

## London Borough of Brent

**Decision of the Alcohol and Entertainment Licensing Sub-Committee following a hearing  
on the 18<sup>th</sup> May 2021 at Brent Civic Centre, Engineers Way, Wembley HA9 0FJ**

### NOTICE OF DECISION

#### **PREMISES**

Westfield Food & Wine  
248-250 High Street  
NW10 4TD

#### **1. Members of the Sub-Committee**

Councillors Long (Chair), Ahmed and Shahzad.

#### **2. The Application**

The application was for a new premises licence for the sale and supply of alcohol from 10am to 11pm Monday to Sunday and to remain open from 7am to midnight from Monday to Saturday and from 8am to midnight on Sundays.

Written representations had been made and withdrawn by the licensing authority ('LA') and the police.

Representations remained outstanding from Ward Councillors and a local resident.

As written representations had been received, a hearing was held pursuant to section 18 of the Licensing Act 2003.

#### **3. Representation**

Omair Raza (aka Mr Zaremoayedi) attended on behalf of Westfield Food & Wine Ltd and was represented by his agent, Manuel Rocha.

Ward Councillor Jumbo Chan attended.

A Local resident also attended.

#### 4. The Hearing

The hearing was conducted via Zoom due to the Covid-19 pandemic and social distancing guidance. It was also broadcast via a live webcast.

The resident set out his objections. There is a ClZ which was not referenced at all in the application. They had previously made an application last year and during the consultation period were caught selling alcohol which is concerning. In section D, prevention of public nuisance, they refer to deliveries and clearance of waste which he has some questions about. He is also interested in the minimum pricing policy and thinks the council should make use of that. It's been available since 2020 and was mentioned in press releases.

Councillor Chan set out his objections. He was also speaking on behalf of Councillor Kelcher. They both oppose the application. The south of Brent especially Harlesden has a lot of alcohol-related ASB. From their casework, it's clear that issues with ASB lead to the highest number of complaints. Although he welcomes small businesses, especially coming out of lockdown, he is worried about the impact granting the application could have. The shop is on the edge of Harlesden High Street near to residential areas and the park where there has been a lot of ASB and street drinking. A lot of residents have complained. He does think granting the application would have a negative impact. In an ideal world, there wouldn't be such things but the reality is there are a lot of street drinkers and ASB which negatively affect the families that live there. As Ward Councillor, he has to take such things into account.

Mr Rocha had no questions.

Councillor Shahzad: How will this affect numbers of street drinkers? Councillor Chan said he did not think the numbers of people buying alcohol will increase, but this is on the western fringe of the area he had been talking about and so granting the application would extend the area in which street drinkers can buy alcohol. Otherwise, they would have to travel further.

Cllr Long: What do street drinkers normally drink? The resident conceded that the application this time is just for wine and spirits. He said that, in most areas, street drinkers mainly drink beer and cider but in Harlesden there is a difference. Although beer and cider is consumed, there are groups that drink spirits. One of his photos of litter was of bottles of rum. Saying they'll only sell wine and spirits won't cure the problem. There is a place across the street that sells food and people are bringing spirits and drinking outside whilst eating. He said the photo was taken in the other side of Harlesden, in Craven Park Road.

Councillor Long: What about the fact they have reduced their hours? The resident said he was not objecting to the hours. In his view, minimum pricing might solve all of the problems. White rum in has a very high ABV. You would simply apply a 70p minimum price per unit. Councillor Chan added that the street drinkers are very flexible and do drink spirits. If there is a minimum unit price ('MUP') across all alcohol, it would be a step forward. The resident added that if you have a MUP it will make spirits too expensive to buy. Councillor Chan added he didn't want his residents who are street drinkers on his conscience because he they are drinking away their lives because alcohol had been made more available.

Mr Rocha set out the applicant's case. This is a new business. At the moment they sell groceries and would like to add alcohol. They recognised after they exchanged emails with the police and LA that it's in a CIZ and that's why they decided not to sell beers, lagers, ciders and miniatures. 90% of street drinking relates to beer. They just want to sell wine and spirits. It's only going to be a small part of the business. They don't mind if MUP is imposed. There are a lot of people selling alcohol illegally. The applicant buys from reputable suppliers who pay VAT. The staff have been trained since the last application and things have improved. They have agreed a lot of conditions with the police and LA. They will do everything they can to reduce street drinking. Mr Rocha did not think street drinkers would buy from the applicant as they will be too expensive.

Councillor Long: Will you manage the labelling? Mr Raza said they would.

How many people will have personal licences? Mr Rocha said they would have at least four people on the licence. He had trained the DPS and he will train the rest of the staff as well. Before they start selling, they'll all be trained and then given refresher training every 6 months.

Do you have a trade waste licence? Mr Raza confirmed they have one with Veolia.

The resident: How long have you had a trade waste licence? Mr Raza said they had had one since they opened. He confirmed they knew how to present trade waste. They put it outside at 6pm. The resident said it should be between 7pm and 8pm. Mr Raza said his staff deal with that. Mr Raza said they have a sign board outside and put their waste in grey bags which Veolia send. The resident said he has walked past every morning and evening and has never seen that.

