LICENSING SUB-COMMITTEE

Wednesday 18 January 2017 at 7.00 pm

MINUTES

PRESENT: Councillor Jennie Mosley, Councillor Fred Cowell and Councillor Imogen Walker

APOLOGIES:

ALSO PRESENT:

1 ELECTION OF CHAIR

MOVED by Councillor Jennie Mosley, SECONDED by Councillor Imogen Walker

RESOLVED: That Councillor Fred Cowell chair the meeting.

Councillor Cowell confirmed that the Temporary Event Notice for The Golden Goose (item 5a) would be considered first.

2 DECLARATION OF PECUNIARY INTERESTS

None were declared.

3 MINUTES

RESOLVED: That the minutes of the previous meetings held on 6 December, 15 December and 21 December 2016 be approved and signed by the Chair as correct records of the proceedings.

5 CONSIDERATION OF OBJECTION TO TEMPORARY EVENT NOTICE

5a THE GOLDEN GOOSE, 146-148 CAMBERWELL NEW ROAD, LONDON SE5 0RR

Special circumstances justifying urgent consideration

A meeting of the Licensing Sub-Committee had been convened as a result of an objection raised by the Council’s Community Safety Area Team regarding a Temporary Event Notice (TEN). Section 105 (2)(a) of the Licensing Act 2003 (part 5) required a minimum of two days’ notice to be given. The event was due to take place on 29 January 2017.
The Chair was of the opinion that although the meeting has not been convened with at least five clear days' notice, it should proceed now as a matter of urgency to consider the objection to the TEN because of the special circumstances of the need to comply with the statutory requirements of the Licensing Act 2003.

The meeting will progress in accordance with the following procedure:

- Licensing Officers will present the report. Members will ask any questions that need clarifying.
- The Police/Noise officer will then give evidence; Members will ask any questions that need clarifying.
- The applicant will then make a presentation; Members will ask any questions that need clarifying.
- After all queries have been answered by all parties, the Sub-Committee will adjourn to deliberate in private.

**Presentation by the Licensing Officer**

The Sub-Committee was informed that a Temporary Event Notice (TEN) had been given and the Sub-Committee was being asked to consider objections received by the Council’s Community Safety Area Team. The Sub-Committee’s attention was drawn to Chapters 7, 9 and 15 of the Statutory Guidance, and to Sections 5, 6, 8, 14 and Appendices 6, 7 and 9 of the Statement of Licensing Policy, as the ones particularly relevant to this application. The options available to the Sub-Committee were set out in paragraphs 5.7 to 5.10 on page 5 of the fourth despatch agenda papers.

The Licensing Sub-Committee noted that:

- This was an application for a TEN for The Golden Goose. The application had been submitted on 13 January 2017 for an event scheduled for Sunday 29 January 2017;
- The application was to extend the current permitted hours from 1.30am to 3.30am for no more than 120 persons;
- The event was for the provision of recorded music, late night refreshment and the supply of alcohol. The notice was attached at Annex A, pages 11 to 18 of the fourth despatch agenda;
- This was the second TEN submitted for this calendar;
- Objection to the TEN had been received from the Council’s Community Safety Area Team based on the licensing objective of the prevention of public nuisance. This representation could be found as Annex B on page 19 of the fourth despatch agenda.
- The current premises licence for the venue were outlined from pages 21 to 35 of the fourth despatch agenda.

Map and photographs of the premises were circulated to members.

**Presentation by the Applicant**

Mr Calvin McClean, Community Safety Area Manager, informed the Sub-Committee that:

- A TEN had been previously submitted for an event at the premises during the weekend of 7 to 8 January 2017 until 3.30am. During that event, residents contacted a councillor to complain about nuisance they had experienced in the
course of that event. The councillor subsequently raised these concerns with the Community Safety Team;

- An application had been made to vary the premises licence to 3.30am which was opposed by the Community Safety Team, other responsible authorities and local residents and was subsequently withdrawn by the premises;

- The Community Safety Team’s objection was based on concerns about public nuisance, as there had been a short time since those complaints had been made and insufficient time for Community Safety to take appropriate steps to work with the premises licence holder to address the issues raised. As a result, he feared that public nuisance would be caused if the event went ahead, as recent information demonstrated that late opening of the premises had caused noise nuisance within the locality;

- The Sub-Committee might be minded to add conditions to the licence for the event to proceed. However, as conditions on the licence did not anticipate or provide for the late opening of the premises, he felt that no additional conditions could be imposed on the TEN which would give members sufficient confidence that no nuisance would be caused;

- He recommended the Sub-Committee to issue a counter notice on this occasion so that the event could not go ahead.

