



**MINUTES OF THE ALCOHOL AND ENTERTAINMENT LICENSING SUB-COMMITTEE
(C)**

Thursday 21 January 2016 at 10.30 am

PRESENT: Councillor Long (Chair), Councillor and Councillors Hylton and McLeish

1. Declarations of personal and prejudicial interests

None.

2. Application by Lakhbir Singh T/A Winemart for a variation of condition to enable the sale of high strength beers from 12:00hrs to 01:00hrs Sunday to Thursday and until 03:00hrs Friday & Saturday at Winemart (48 High Road, NW10 2QA), pursuant to the provisions of the Licensing Act 2003.

Responsible Authority

Nick Mortimer	Brent Licensing Police
Paul Whitcomb	Brent Licensing Police
Michael Sullivan	Brent Licensing Police

Applicant

Lakhbir Singh	Premises Licence Holder and DPS
Marjit Singh	
Getenet Akiuk Amera	

Decision

That the application by Lakhbir Singh T/A Winemart for a variation of condition 8 to enable the sale of high strength beers from 12:00hrs to 01:00hrs Sunday to Thursday and until 03:00hrs Friday & Saturday at Winemart (48 High Road, NW10 2QA), pursuant to the provisions of the Licensing Act 2003 be granted.

The full record of the Sub-Committee's decision and the reasons are as set out in the decision letter, set out below.

The application

The Sub-Committee has given careful consideration to an application by the premises licence holder, under section 34 of the Licensing Act 2003, to vary the premises licence relating to Winemart 48 High Road, Willesden NW10 2Q. The applicant has applied for the removal of condition number eight (8) which reads '**No high strength beers lagers and ciders above 5.5% ABV shall be stocked with the exception of Guinness Foreign Stout and Dragon Stout**' and that this be reworded to read '**No high strength beers lagers and ciders above 9% ABV shall be stocked as well as the following brands: Kestrel Super, Skol Super, Tennants Super, Special Brew, K Cider, Strongbow Super, Ace Cider, Okocim Black, Crest Super and Warka Strong.**' Mr Lakhbir Singh is the premises licence holder and the designated premises supervisor (DPS). The premises are currently

licensed for the sale of alcohol and to remain open from 12:00hrs to 01:00hrs Sunday to Thursday and until 03:00hrs Friday & Saturday.

The police objected to the application raising concerns about the following licensing objectives: prevention of crime and disorder, public nuisance. The Police stated that street drinking is a major concern in Brent so much so that the entire Borough remains a controlled drinking zone and that street drinking is a trigger for crime, disorder and nuisance in the community. The Police alleged that street drinking in and around the vicinity of the applicant's premises remains an issue. The Police referred the Sub Committee to several crime reports which included people drinking in the toilets of a betting shop on High Road Willesden and alcohol being seized from street drinkers in and around Willesden High Road. The Police informed the Sub Committee that numerous discarded alcoholic tin cans had been found on the floor of the alleyway between Ellis Close NW10 which is directly in front of the Winemart and Richmond Avenue NW10 and referred to the photographs contained within the document pack.

The Police reported that PC McDonald had visited the premises in January 2015 and found staff selling 'vast amounts' of high strength alcohol above 5.5%ABV breaching condition 8 of the premises licence. PC McDonald issued Mr Singh with a warning letter. A further Police visit was made to the premises on 24 September 2015 during which they found 19 beers lagers and ciders over 5.5%ABV on sale along with numerous other breaches of the premises licence. Mr Singh was issued with a final written warning. The Police visited the premises again on 7 December 2015 to speak to the applicant who was not there. The Police found one high strength product on display, no personal licence holder present, and that staff had not been given cash minimisation training amongst other breaches.

The full details of the application made by the premises licence holder as well as the police objection amongst other information, is contained within the document pack attached to the Agenda for our meeting. This information is publicly available and is therefore not repeated in detail in our decision notice.

The hearing

Mr Lakhbir Singh attended the hearing.

PC Paul Whitcomb represented the Police.

The decision

We have listened to all the representations and have read all the material.

We have had regard to the statutory guidance issued under section 182 of the Licensing Act 2003, and the Council's own licensing policy.

We have taken into account our duty under section 17 of the Crime and Disorder Act 1998 to have due regard to the likely effect of the exercise of our discretion on, and the need to do all we reasonably can, to prevent crime and disorder in our area and the misuse of alcohol.

