the business was allowed to continue trading, the Metropolitan Police would ensure that regular inspections were carried out.

Neither Mrs Mukherjee nor Mr Gloc had anything further to add.

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 listened to all representations made in light of the responsible authority's recommendation to suspend the premises licence and impose further conditions.

The Sub-Committee considered all the relevant evidence made available to it and in doing so took into account the:

- **Licensing Objectives, Licensing Act 2003;**
- **Hillingdon's Licensing Policy, Paragraph 7.4, 7.6, 9.6, 9.7, 9.8, 10.5 and 10.11 and;**
- **Guidance issued by the Secretary of State and in particular paragraphs 9.42 to 9.44, 10.8, 11.27 and 14.19.**

The decision of the Sub-Committee was to:

- **Suspend the licence for a period not exceeding three months**
- **Impose 20 conditions on the operating schedule**

Reasons:

Whilst all licencing objectives are regarded as of equal importance, the nature of this application directly related to upholding the crime and disorder objective.

The Sub-Committee carefully considered the representations made by:

- The applicant (Trading Standards)
- The Metropolitan Police (as responsible authority) who support the applicant

- The Licensing Authority (as responsible authority) who support the applicant
- The Licensee

In line with the Licensing Act and prescribed guidance, the Sub-Committee noted that matters relating to smuggled goods should be treated seriously by Licensing Authorities.

The Sub-Committee takes business operators indulging in the trade of illicit goods very seriously and as such, Members also considered the possibility of revoking the premises licence. However, the Sub-Committee took into consideration the applicant's recommendation and decided to suspend the licence for three months with the addition of 20 conditions.

The Sub-Committee were particularly concerned that the licence holder (who is not medically trained) had not only sold contraband goods but had also sold unlicensed medication without health warnings, which could have had disastrous implications on unsuspecting members of the public.

The Sub-Committee had serious reservations about the quality of training given and the proposed training that the licensee wished to undertake, and therefore urged the responsible authorities to undertake regular visits to ensure training is properly being carried out in the future.

As such, the Sub-Committee determined that a suspension of the premises licence would not only serve as a deterrent, sending a clear message to all but also enable the licence holder to resolve the issues with the current operating schedule.

Conditions:

In addition to the Mandatory Conditions, the Premises Licence Holder shall also comply with the following Conditions:

Prevention of Crime and Disorder

1. All alcohol and tobacco products will be purchased from established and bona fide VAT registered traders who provide receipts and invoices.
2. Invoices of all stock will be kept on file for a minimum of 12 months and will be made available to Police Officers, HMRC Officers and authorised local authority officers (including Trading Standards Officers) upon request.
3. The premises license holder shall ensure that CCTV camera and recorders are installed at the premises and are of a standard acceptable to an approved by the police.
4. The system shall be maintained in good working order and at all times the premise is open to the public, be fully operational covering both internal and external areas of the premises to which the public have access. All images should be stored for a minimum of 31 days.
5. The CCTV views are not to be obstructed, at least one CCTV camera is to be placed near to the exit in order to capture clear facial images of all patrons leaving the premises.
6. A suitable trained staff member will be able to show and provide police or council licensing officers recent data footage with the minimum delay when requested.
7. All staff employed at the premises will have UK right to work status checked, once passed that stage they shall be offered employment.
8. All staff shall be trained in relevant age restrictions in respect of products, recognising signs of drunkenness, how to refuse service, the premises' duty of

care, action to be taken in the event of an emergency, including the preservation of a crime scene and reporting an incident to the emergency service, the conditions in force under this licence.

9. Documented records of training completed shall be kept for each member of staff. Training records shall be made available for inspection upon request by a police officer or an authorised officer of the London Borough of Hillingdon.
10. All staff who are to be at the point of sale and serving customers undergo the requisite training to be granted a personal licence for the sale of alcohol

Public Safety

11. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in a good condition and full working order.
12. Fire exit signs displayed.
13. To comply with all current, fire, health and safety laws.
14. CCTV working at all times.

The Prevention of Public Nuisance

15. Strict policy in place to tell all staff not to serve alcohol to drunks at all.
16. Appropriate signage will be displayed, in a prominent position informing customers they are being recorded on CCTV.

The Protection of Children from Harm

17. A challenge 25 policy will be in force, where any person looking under the age of 25 shall be asked to prove their age when attempting to purchase alcohol and signs to this effect will be displayed at the premises.
18. Challenge 25 posters displayed where alcohol is sold.
19. The only acceptable ID will be those with photographic identification documents; including passport, photo-card, driving licence or proof of age card bearing the PASS hologram.
20. An incident/refusal log shall be kept at the premises, and made available for inspection on request to an authorised officer of the council of the police which will record the following:
 - a) All crimes reported at the venue;
 - b) Any complaints received, any faults in the CCTV system;
 - c) Any refusal or the sale of alcohol, any visit by a relevant authority;
 - d) CAD reference number where the police are called.

Right of Appeal

The relevant applicant for the premises licence or any other person who made relevant representations to the application may appeal against the Council's decision to the Justices Clerk at the Uxbridge Magistrates Court. Such an appeal may be brought within 21 days of receipt of this Notice of Decision.

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 Sub-Committee advises as a comfort to residents and a warning to the licensee that the licence may be reviewed and could potentially be revoked if licence conditions are not adhered to and/or if the premises are managed in a manner which does not uphold the licensing objectives

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| The licensee will be deemed to have received the decision two days after the date on the accompanying letter, which will be posted by 1st class mail. |
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| The meeting, which commenced at 10.00 am, closed at 11.45 am. |
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These are the minutes of the above meeting. For more information on any of the resolutions please contact Neil Fraser on 01895 250692. 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.