In response to questions from Members, Mr McClean confirmed:

- An email from the councillor had been forwarded to Community Safety from the Licensing Team that described people screaming and shouting on the streets at 3.30am and which was linked to the event that occurred at The Golden Goose on 7-8 January 2017;

- Residents were convinced that the nuisance emanated from patrons attending The Golden Goose as it disturbed their sleep;

- The licence application made to vary the licence to 3.30am was withdrawn by the applicant before it was due to be heard by the Sub-Committee. However, the licensing policy outlined the preferred terminal hour for pubs in that location, which the application proposed to go outside. Although the preferred hours in the policy were not prescriptive, it served as a good indicator and the hours set so as to prevent nuisance.

**Presentation by the Premises Licence Holder**

Mr Shahid Mirza, Premises Licence Holder of The Golden Goose, informed the Sub-Committee that:

- He wanted to apologise for the noise disturbance caused to residents following the event on 7-8 January 2017;

- After conducting a risk assessment of the premises, the following improvements had been made:
  - He had consulted an Acoustic Engineer who had provided advice on sound;
  - The sound limiter had been lowered to 80 decibels;
  - He had purchased a portable noise detector;
  - He was awaiting a visit from the council’s noise officers to help regulate the sound limiter
  - The use of microphones would be restricted after 1.00am
  - Soundproofing works to the double doors
  - He had or would review his SIA security and Marshalls arrangements so as
to ensure that doors remain closed during events;
  o He had implemented a robust dispersal policy to prevent further issues
• In relation to the measures outlined above, he was confident that no further complaints from residents would arise.

In response to questions from Members, Mr Mirza confirmed that:
• SIA security was present at the event held on 7 and 8 January 2017;
• The event held was for a private birthday party for 60 people and he made sure that persons dispersed quietly from the premises. However, he would continue to ensure that persons left quietly for future events to prevent issues;
• He had engaged another security company to ensure that the premises operated properly;
• He believed that the loud bass music and microphone was responsible for the noise nuisance caused at the previous event, as well as dispersal issues. However, to prevent further issues, he would ensure that the noise limiters were in operation and no microphones would be used after 1.00am. Also he would ensure that SIA staff and Marshalls travelled with patrons to ensure they dispersed quietly and were away from the premises without disturbing neighbours;
• He still awaited a visit from noise officers regarding the sound limiter, as he wanted confirmation from Community Safety that the 80 decibels limit set was sufficient to address any potential noise nuisance. He had therefore not liaised with any residents regarding the measures he had implemented;
• Last year he had applied for eight TENs.

In response to a further question from Members, Mr McClean confirmed that:
• In terms of music levels, no legal limit existed. There was a need to consider the appropriate sound limit which needs to be done in conjunction with the Council;
• With the limited time available, officers did not have sufficient time to address some issues;
• He never had sight of the dispersal policy for the premises;
• Whilst he appreciated that Mr Mirza accepted and demonstrated that appropriate measures were required, no evidence existed to show that they were being carried out. Therefore, for the time being, he could not be confident that further disturbance would not be caused.

Adjournment and Decision

At 7.22pm, the Sub-Committee withdrew from the meeting together with the legal advisor and clerk to deliberate in private.

The Sub-Committee had heard and considered representations from Mr McLean, and Mr Mirza.

Legal advice was given to the Sub-Committee on the options open to them and the need for any decision to be proportionate. The Sub-Committee decided to issue a counter-notice.

RESOLVED: To issue a counter-notice to prevent the event going ahead.
Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to issue a counter notice. The Sub-Committee had considered all the options available to them and ultimately felt that the Licensee had not met the concerns which had been raised about the holding of the proposed event. The Sub-Committee therefore resolved to issue a counter notice which meant that the event could not take place.