We confirm that in making our decision we have sought to promote the licensing objectives.

We also confirm that we have imposed further regulation only if satisfied that it was necessary, proportionate and appropriate to do so and justified on the facts of this particular case.

On the facts of this application, it is particularly noteworthy that, according to statutory guidance, we should accept all reasonable and proportionate representations made by the Police unless we have evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains

incumbent on the Police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

We found that the evidence submitted by the Police demonstrated concerns about the management of the premises and nuisance being caused by street drinkers in the area. The Police had informed the Sub Committee that they had worked extremely hard and in partnership with others to lessen the problem of street drinking in and around Willesden High Road and that one of the major hot spots in the past had been the area outside of Willesden Library which is very close to the premises. The Police confirmed that if the application were to be granted it would fuel street drinking in the area.

During the course of the hearing we heard evidence from Mr Singh. Mr Singh told the Sub Committee that he had been a licensee for over 20 years and had lived in Willesden for most of his life. Mr Singh stated that he agreed with the Police in so far as there are issues in the area with cheap super strength beers being brought and consumed by street drinkers and considered that both the Police and Brent Licensing Team had done a very good job in cleaning up the area. However, he is running a bespoke off-License which is well established and maintained and sells high quality wines and champagnes. He does not sell super strength beers and has no intention of doing so.

Mr Singh went on to explain that Willesden is an up and coming affluent area and that his clientele are not street drinkers. To the contrary he sources fine wines for customers. The beers he now wishes to stock and sell are premium beers for which there is a growing market for these high quality products which cost £2.50 to £3.00 or more a bottle, unlike the cheaper high strength super beers that retail around £1.00 to £1.50 a can which the street drinkers drink. Mr Singh stated that some of these premium beers are sold in Sainsbury's/Tescos and other large retail outlets, but are not generally available in smaller shops like his. Customers are now asking for these premium beers, the majority of which are around 6-7%ABV with the exception of a couple which are 9%.

The Police responded to the evidence from Mr Singh stating that confusion had arisen from the way in which the application had been worded which implied that Mr Singh did wish to sell super high strength beers above 5.5%ABV. Nevertheless the Police remained of the view that granting an application for the sale of certain beers of up to 9%ABV would set a dangerous precedent and that coupled with the number of breaches of conditions on the licence within a 12 month period, the Police felt on balance that the application should still be refused.

We took note of evidence from the Police in that historically the area in and around Willesden Library had been a notorious hot spot for street drinking, however this has not re-occurred. We were mindful of Police concerns of the risk of this happening again. The Sub Committee duly noted the various breaches in relation to the operation of the premises licence and would remind Mr Singh that he must comply with all the conditions attached to the licence and not just when prompted by the Police or authorised officers of the Council. We acknowledge that the application is badly worded which has led to confusion.

We have decided to grant the application to vary condition 8 of the premises licence as follows:

The sale of bottled premium beers of up to 7%ABV Plus

Duvel Belgian Ale 8.5%ABV

Chimay Beer 9%ABV

Torpedo Beer 7.2%ABV

These bottled products shall be displayed in a separate chiller . Cans of beer, lagers, ciders (including bottled ciders) of 6%ABV and above shall not be stocked or sold.

The effective date of this decision

This decision takes effect immediately.

Right of Appeal

The parties have a right of appeal to Brent Magistrates' Court against this decision. If you wish to appeal you must notify Brent Magistrates' Court within a period of **21 days** starting with the day on which the Council notified you of this decision.

3. **Application by Sithamparanathan Kirubendran to extend the hours for the sale of alcohol sale from 08:00hrs to 23:00hrs Monday to Saturday and from 10:00hrs to 22:30hrs Sunday to 06:00hrs to 00:00hrs Monday to Sunday at Woodchurch Filling Station (242 Church Lane NW9 8SL), pursuant to the provisions of the Licensing Act 2003.**

Responsible Authority

Michael Sullivan

Brent Licensing Police

Applicant

Sithamparanathan Kirubendran

Decision:

That the application by Sithamparanathan Kirubendran to extend the hours for the sale of alcohol sale from 08:00hrs to 23:00hrs Monday to Saturday and from 10:00hrs to 22:30hrs Sunday to 06:00hrs to 00:00hrs Monday to Sunday at Woodchurch Filling Station (242 Church Lane NW9 8SL), pursuant to the provisions of the Licensing Act 2003 be granted in part.

