

London Borough of Brent

Decision of the Alcohol and Entertainment Licensing Sub-Committee (C) following a hearing on 20 June 2016 at Brent Civic Centre, Engineers way, Wembley HA9 0FJ

Application by the police to review a premises licence relating to Supersave, 68 Craven Park Road, London NW10 4AE

Members of the Sub-Committee

Councillors Long (Chair); Mahmood and Harrison.

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 Supersave, 68 Craven Park Road, London. Mr Farooq Khan and Mr Mahshooq Naz are the premises licence holders. Mr Khan is also the designated premises supervisor (DPS).

The premises are licensed for the sale of alcohol (for consumption off the premises) seven days a week and 24 hours a day.

The grounds for review are the prevention of crime and disorder and public nuisance, the protection of children from harm and public safety.

More specifically, the police complained about anti-social behaviour (including street drinking, drunken behaviour, shouting and rowdy behaviour and aggressive begging) and crime and disorder (including violence and a drug and prostitution problem). The police said these issues were prevalent in the area but that there was also a link to the premises.

The police also complained about breaches of conditions of licence and the commission of licensing offences, namely, allowing customers to enter the premises after 23.00 hours, selling alcohol to drunks who regularly congregate outside the premises to drink the alcohol they have purchased and an underage alcohol sale.

The police expressed particular concern about the sale of high strength alcohol and the late opening times.

For these reasons the police asked for the opening hours of the premises and the times that alcohol can be sold to be reduced; the conditions attached to the premises licence to be varied and for Mr Khan to be removed as the DPS.

The Licensing Authority, acting in its capacity as a responsible authority, made a representation too and asked for additional conditions to be added to the premises licence.

The premises responded to the application by challenging the facts and evidence relied upon by the police, submitting their own evidence and a petition with 188 signatures in support of the premises and proposing operational and licensing improvements.

The application details and supporting documents considered by us are published on the Council's website and are not repeated in this decision notice.

The hearing

The police were represented at the hearing by PC Michael Sullivan and Mr Rory Clarke of Counsel.

Mr Khan attended the hearing and was represented by Mr Alan Aylott of Dadds LLP Licensing Solicitors.

Prior to the hearing, the Licensing Inspector had agreed certain conditions with the premises and on that basis, withdrew her representation.

At the start of the hearing, we were informed of the issues the parties had been able to agree upon and the remaining issues which we were asked to decide.

The parties had agreed that the opening hours of the premises be reduced as follows: 06.00 hours until 01.00 hours the following morning everyday of the week. In other words, a reduction of 5 hours.

It was agreed that Mr Khan undergoes training and not be removed as the DPS.

Further, the following additional conditions were either agreed or volunteered:

1. The premises licence holder shall ensure that the areas outside the premises are monitored regularly to ensure that any persons loitering outside the premises disperse quickly and do not congregate.
2. The premises licence holder shall ensure that no alcohol purchased from the premises is consumed in the near vicinity.
3. The premises licence holder shall ensure that reasonable and adequate staff training shall be carried out and properly documented in relation to:
 - I. Dealing with incidents and the prevention of crime and disorder
 - II. The premises duty of care
 - III. The responsible sale of alcohol (i.e. how to refuse a sale, preventing sales to underage persons or persons over 18 purchasing for underage persons, recognising signs of drunkenness) prior to being allowed to sell alcohol
 - IV. Within six weeks of any appointment of a member of staff, as a sales person, they receive adequate training to Responsible Alcohol Retailing standards or equivalent
 - V. Hours and conditions of the premises licence.
4. The premises licence holder shall ensure that refresher training shall be completed every six months for all relevant staff.
5. The premises licence holder shall ensure that documented records of training completed shall be kept for each member of staff trained and records shall be retained for no less than 12 months and made available for inspection to police and authorised officers of Brent Council upon request.
6. The premises licence holder shall operate a 'Challenge 25' scheme at the premises whereby anyone who appears to be under 25 shall be asked to provide proof of age that he or she is over 18. Proof of age shall only comprise of a passport, a photo-card driving licence or an industry approved proof of age identity card.
7. The premises licence holder shall ensure that notices shall be displayed in the premises advising:

- I. CCTV is in operation
 - II. A 'Challenge 25 scheme operates in the premises
 - III. 'No proof of age – No sale'
 - IV. Patrons should respect the needs of local residents and leave the area quietly
 - V. The hours' licensable activities may take place
8. The premises licence holder shall ensure that miniature bottles of spirits, 5cl or less shall not be sold
 9. The premises licence holder shall ensure that any persons highlighted by the police as a 'street drinker' and any person who is known as or appears to be a 'street drinker' shall not be sold alcohol.
 10. The premises licence holder shall ensure that a drop-top' safe or other security product is installed in a covert position in order that excess cash is removed periodically from the till.
 11. The premises licence holder shall ensure that any refusals of sale of age-related products are recorded in a refusals log. The log shall show:
 - I. The date and time of refusal
 - II. The product(s) attempted to be purchased
 - III. A description of the customer
 - IV. The name and signature of the staff member who made the refusal
 12. The premises licence holder shall ensure that the refusals log shall be checked and signed monthly by the designated premises supervisor or premises licence holder. The refusals log shall be made available for inspection upon reasonable request to Police or a local authority officer.
 13. The premises licence holder shall ensure that the designated premises supervisor (DPS) shall attend a formal training course on –avoiding under-age sales/responsible alcohol sales, such as the National Certificate for DPS or the BIIAB Award for Responsible Retailing; to provide evidence of attendance if requested.
 14. An incident log shall be kept at the premises, and made available for inspection on request to an authorised officer of Brent Council or the Police, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service.

[Copy conditions 1 -7; 9 – 15 on pages 27 and 28 of Supplementary 2]

There shall be no single sales of cans or bottles of beers, ciders or lagers.

All sales must take place at the counter inside the shop only. There shall be no use of a hatch or window allowing sales to take place whilst the customer is outside the premises.

As a consequence, the following conditions are removed:

“3. The premises shall be closed to the public between 23.00 hours and 07.00 hours the following morning and all sales during these hours shall be via the window only.”

“6. The Portman Group proof of age scheme or similar such scheme shall be adopted.”

In addition, the police asked us to prohibit the sale of alcohol between 06.00 hours and 09.00 hours and to impose a condition requiring alcohol to be secured behind locked grills etc. during this period. The police also asked for a condition to be imposed prohibiting the sale of high strength alcohol above 6.0% ABV as opposed to 6.5% ABV which is what the premises volunteered.

During the course of the hearing, the parties discussed the complaints and issues the review application raised and answered questions.

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 the decision we have taken is what we were satisfied was necessary, proportionate and appropriate in order to promote the licensing objectives 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 the following.

- There was a clear causal link between the premises, the licensing objectives and the anti-social behaviour and crime complained of.
- The premises does attract or is the focal point of a lot of anti-social behaviour and crime.

- There have been persistent and serious breaches of licensing conditions and rules (including licensing offences).
- The police complaints were serious, credible and on the whole withstood the scrutiny they were subject to.

Having considered the issues in dispute in their factual context and taken into account our findings, we decided that the following was appropriate.

1. The opening hours of the premises should be reduced as agreed but that there was no justification to further reduce the start time for the sale of alcohol.

When the police were asked to justify preventing alcohol sales between 06.00 hours and 09.00 hours we felt they struggled to do so. The complaints and incidents of anti-social behaviour and crime and disorder we considered related to an earlier time period. We also felt that the additional regulation/safeguards we have approved and, in particular, a prohibition on sales using the window/hatch should alleviate many of the problems associated with customers congregating outside the premises. We noted that a neighbouring premises is only permitted to sell alcohol from 08.00 hours but, ultimately, we made our decision based on all the circumstances of this case.

2. All the agreed and volunteered conditions should be added to the licence.
3. In addition, we imposed the following condition:

“No high strength beers, lagers and ciders above 6.0% shall be stocked or sold at the premises.”

We agreed with the police that we should make our decision on the facts of this particular case and having regard to local licensing practice and experience of what works in Brent.

Narrative

As we have stated, the complaints made by the police were serious. In the recent past, there have been persistent breaches of licensing requirements and the management of the premises has been lax. Despite his recent re-fresher training, when asked Mr Khan was unable to name the licensing objective of preventing crime and disorder. It may well be that when put on the spot he forgot but we hope that he will take his responsibilities as the premises licence holder and DPS much more seriously in the future. The premises should note that if the issues reported by the police were to persist resulting in another review of the licence, additional regulation is likely.

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.