4 LICENSING APPLICATIONS FOR THE GRANT / REVIEW OF A PREMISES LICENCE

4a PREMIER, 91-93 JEFFREYS ROAD, LONDON SW4 6QA (LARKHALL WARD)

This application was withdrawn by the applicant.

4b SUPERWAY EXPRESS, 344 KENNINGTON LANE, LONDON SE11 5HY (PRINCE’S WARD)

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a review of the current premises licence. The Sub-Committee’s attention was drawn to Chapters 2, 3, 9, 10 and 11 of the Statutory Guidance, and to Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 19 and 20 of the Statement of Licensing Policy, as the ones particularly relevant to this application. The options available to the Sub-Committee were set out in paragraph 5.10 of the report on page 48 of the agenda papers.

The Sub-Committee noted that:

- This is a review application brought by the Metropolitan Police for a revocation of the licence for Superway Express, 344 Kennington Lane;
- A copy if the application referenced as Annex A can be found on pages 87-96, main agenda pack;
- Supporting documents from the review applicant can be found as Annex B on pages 97-147, main agenda pack;
- 18 representations supporting the application had been received. Three from Lambeth Licensing Service, Trading Standards and Public Health; one on behalf of three ward councillors and, the remaining 14 from local residents. Copies can be found on pages 148-173, main agenda pack;
- Representations against the review listed as Annex D on pages 175-76, main agenda pack;
- The current premises licence and plans listed as Annex E on pages 177-184, main agenda pack;
- The Metropolitan Police had supplied two additional documents which had been circulated as a second and third agenda despatch, which provided details of additional incidents;
- The Premises Licence Holder was being represented by Mr David Dadds, Solicitor.

Maps and photographs of the premises were circulated to Members.
Presentation by the Applicant

Mr James Rankin, Barrister, representing the Police, informed the Sub-Committee that:

- This was the third review submitted in relation to the premises, with the others being heard by the Sub-Committee on 30 August 2012 and 18 September 2014 respectively, where conditions were imposed. As a result, the Police felt that the licence should be revoked;
- PC Duggan’s statement clearly outlines the issues associated street drinkers and anti-social behaviour issues at Vauxhall Pleasure Gardens late at night;
- The premises had comprehensively continued to breach its licence;
- Sergeant Smith’s narrative on page 91 of the main papers, clearly detailed the history of incidents associated with the premises where Police had great concerns, irrespective of whether they were breaching their licence, serving to drunk people, or employing illegal workers, a long running systematic breach of their licence had occurred;
- Following a visit by the Police on 29 May 2016, a meeting was held at Brixton Police Station on 15 June 2016, where the issues had been discussed with Mr the Premises Licence Holder. However, the Premises Licence Holder, Mr Awan, appeared to ignore any advice given by the Police;
- On 15 October 2016, despite the premises being warned by the police not to serve alcohol to drunk people, the same offence was committed by someone at the premises within 90 minutes, which lead to a second Penalty Notice for Disorder for a breach of section 141 of the Licensing Act 2003 being issued. Similar incidents were witnessed on 22 October and 29 October respectively;
- Although an application had been made to review the licence, additional Police statements of 1 and 11 January 2017 outlined further incidents of anti-social behaviour issues as a result of intoxicated individuals being served alcohol from Superway Express at 3.00am and 5.40pm;
- As additional conditions or a reduction in hours would not be appropriate, the licence should be revoked.

In response to questions from Members, PC Robinson, Safer Neighbourhood Officer, confirmed that:

- The persons loitering outside the premises on 1 January 2017 at 3am were connected to the shop;
- The individual were known by Police to have caused anti-social behaviour in the area.