The full record of the Sub-Committee's decision and the reasons are as set out in the decision letter, set out below.

The application

The Sub-Committee has given careful consideration to an application by the premises licence holder, under section 34 of the Licensing Act 2003, to vary the premises licence relating to Woodchurch Filling Station 242 Church Lane NW9 8SL by extending the existing hours for the sale of alcohol. Mr Sithamparanathan Kirubendran is the premises licence holder (PLH). The premises are licensed for the sale of alcohol from 08:00hrs to 23:00hrs Monday to Saturday and from 10:00hrs to 22.30hrs Sunday.

The application is for the opening hours of the premises to be from 06:00 to 24:00 Monday to Sunday and the sale of alcohol to be from 06:00 to 24:00 Monday to Sunday.

The police objected to the application raising concerns about the following licensing objective: prevention of public nuisance. The Police informed the Sub Committee that the reason why Mr Kirubendran wishes to extend his operating hours is to 'catch the passing trade of Eastern Europeans' that are either going to or leaving work at the nearby industrial estate, on the basis that he is losing out to other local shops who sell alcohol to these males, which demonstrated a total lack of awareness that Brent is a controlled drinking zone. The Police stated that Mr

Kirubendran has not considered the potential implications to the local community of street drinkers that will congregate to consume beers at the end of their shifts or even more worryingly males drinking alcohol before the start of their working day.

The Police told the Sub Committee that there is a problem with street drinkers in the area and that if the application is granted there is a risk that this would promote street drinking. Furthermore Mr Kirubendran was not able to explain what measures he would put in place to deal with this problem over and above not selling alcohol to persons who appeared drunk. The Police were of the view that the application had not been well thought out, was purely profit driven and that there was no evidence before the Sub Committee as to how Mr Kirubendran intended to promote the licensing objectives.

The Police further informed the Sub Committee that upon visiting the premises on 11 December 2015 there were a number of breaches to the licence conditions namely: alcohol screen not lockable, no time delay safe, no incident book and a number of high strength beers were on display which Mr Kirubendran subsequently removed from the fridge. Mr Kirubendran was issued with a formal warning.

The full details of the application made by the premises licence holder as well as the Police objection amongst other information, is contained within the document pack attached to the Agenda for our meeting. This information is publicly available and is therefore not repeated in detail in our decision notice.

The hearing

Mr Sithamparanathan Kirubendran attended the hearing.

PC Michael Sullivan represented the Police.

The decision

We have listened to all the representations and have read all the material.

We have had regard to the statutory guidance issued under section 182 of the Licensing Act 2003, and the Council's own licensing policy.

We have taken into account our duty under section 17 of the Crime and Disorder Act 1998 to have due regard to the likely effect of the exercise of our discretion on, and the need to do all we reasonably can, to prevent crime and disorder in our area and the misuse of alcohol.

We confirm that in making our decision we have sought to promote the licensing objectives.

We also confirm that we have imposed further regulation only if satisfied that it was necessary, proportionate and appropriate to do so and justified on the facts of this particular case.

On the facts of this application, it is particularly noteworthy that, according to statutory guidance, we should accept all reasonable and proportionate representations made by the Police unless we have evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the Police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

We found that the evidence submitted by the Police related to sporadic street drinking in the area that was not directly related to the premises.

However, we did have concerns about public safety/protection of children given that the premises is ostensibly a filling station but has large amounts of alcohol on sale. Furthermore, Mr Kirubendran admitted that he sells more alcohol than petrol. The premises is also located near to a Primary School.

During the course of the hearing we heard evidence from Mr Kirubendran. Mr Kirubendran stated that he had been in business since 1999, had never had any complaints about the operation of his business from the public, police local authority

or neighbours and that he has known most of his customers for many years since childhood. Mr Kirubendran disputed the evidence in the paperwork from the Police as regards breaches to conditions on his licence on the basis that on the day of their visit in December 2015 they only had a draft version of the licence. At the time the Police inspected the premises, because of a backlog, the licensing team had not been able to issue the licence premises document. This however did not mean that Mr Kirubendran was not required to comply with the conditions of his licence. Mr Kirubendran was clearly taking advantage of his licence in order to lawfully carry on licensable activities at his premises and was therefore bound to comply with the conditions attached to his licence and which he was aware of. Those conditions remain attached to his licence and are unaffected by our decision to extend the hours of his licence.