The resident: How, when or where are deliveries made? Mr Raza said they were done in the early morning, around 7am to 8am. They often stop in Clifton Road and use a trolley but he cannot tell them all where to stop. They can also stop in Furness Road. The

resident said that he has photos of illegally parked vehicles and warned Mr Raza that he would continue to take photos if they continued to park illegally.

Councillor Ahmed: Do you have any other shops? Mr Raza said he did not.

How long have you been running the business for? Mr Raza said, 8-9 months

Mr Raza confirmed it was his first business and he had no previous retail experience.

Councillor Long: When did you get your personal licence? Mr Raza said he had done the training but was still waiting for the card. He took the exam in December.

How many staff will there be? Mr Raza said there would be three at any time. One person would be on the till and another within the shop. If they need something e.g. Arabic bread the other person can go out and buy it.

Do you need to sell alcohol? Mr Raza said their customers were asking for it, especially wine.

What's the minimum price you would charge for a bottle of wine? Mr Raza said it would be £7 or £8.

If MUP was imposed both the resident and Councillor Chan said they would withdraw their objections.

The objectors summed up their case. The resident said that, if the applicant is going to abide by parking and waste disposal rules and impose MUP, then he is happy.

Mr Rocha summed up the applicant's case. They will make an effort to comply with the parking rules. He is not happy with Veolia at the moment as other clients have had problems with them. They are going to look into that. He thinks the agreed conditions will avoid problems with street drinkers. He asked the application to be imposed.

## **5. Determination of the Application**

Pursuant to section 18(3) of Licensing Act 2003, the sub-committee had regard to the representations and considered which of the steps listed in section 18(4) (if any) it considered appropriate for the promotion of the licencing 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 Home Office Revised Guidance and Brent's revised Statement of Licensing Policy which came into force on the 2<sup>nd</sup> January 2020 following a consultation. In addition, the sub-committee took account of its obligations under section 17 of the Crime and Disorder Act 1998.

The sub-committee had particular regard to the following paragraph from the Home Office Revised Guidance:

8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

The sub-committee had particular regard to the following parts of Brent's Statement of Licensing Policy:

Policy 9: The Council has established ten (10) new Cumulative Impact Zones (CIZs) in Brent. The purpose of these CIZs is to address levels of crime and disorder, and anti-social behaviour, particular that associated with street drinking. Therefore, the CIZs will specifically relate to applications and variations for off-licences.

...

It is... not an absolute policy and where an applicant can satisfactorily evidence that their application or variation will not negatively impact on the licensing objectives the Licensing Authority will determine the application on its own merit.

The CIZs do not address the matter of the need for a premises. The need for premises is a commercial matter and is not a consideration for the Council in the discharge of its functions and this policy. Need is a matter for the planning authority and market forces.

Appendix 6:

#### **What is a CIZ?**

Cumulative Impact Zones are a tool outlined in the Licensing Act 2003 to address specific issues where the authorising of further licences in a specific area may be inconsistent as well as undermine the promotion of the licensing objectives.

A CIZ creates circumstances in which any new licence or variation to an existing licence that increases the scope for the sale of alcohol within the specified area will not be

granted unless the applicant can evidence that the operation of the licence or licence variation will not contribute to the issues identified to be addressed by the CIZ.

The effect of adopting a CIZ is to “create a rebuttable presumption” that applications for licences which are likely to add to the existing cumulative impact will normally be refused (or subject to certain limitations) unless the applicant can demonstrate that there will be no negative cumulative impact on the licensing objectives....

### **Why have CIZs in Brent?**

The Council’s current Licensing Policy came into effect 10 January 2016 at this time no CIZs were identified. Since 2016 there has been a significant and notable increase in alcohol related crime and anti-social behaviour which is having an adverse impact in some areas and neighbourhoods generating complaints from residents, councillors and the Police. This is undermining the licensing objectives and also has potential to undermine the vitality of Brent’s town centres and neighbourhoods.

Data captured from various sources including alcohol related police and ambulance call outs have been mapped and have shown suitable evidence to implement CIZs in the specified areas. In particular crime data and evidence shows a correlation between concentrations of off-licences and alcohol related anti-social behaviour, particularly that associated with street drinking.

Policy 12: In areas where street drinking has been identified as a problem by the Council new applicants... are required to demonstrate how their premises will not contribute to street drinking in those areas.

Policy 24: The Licensing Authority would like to encourage all licensed premises to apply a minimum unit price of 70p to all alcoholic products sold at their premises.

...

Where any relevant representations which demonstrate a clear causal link between sales promotions or price discounting and levels of crime and disorder on or near the premises, it will be appropriate for the Licensing Authority to consider the imposition of a new condition prohibiting irresponsible sales promotions or the discounting of prices of alcoholic beverages at those premises. Each case will be considered on its own merits.

...