Presentation by Other Interested Parties

Mr Bernard Conmy, Trading Standards Officer, Lambeth Community Safety Service, said that:

- Following a previous review of the licence, conditions had been imposed which should be complied with. If not, the licence should be revoked;
- On 26 May 2016 following a visit to the premises where Mr Awan, the DPS was present, he found five 70cl bottles of Teachers Highland Cream blended Scotch whisky displayed for sale behind the counter which he established were duty diverted. This occurs when the goods are brought for export and the export labels on those bottles removed and replaced with both fake labels ones and duty stamp. Those bottles are then sold for cash at smaller outlets;
The UK HMRC duty on a bottle of Scotch was about £9, which resulted in the shop and criminals making a profit;

On being questioned, Mr Awan replied that the stock in question had been inherited from the previous owner. The goods were confiscated;

Three over strength bottled alcohol products of Guinness Foreign Extra and Dragon Stout, 7.5% abv were also found. Mr Awan was shown Annex 3, condition of his premises licence which states that “no supply of beers, ales, lagers, ciders or similar of 6% abv or above” should be sold”. Mr Awan replied that he believed the condition related to 500ml cans and not bottles. Those products were also removed;

Mr Nabeel was found to be working at the shop and immigration checks found that he was an immigration absconder and did not have the right to work in the UK. This was in Mr Conmy’s submission, a serious offence which by itself could lead to the premises licence being revoked.

On 2 November 2016, another visit was conducted at the premises, following concerns from the local Police regarding street drinking. Mr Faisal Tufail was the only staff member on the premises, who confirmed that he was paid Disability Living Allowance (DLA) a social security benefit to eligible claimants who had personal care and/or mobility needs as a result of a mental or physical disability. It was tax-free, non-means tested and non-contributory. However, he had been left to manage the shop;

A bottle opener was found behind the counter and Mr Tufail admitted he opened customer’s beer bottles for them;

Three over-strength bottles of Guinness Foreign Extra and Leffe Blond Beer 6.6% abv were found. He pointed out the breaches to Mr Tufail and advised him to inform Mr Awan that the bottles should be removed from sale;

Mr Tufail could not operate the CCTV system or Business Crime Reduction Partnership radio;

The venue had employed two persons who did not have the right to work in the UK, with one being an immigration absconder and second person claiming DLA;

During the past 5 months, the venue had failed to comply with its licensing conditions and for those reasons, he urged the Sub-Committee to revoke the licence.

In response to questions from Members, Mr Conmy confirmed that:

- On each visit, he had been unable to view the CCTV footage;
- In relation to the November 2016 visit, he had been informed by Mr Tufail that Mr Awan was not contactable and he had not spoken to him;
- Regarding the breaches that occurred on 26 May 2016, he believed that his comments had not been followed-up by Mr Awan.

Mr Robert Gardner, Licensing Manager, said that in light of the evidence supplied by the Police and Trading Standards, he supported the suggestions made that the licence should be revoked.

In response to a question from Members, Mr Gardner confirmed that he believed no further conditions could be imposed on the licence.
Ms Carolyn Sharpe, representing the Director of Public Health said that:

- The 24 hour licence at the premises was no longer considered suitable by Public Health in Lambeth. As the premises had breached all four licensing objectives on numerous occasions, it could be argued that the premises was no longer exemplar as was required in the Licensing Policy for a 24-hour licence;
- A 24-hour licensed premises did not promote responsible drinking, which disproportionately affected intoxicated persons; individuals with alcohol problems, or persons who had an intention to become intoxicated;
- In relation to the licensing objectives she explained that:
  - Prevention of crime and disorder, protection of public nuisance and, protection of public safety – considerable evidence and scientific literature existed that showed late-night opening off licences were either crime generated, as intoxicated individuals tended to congregate and drink on the street, which has occurred at Superway Express. This had a negative effect on the community which could be intimidating for residents. The venue had breached multiple conditions on its premises licence, in particular, selling high strength alcohol products which attracted street drinkers and caused intoxication;
  - Prevention of children from harm – she expressed concern regarding the underage sales that had occurred at the premises and that the venue was popular with children and young people
- It was clear from the evidence presented and the breaches of the licensing conditions, that the venue was not to be considered exemplary;
- Public Health had concerns regarding the management of the premises and supported the view that the licence should be revoked.

In response to questions from Members, Mr Gardner and Ms Sharpe confirmed that:

- There were over 90 licensed premises in Lambeth that had a 24-hour licence, with most being off-licences;
- A venue that restricted the sale of single cans to prevent intoxicated persons to prevent further alcohol misuse problems and a venue that operated within its licensed conditions without no breaches, would be considered as a good exemplary business.