We noted that the photographs produced by the Police at pages 49, 51 and 57 of the document pack show vast quantities of alcohol stocks far more than we would expect to see at a petrol station and the photographs on pages 50 and 51 show a tube of plastic cups behind the counter. Mr Kirubendran stated that the plastic cups were available for staff to make tea and coffee because he no longer has a kitchen. It was pointed out to him by the Sub Committee that the coffee machine can be clearly seen from the photograph at page 57 with its own supply of cups attached. Mr Kirubendran went on to inform the Sub Committee that the Police had not presented any evidence to substantiate the allegation that single cups of alcohol were being sold from the premises.

Mr Kirubendran concluded that there were no street drinkers in the vicinity of the filling station and that all the petrol stations in the area have 24 hour licences. Mr Kirubendran also informed the Sub Committee that he is entitled to run his business for profit, that he has business expenses like everyone else and he is not a charity.

We have therefore decided to grant the application in part. We do not agree to extend the opening hours to 6am. We do agree to extend the terminal hour for the sale of alcohol to midnight Monday to Sunday and that the change of hours be incorporated into the new licence. All the mandatory conditions relating to off sales still apply together with all the Operating conditions in Annexe 2. The terminal hour for the sale of alcohol in the embedded conditions be extended to midnight.

Informative

An up to date floor plan is to be submitted. If any subsequent changes are made to the lay out of the premises a new floor plan will be submitted.

The effective date of this decision

This decision takes effect immediately.

Right of Appeal

The party has a right of appeal to Brent Magistrates' Court against this decision.

If you wish to appeal you must notify Brent Magistrates' Court within a period of **21 days** starting with the day on which the Council notified you of this decision.

- 4. Application by the Metropolitan Police for the review of a premises licence held by Mr Kenneth McCormack at the premises are known as Jono's Bar, (458 Church Lane, NW9 8UA), pursuant to the provisions of the Licensing Act 2003.**

Responsible Authority

Nick Mortimer
Paul Whitcomb

Brent Licensing Police
Brent Licensing Police

Applicant
Kenneth McCormack
Valerie Lambe (Business Partner)

Decision:

That the application by the Metropolitan Police for the review of a premises licence held by Mr Kenneth McCormack at the premises are known as Jono's Bar, (458 Church Lane, NW9 8UA), pursuant to the provisions of the Licensing Act 2003 be granted with the additional 12 conditions requested by the Police.

The full record of the Sub-Committee's decision and the reasons are as set out in the decision letter, set out below.

The application

The Sub-Committee has given careful consideration to an application by the Police, under section 51 of the Licensing Act 2003, to review the premises licence relating to Jono's Bar 458 Church Lane Kingsbury NW9 8UA. Mr Kenneth McCormack is the premises licence holder and is also the designated premises supervisor (DPS). The premises is currently licensed for live and recorded music from 21:00 to 00:30 Friday & Saturday, the sale of alcohol Monday to Thursday from 11:00 to 23:00, Friday & Saturday from 11:00 to 01:00 and Sunday from 11:00 to 23:00. The premises are open Monday to Thursday from 11:00 to 23:30, Friday & Saturday from 11:00 to 01:30 and Sunday from 11:00 to 23:30.

In summary, the Police raised concerns about the following licensing objectives: prevention of crime and disorder, public safety and the prevention of public nuisance. The Police concerns primarily related to the severity of crime and disorder occurring from the premises. The Police alleged that Mr McCormack has breached the requirements of the Licensing Act 2003 and had failed to adhere to the conditions on his licence. The concerns listed by the Police included 40 males fighting in the pub, no CCTV cameras in place and once installed CCTV not working properly, recent evidence of drug use on and drug dealing from the premises, alcohol being supplied beyond the permitted hours, theft and burglary.

The full details of the application made by the Police, amongst other information, is contained within the document pack attached to the Agenda for our meeting. This information is publicly available and is therefore not repeated in detail in our decision notice.