We know that low cost alcohol sold in on and off trade premises increases alcohol consumption which can lead to crime and disorder issues. The Licensing Authority through this policy would like to encourage the responsible consumption of alcohol and where there is evidence that the licensing objectives are being compromised or are likely to be compromised, the Licensing Authority will consider imposing controls on drinks promotions to deal with localised problems. These controls could include restricting the

sale of super strength beer, lager and cider, or the requirement to charge a minimum cost per drink as part of a package of measures to deal with problems.

## **6. Decision**

The sub-committee listened carefully to the representations made by the parties at the hearing and took into account the written representations.

The sub-committee found that the applicant had satisfactorily evidenced that his application will not negatively impact on the licensing objectives. The main purpose of the CIZs is to reduce anti-social behaviour, in particular that caused by street drinking. The sub-committee agreed with the police and LA that street drinking and the anti-social behaviour that results from it revolves almost entirely around the drinking of beer, lager and cider in public. In the written application, the applicant made it clear that it would not be selling any of those things, a clear demonstration that the company had given careful thought to the problems affecting the local area and how it could avoid contributing to them.

Although there had been concerns in the past about Mr Raza's understanding of his responsibilities under the Licensing Act and he had previously sold alcohol without a licence, when Esther Chan met him on the 25<sup>th</sup> March 2021, he was able to explain the licensing objectives clearly and apologised for selling alcohol in October. It was clear that he understood that the premises falls in a CIZ and, as a result, he would not supply beers, ciders and lagers, which are commonly consumed by street drinkers.

The sub-committee was satisfied that Mr Raza had learnt from his past mistakes and was now taking his responsibilities seriously. He took his personal licence exam in December 2020 and the intention is that all staff will be trained every 6 months.

The sub-committee felt that any concerns about crime and disorder and public nuisance had been allayed by the comprehensive list of conditions agreed in advance of the hearing by the applicant with the police and the LA.

The sub-committee considered whether it would be appropriate to impose a minimum price condition but decided it would not be. The sub-committee could not see any causal connection between sales promotions or price discounting and levels of crime and disorder in the local area that related to wine and spirits. Such a condition would therefore be unnecessary and disproportionate.

The application is therefore allowed subject to the following agreed conditions:

- 1) CCTV shall be installed to Home Office Guidance standards and maintained in a good working condition and recordings shall be kept for 31 days and shall be made available to police and authorised Officers from Brent Council.
- 2) The CCTV system shall be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises.
- 3) A CCTV camera shall be installed to cover the entrance to the premises and further cameras to cover the entire server area and till.
- 4) A member of staff shall always be present on the premises whilst they are open who is capable operating the CCTV system and able to facilitate immediate viewing of CCTV footage upon the request of the Police and Authorised Officer of the Licensing Authority.
- 5) A sign stating “No proof of age – No sale” shall be displayed at the point of sale.
- 6) A “Challenge 25” policy shall be adopted and adhered to. Acceptable forms of identification shall be a passport, a photo driving licence and a PASS accredited identification card.
- 7) No beers, lagers, and ciders shall be stocked or sold.
- 8) No miniature bottles of spirits smaller than 35cl. shall be displayed and/or sold.
- 9) 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) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system or searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.
- 10) A copy of the premises licence summary including the hours which licensable activities are permitted shall be visible from the outside of each entrance to the premises.

- 11) Outside of the hours authorised for the sale of alcohol, all alcohol within the trading area is to be secured behind locked grills, locked screens or locked cabinet doors so as to prevent access to the alcohol by customers or staff.
- 12) All alcohol products displayed in store will be marked to identify the product is from the premises.
- 13) In the event that a member of staff suspects that a person attempting to purchase alcohol is a street drinker or a person attempting to purchase alcohol on behalf of a street drinker (proxy purchasing) they will immediately call the senior staff member (if they are not already serving) and appropriate enquiries will be made to determine whether the sale can be made.
- 14) Any staff directly involved in selling alcohol for retail to consumers and managers shall undergo basic training of Licensing Act 2003 legislation. This shall be documented and signed for by the DPS and the member of staff receiving the training. This training log shall be kept on the premises and made available for inspection by police and relevant authorities upon request.
- 15) A notice asking Customers to leave quietly from the premises shall be displayed by the exit/entrance.
- 16) A clear and unobstructed view in to the premises shall be maintained. Signage and/or visual obstructions on the entrance door and any of the windows may be allowed to a maximum height of 1.2 metres from ground level.
- 17) Invoices are to be produced to Police, a member of an appropriate authority or council officers upon request to evidence payment of duty on goods.
- 18) All deliveries shall take place during the normal working day (i.e. 09:00 to 18:00 daily).
- 19) A lockable safe with deposit slot and anti-fishing mechanisms must be used at the counter till area in order to prevent crime.
- 20) A suitable intruder alarm and panic button shall be fitted and maintained.
- 21) A personal licence holder shall be present on the premises and supervise the sale of alcohol throughout the permitted hours for the sale of alcohol.
- 22) An electronic till prompt should be used for all alcohol sales.

## **7. Right of Appeal**

The applicant and any person who made relevant representations has the right to appeal against this decision pursuant to section 181 and schedule 5 of the Licensing Act 2003.

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 19 May 2021**