Presentation by the Premises Licence Holder

Mr David Dadds, Solicitor, for the Premises Licence Holder, Mr Awaan, raised objection to the three minutes allowed for him to present his case. As all other parties had 15 minutes in total, he believed the three minutes was disproportionate as this was insufficient to raise all his points.

The Chair confirmed that Members had read all the paperwork in depth in relation to the premises. Also all parties were given three minutes to present their case with questioning asked order for parties to elaborate on any specific details. Therefore, in fairness to all parties, the three minutes suggested would remain. However, Mr Dadds would be given the opportunity to expand upon points he had during questioning by the Sub-Committee.

Mr Dadds, then informed the Sub-Committee that:

- The issues regarding the premises appears to be intoxication of persons, breach of the premises licence and illegal workers;
- The reviews heard in 2012 and 2014 related to the previous Premises Licence
Holder and it was inappropriate to hold Mr Awaan responsible for those matters, as each application should be considered on its own merits;

- Regarding intoxication, the Licensing Guidance was clear that everyone was innocent until proven guilty. Fixed penalty notices were not a conviction and the Premises Licence Holder in relation to the fixed penalty notices, had appealed the decision which would be challenged by the courts;
- The Sub-Committee should not establish whether Mr Awaan was innocent or guilty, as this was a matter for the courts;
- Some of the breaches to the conditions had now been addressed as Dadds Solicitors had carried out a full compliance licensing visit to the premises;
- The Premises Licence Holder had no knowledge that the worker employed at the premises was illegal as he was PAYE, had a national insurance number and held a personal licence issued by the local authority. Hence the reason why the premises though he was able to work;
- Regarding the other staff member found on the premises on 2 November 2016, he also held a personal licence. It was not illegal to employ a person who was entitled to work, as it was that individual’s responsibility to inform the relevant authorities;
- Mr Awaan refutes selling single cans to individuals, as he had reminded staff members that only four cans must be sold, which was believed had been implemented;
- In relation to the times that the above incidents had occurred, since December 2016, the sale of alcohol had been restricted between the hours of 5am-9am which he suggested could be added onto to the licence as a condition.

In response to questions from Members, Mr Dadds confirmed that:

- The Premises Licence Holder refutes that two single cans had been sold at the premises, as cans were only allowed to be sold in packs of four;
- Regarding the incidents of alcohol being sold to intoxicated individuals on 15 October 2016, Mr Awan refuted that the person was intoxicated. However, as the suggestion had been made that a single can sale had occurred, evidence suggested that this was not the case, as the shelf for that alcohol product showed that no single cans had been sold. It was disputed that the premises had permitted the sale of alcohol to an intoxicated person and those matters would be defended in court;
- The premises licence holder believes he was competent to identify intoxicated persons and has never been cautioned for this;
- Some individuals might make claims that they purchased alcohol from the premises when this was not the case;
- The premises endeavoured to ensure only lawful entitled persons were served alcohol. However, the decision not to serve alcohol from 5am-9am would stop allegations being made regarding the premises;
- As a licence already existed for the premises, it was for the responsible authorities and the applicant to show from evidence under section 9.42 of the Statutory Guidance that the licensing objectives had been undermined. As the premises had not been convicted of a crime, and disputed the allegations made of serving intoxicated individuals, in October 2016, the premises would be considered exemplary by not serving alcohol from 5am-9am;
- The premises had instructed a member of staff from Dadds Solicitor to deliver staff training and all training records were up-to-date;
- There was only one occasion when Mr Conmy visited the premises that the CCTV
could not be shown to him. However, this had been rectified and the premises complied with all its conditions;

- The Premises Licence sold no single cans but on speaking to staff Mr Awan believed that only four cans had been sold;
- During the last six months 4-5 test purchases had been carried out and all, except one, had been passed at the premises;
- The Premises Licence Holder always ensured when he was present at the shop, that a minimum of only four cans were sold.

At this point, in response to a question from Members, the Legal Adviser to the Sub-Committee confirmed that this hearing was not intended to be conducted as if it were a tribunal or court hearing. The Sub-committee was expected to make an administrative decision and as such were expected to make findings on the evidence it heard on the civil standard i.e. on the balance of probabilities and not the criminal standard of beyond all reasonable doubt.