The hearing

Mr McCormack attended the hearing along with his business partner Valerie Lamb. Police Licensing Officer Nick Mortimer represented the Police.

The decision

We have listened to all the representations and have read all the material.

We have had regard to the statutory guidance issued under section 182 of the Licensing Act 2003, and the Council's own licensing policy. We took into account paragraph 11.21 of the guidance which states that if it emerges that poor management is a direct reflection of poor company practice or policy, the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated

premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

We have taken into account our duty under section 17 of the Crime and Disorder Act 1998 to have due regard to the likely effect of the exercise of our discretion on, and the need to do all we reasonably can, to prevent crime and disorder in our area and the misuse of alcohol.

We confirm that in making our decision we have sought to promote the licensing objectives.

We also confirm that we have imposed further regulation only if satisfied that it was necessary, proportionate and appropriate to do so and justified on the facts of this particular case.

On the facts of this application, it is particularly noteworthy that, according to statutory guidance, we should accept all reasonable and proportionate representations made by the Police unless we have evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the Police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

The Police expressed concerns about the ability of the management to operate the premises responsibly under the existing licence. The Police informed the Sub Committee that the licence was granted in 2013 and no incidents were reported to the Police until January 2015. Thereafter there were two further drug offences and a serious assault outside of the premises in 2015. Following a visit to the premises in November 2015 a man was arrested and found to be in possession of drugs. A further search of the vicinity of the premises was made using a Police dog unit which resulted in Cannabis and Cocaine being located. However from 3 November 2015 to date there have been no further incidents of crime reported either by or to the premises.

The Police informed the Sub Committee that they have now had a meeting with Mr McCormak who has agreed to additional conditions being added to the licence. The Police stated that they were confident that the conditions would prevent further overt drug dealing/taking inside and outside of the premises and would allow the premises to continue trading. The Police therefore requested that the following 12 conditions be added to the licence:

1. Door supervisors of a sufficient number and gender mix, shall be employed from 21:00hrs on any day when the premises are open to the public past midnight
2. A register/log containing the names badge number, dates & times of duty of security staff and any incidents that occur shall be kept and made available to the Police and Licensing Authority
3. Door supervisors shall wear clothing that can be clearly and easily identified on CCTV
4. Notices explaining the licensee's policy on admission and searching shall be placed at each entrance
5. No entry or re-entry shall be permitted after 23:00hrs
6. Toilets shall be checked hourly, such checks must be logged and signed off
7. Management to prepare and implement a drugs policy which shall be visible to patrons
8. The back yard shall not be used by patrons
9. The rear fire door (which cannot be locked) shall be alarmed
10. All toilet areas shall be treated daily with chemicals to prevent drug usage
11. A personal licence holder shall be on duty at all times throughout the hours of opening

12. There are to be documented staff training records

Ms Lamb addressed the Sub Committee.

Ms Lamb stated that in relation to the fight the Police had referred to, the venue had agreed to host a 21st birthday party and an altercation occurred between 4 individuals but that this had been resolved before the Police arrived. As a result of this the venue no longer hosts any private functions and will not do so for the foreseeable future.

Ms Lamb went on to inform the Sub Committee that neither herself or Mr McCormack were aware of any drug taking/dealing arising in or outside of the premises and this is not something they would condone. They were here to work with the Police. The toilet areas are now treated regularly with WD40 to deter any drug use. The ledges in the toilets have been altered and are now sloped. Check lists are in place which are signed off when the toilets are cleaned and checked and the CCTV is operating properly. Ms Lamb concluded that both herself and Mr McCormack now wanted to move on from what has happened and run a successful business.

We found that the evidence submitted by the Police demonstrated previous concerns about the management of the premises but that the licensee now wants to put this behind him and continue to work with the Police.

We therefore agree to the additional 12 conditions requested by the Police as set out on page 81 of the document pack be added to the licence.

Informative

Mr McCormack, Valerie Lamb and relevant staff should attend drug awareness training.

The effective date of this decision

This decision does not take effect until the end of the period for appealing this decision or, if appropriate, the outcome of the appeal.

Right of Appeal

The parties have a right of appeal to Brent Magistrates' Court against this decision. If you wish to appeal you must notify Brent Magistrates' Court within a period of **21 days** starting with the day on which the Council notified you of this decision.

The meeting closed at 4.02 pm

J LONG
Chair