

London Borough of Brent

Decision of the Alcohol and Entertainment Licensing Sub-Committee following a hearing on 05 April 2017 at Brent Civic Centre, Engineers Way, Wembley HA9 0FJ

NOTICE OF DECISION

PREMISES

Who's Next Food and Wine
6 Library Parade
NW10 8SG

1. Members of the Sub-Committee

Councillors Long (Chair), McLeish, Jones

2. The Application

The application is for the review of the premises licence by the Metropolitan Police.

3. Representation

The Police were represented by PC Sullivan. The Licensing Department were represented by Esther Chan. The Licence Holder, Mr Surjit Singh Arora was present represented by his Agent, Mr Panchal.

4. The Hearing

PC Sullivan set out the grounds for the review. He explained that the area suffered over the past few years from street drinking. Mr Arora has been DPS since 2011. The police, it is submitted, have lost confidence in Mr Arora after a number of breaches of the Licensing Act – and as such the licencing objectives were not being upheld.

It was police suspicions that because the premises were suffering financially and to combat this they has resorted to selling high strength larger and illegal cigarettes.

The following incident were set out:

9 January 2015 – 6 Polish brands of high strength beers found at the premises in breach of the licence conditions. A warning was given but when the officer returned later the alcohol was still present.

9 Sept 2015 - no licence summary on display at the premises and again high strength larger was on sale. The CCTV was not recording. No incident log at premises. The premises were issued with a warning letter.

2 April 2016 – A test purchase took place at the premises with a 17 year old who was sold alcohol.

11 April 2016 – High strength larger was still being sold. No proof of age sign was present at the shop. There was no refusal/incident book. The DPS (who is also the licence holder) admitted to using the hatch past midnight. Further warnings were given.

16 June 2016 – Police conducted a compliance visit. Found a large quantity of high strength largers on site and Mr Arora was issued with a final written warning.

9 December 2016 - Still found to be selling high strength alcohol and also illegal cigarettes.

The police set out that they feel they have tried to work with the premises over the past few years. It appears that the premises have not listened to the advice given. There are clear breaches of the licence.

The Police view is that there is no other option but to bring the Review and seek revocation – further conditions would not help.

Esther Chan set out this she supported the Police Review and stated that she had visited the premises on the 15 February 2017 where she found that there was no refusal book or incident log; No visible fire-fighting equipment on site and staff present was unable to fully explain the Challenge 25 policy. She supported revocation.

Under questioning from the sub-committee it was established that trading standards did not follow up on the illegal cigarettes sales due to the low quantity level found.

Councillor Long asked why it had taken so long for it to come to the committee? PC Sullivan explained that he hadn't been involved in 2015 but that every time visits had taken place – there had been clear breaches.

The Agent for the Licence Holder explained that the premises had been running since 2011. In 2015, DPS's health had started to deteriorate and that's when the breaches started to happen. There was no dispute with anything the Police had submitted. However, it was submitted that with an appropriate range of conditions, the business could stay open.

It was proposed there be a new licence holder (who was present at the hearing) who had experience running three shops.

It was emphasised that this was a community shop. It was suggested that during the transition period to the new licence holder there be a period of 1 week's suspension.

Furthermore, there was a proposal for reduction of hours to 06:00 – 00:00 and an electronic ID system to be placed on the tills along with regular training. The sub-committee were asked not to revoke the licence, but to give the holder another opportunity.

Under questioning it was confirmed that there was a draft lease for the proposed new licence holder to take over, however it was contingent on this application.

The current licence holder confirmed that it had been two years since he had received any training.

The proposed licence holder also stated that his company owned 3 other shops but that he didn't have any day to day input in them.

It was queried how the reduction in hours would help with the issues at the premises. The proposed licence holder set out that he wanted the hours to be the same as his other shops. It was confirmed that that the customer base would be the same.

Councillor Long asked how the licence holder would categorise the premises and it was explained that as grocery and off-licences.

The police stated that there was clear evidence of breaches from the licence holder. Suspension would achieve nothing. PC Sullivan submitted that the only real prospect of this stopping was to revoke.

The Licensing Authority stated that they had no confidence in the licence holder.

Licence Holder contend that there was a way forward – suspension and removal of the DPS. The Sub-committee were referred to paragraphs 11.21 and 11.23 of s.182 guidance.

5. Determination of the Application

The sub-committee determined the application in accordance with the provisions of the Licensing Act 2003. Further the sub-committee considered the matter with a view to promoting the licensing objectives, namely:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm.

In making its decision the sub-committee also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Brent's licensing policy. In addition, the sub-committee took account of its obligations under section 17 of the Crime and Disorder Act 1998.

The sub-committee were mindful of the need to reach a decision that was appropriate, proportionate, and justified on the evidence before them.

6. Decision

The sub-committee have listened carefully to the submissions made by all parties.

It is accepted by the licence holder that since 2015 there have been a catalogue of breaches of the licence, and a failure to uphold the licencing objectives. It is significant that on each occasion the police visited, the licence holder was warned about his conduct and yet failed take steps to remedy those breaches.

Whilst the sub-committee take into account the steps taken since February, the sub-committee do not have confidence that the present management of the premises is capable of upholding the licencing objectives.

We have considered whether the imposition of new conditions, a reduction in hours, the removal of the DPS, or a period of suspension will remedy the problems. However, the sub-committee are of the view any such action will be insufficient given the history of poor management.

The sub-committee are of course mindful of the financial impact revocation will have on the premises. However, we consider that to date the premises have been trading irresponsibly and as such the only appropriate and proportionate response is to revoke the alcohol licence.

7. 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.

Dated 28 April 2017