Mr Dadds further clarified that in relation to the Statutory Guidance, the Sub-Committee should not try to establish guilt or innocence but to determine the matter on a balance of probabilities. Guilt or innocence was a matter to be established in a court of law.

In response to a concern raised by Mr Dadds, the Chair emphasised the need for all parties to conduct themselves in an appropriate manner in relation to the hearing.

In response to further questions from Members, Mr Dadds confirmed that:

- He acknowledged that there was issues that needed to be addressed by the premises but he felt that he did not have sufficient time to discuss them;
- On 22 October 2016 a group of young individuals had left a licensed premises and were waiting at the bus stop and purchased goods but were not intoxicated. The alcohol was only confiscated by the Police as they were situated within a Controlled Drinking Zone;
- Regarding the incident on 11 January 2016, although the person was well-known by the Police, the premises was confident that that person was not intoxicated when he was served alcohol. There was no indication that the individual would have consumed the alcohol he had purchased on the street, as he had informed Mr Awan that he was taking the alcohol home. No suggestion had been made by the Police that the person had caused anti-social behaviour. Therefore, it was not accepted that the licensing objectives had been undermined by the premises;
- Mr Awan believed that all stock at the premises, including the duty diverted alcohol found on 26 May 2016 was genuine, as all Cash and Carry receipts for goods had been produced. Therefore, he believed that the explanation given by the Mr Awan to Mr Conmy was reasonable. The premises had since then been fully inspected by Trading Standards but nothing had been found;
- In response to the representations received, Mr Dadds felt that residents were referring to the wrong premises as they were not in close proximity to the venue. Also, the representations appeared to be generic and none of those that had submitted representations had attended the hearing.
- The bottle opener found at the premises on 2 November 2016 was provided only to open soft drink and not alcohol;
- The Premises Licence Holder always asked customers whether they tended to take the alcohol home before it was sold. However, Mr Awan would be willing to display a notice in the shop reminding customers that they were in a Controlled
Drinking Zone and street drinking was not allowed.

Adjournment and Decision

At 8.36pm, the Sub-Committee withdrew from the meeting together with the legal advisor and clerk to deliberate in private.

The Sub-Committee had heard and considered representations from Mr Rankin, Mr Conmy, Mr Gardner, Ms Sharpe and Mr Dadds on behalf of Mr Awaan, Premises Licence Holder.

Legal advice was given to the Sub-Committee on the options open to them and the need for any decision to be proportionate. The Sub-Committee decided to grant the review and revoke the licence.

The Sub-Committee had heard from all parties and considered all of the written submissions regarding the premises. The Sub-committee had reviewed the applicant’s submission and heard from the Premises Licence Holder’s Solicitor, Mr Dadds including over 40 minutes of direct questioning of him. The Sub-Committee was mindful that this was the third review of these premises and that it had to consider the application on the facts presented. The Sub-Committee decided to grant the review and revoke the premises licence.

RESOLVED: To grant the review and revoke the licence.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the review and revoke the licence. The Chair confirmed that written notification of the decision and the reasons for that decision would be sent in due course.

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a review of the current premises licence. The Sub-Committee’s attention was drawn to Chapters 2, 3, 9, 10 and 11 of the Statutory Guidance, and to Sections 1, 5, 6, 8, 10, 11 and 19 of the Statement of Licensing Policy, as the ones particularly relevant to this application. The options available to the Sub-Committee were set out in paragraph 5.10 of the report on page 48 of the agenda papers.

The Sub-Committee noted that:

- This was an application to review the premises licence for Ayaan Halal Meat (T/A Presco Food and Wine), 152 Stockwell Road;
- The review was submitted by the Police following an allegation that the premises had been found to be stockpiling goods including alcohol, that had been stolen;
- Miss Monika Agnieszka Rokosa, Premises Licence Holder and Designated Premises Supervisor (DPS) was accompanied by Jamil Hussein, Azar Iqbal,
Gulam Qureshi and Tariq Mahmood;

- Three representations had been received from the Licensing Authority, Trading Standards and Environmental Health (Community Safety), supporting the review. They had all recommended that the licence should be revoked. Copies of the representations can be found on pages 221-248 of the main agenda papers;
- Details of the application together with supporting documentation were outlined on pages 191-219 of the main agenda papers;
- The options available to Members were contained on page 188 of the main agenda, paragraph 6.1 of the report.

Maps and photographs of the premises were circulated members.

**Presentation by the Applicant**

Mr James Rankin, Barrister, for the Police informed the Sub-Committee that:

- Miss Rokosa had been the premises licensee for almost three years;
- The premises had not became known to the Police except for the allegation where it had been found on 12 January 2016 that the premises had breached its licence and the matter had been brought to the attention of the Premises Licence Holder;
- On 17 October 2016 following a tip-off, the Police entered the premises to execute a warrant. The area was associated in particular, with drug addicts who stole alcohol from licensed establishments and sold them off to other off-licences, where they are then re-sold
- At the premises, the Police found a range of items that were not associated with the premises. One of the bottles of legal stock still had a security cap but an attempt had clearly been made to remove the cap and there were evident scratches on the cap which confirmed this. Also, two bottles of wine were found in the fridge with dents to the caps which again indicated that the security caps had been present on those bottles;
- Further items had been removed which clearly were the property of other licensed establishments that were being offered for sale at the premises;
- The previous Premises Licence Holder, Mr Abid Hussain, when interviewed by Police confessed to purchasing thirteen Dairy Milk 200g Turkish Delight bars and other chocolate;
- When Ms Rokosa was interviewed under caution by Police on 12 December 2016, she denied knowledge of the incident but confirmed that Mr Hussain had been dismissed;
- In these types of cases, it was not unusual that a staff member would be singled out for blame and dismissed;
- The Statutory Guidance recommends that for cases of this nature, that involved crime, revocation in the first instance, should be considered.

In response to questions from Members, Sergeant Smith confirmed:

- Following Mr Hussain’s admission he was cautioned in relation to the chocolate found at the premises;
- Officers did not make any enquiries as to which store the alcohol had been obtained from as the shop could clearly identified be from the label;
- No prosecution had been brought by the Police in relation to the stolen goods found at the premises.
Mr Bernard Conmy, Trading Standards Officer, Lambeth Community Safety Service, said that:

- As a result of local Police concerns regarding street drinking issues in Stockwell, he carried out an inspection at the premises and 11 alcohol products over the 5.5% abv limit as conditioned on the licence was located;
- He spoke to Miss Rosa, DPS regarding the breaches of the conditions and she was issued with a Trading Standards Notice;
- On Monday 17 October 2016, he assisted the Police with an inspection following an execution of a search warrant for stolen goods. At the premises the he identified bottles of supermarket wine that still had its security cap attached;
- He believed that the goods where shop lifted and being sold for cash by drug addicts in order to feed their habit. This not only failed to support the crime and disorder objective but it engaged in criminal activity as handling and selling stolen goods encouraged drug addicts to further shop lift to support their habit;
- Two further alcohol products over 5.5%abv were again found at the premises contrary to their conditions;
- Staff were unable to work the CCTV equipment;
- Therefore, over the past 18 months, despite being warned, the venue failed to comply with its licensing conditions and the licence should be revoked.

In response to questions from Members, Mr Conmy confirmed:

- Following his visit on 12 January 2016, he had called Ms Rokosa, as she was away from the premises on that day. She kindly agreed to attend the premises, where the breaches were discussed and Trading Standard Notice issued. She was warned that if no significant improvement had been made, then she risked the premises being reviewed;
- On 17 October 2016, he noted that Miss Rokosa appeared to be operating an arm’s length supervision of the premises, as Mr Husain was managing the premises by himself, although it was her legal responsibility to ensure that the premises was being managed properly;
- Miss Rokosa was connected to other licensed establishments in Lambeth, as he had personally seen her at another venue.

Mr David Lingard, Community Safety Area Manager, said that:

- Community Safety requested revocation of the licence as the business received stolen property;
- There was a need to consider that a member of the community contacted Police regarding the venue, which resulted in an investigation and stolen goods being recovered;
- The business appeared to be routinely engaged in receiving and selling stolen property. They were risking the livelihood, profit and expense of neighbours and the locality which was not welcomed in the community;
- Although the Premises Licence Holder might make representations that the premises had changed, nevertheless, history showed that the business constantly failed to promote the licensing objectives;
- The visit conducted by Mr McLean on 26 November 2016 was made during the consultation review period. Therefore, it was expected that the Premises Licence Holder would have been more diligent in running the business, instead of selling
alcohol past their terminal hour.

In response to questions from Members, Mr Lingard and Mr McLean confirmed that:
- On execution of the warrant, Police found a variety of goods from neighbouring businesses in the community, which, on the balance of probabilities, had been stolen from various supermarkets, including chocolate bars.
- The premises created a market for the appropriation of goods and therefore the licence should be revoked;
- In relation to the sale of alcohol after hours on 26 November 2016, Mr McLean reiterated that he was sold two cans of lager (produced for Members) despite the venue knowing of the impending licensing hearing regarding their licence. He did not consider this to be a one-off incident as the staff member when asked how much the beer was, replied “two-twenty, for you 60p discount”. Therefore, even if conditions were added onto the licence, he had no confidence they would be adhered to;
- Mr McLean stated that as the alcohol was branded this should have triggered the premises to question those individuals about the provenance of those products. Therefore, he advised that this was not a one-off incident but this was the only occasion the venue had been caught selling stolen goods.
- Mr McLean added that a prosecution was not required in order to engage the licensing objective of crime and disorder but Members needed to be satisfied on the balance of probabilities that the goods had been stolen which appears to be the case.

Mr Robert Gardner, Licensing Manager, said that:
- Evidence clearly showed that the premises had been handing stolen goods and selling bottles even with security caps on, which was not appropriate;
- He believed that alone warranted revocation of the premises licence.

Presentation by the Premises Licence Holder

Ms Monika Agnieszka Rokosa, DPS, and Premises Licence Holder, informed the Subcommittee that:
- She admitted to the allegations made by the Police on 12 January 2016. However, the high strength alcohol found at the premises should have been delivered to another licensed establishment that she also managed;
- Mr Husain considerable experience and had obtained his personal licence for a longer period of time than herself. She was new in the industry and had only obtained her licence three years ago. Therefore, she had trusted him to manage the shop;
- She admitted that stolen goods were found at the premises but she did not realise they were there. However, Mr Husain had been dismissed;
- She requested to be given another chance to retain her premises licence, as it was a one-off incident, which would not be repeated.

In response to questions, Miss Rokosa stated that:
- The licensed establishment that she also managed had a 24-hour licence and can sell strong beers. As a result, the wrong cases were delivered to the premises. She explained this to Mr Conmy on 12 January 2016 when she was asked to attend the premises, despite preparing for her holiday the next day;
Although she realised that the premises licence was being reviewed, she trusted Mr Hussain who had more management experience to run the premises;

She acknowledged that she failed in her role as DPS but was seeking another chance;

As she also worked at another premises and assisted her friend who had a disabled son, she had been distracted from her duties as DPS;

Until the time of the inspection she was unaware that stolen goods were on the premises, as she believed that the premises was properly being managed Mr Husain, who she had retained to manage the premises in her absence because following the inspection on 12 January 2016, she believed the licence objectives was being adhered to;

She mainly visited the premises during the late evening and before the venue closed. ;

When she visited the premises she would enquire from staff whether any issues had arisen at the premises but failed to properly check stock as the front shelves appeared to be properly stocked;

Despite being the DPS she did not provide staff training but delegated that responsibility to another member of staff.

Adjournment and Decision

At 9.21pm, the Sub-Committee withdrew from the meeting together with the legal advisor and clerk to deliberate in private.

The Sub-Committee had heard and considered representations from Mr Rankin, Mr Conmy, Mr Lingard, Mr McLean and Miss Rokosa.

Legal advice was given to the Sub-Committee on the options open to them and the need for any decision to be proportionate. The Sub-Committee decided to grant the review and revoke the licence.

RESOLVED: To grant the review and revoke the licence.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the review and revoke the licence. The Chair confirmed that written notification of the decision and full reasons for that decision would be sent in due course.

The meeting ended at 9.30 pm

Date of Despatch: Tuesday 31 January 2017
Contact for Enquiries: Jacqueline Pennycook
Tel: 020 7926 2167, Fax: (020) 7926 2361
E-mail: jpennycook@lambeth.gov.uk, Web: www.lambeth.gov.uk

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