

## **Decisions of the Licensing Sub-Committee**

13 December 2017

Members Present:-

John Hart (Chairman)

Alison Cornelius

Jim Tierney

### **1. APPOINTMENT OF CHAIRMAN**

**RESOLVED** that Councillor John Hart be appointed as Chairman.

### **2. ABSENCE OF MEMBERS (IF ANY)**

None.

### **3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)**

None.

### **4. LICENSING SUB-COMMITTEE HEARING PROCEDURE**

The Chairman explained the procedure that would be followed at the meeting.

### **5. REVIEW OF PREMISES LICENCE – PND EXPRESS, HENDON WAY, LONDON, NW4 3LH**

The Committee considered an application to review a premises licence under Section 51 of the Licensing Act 2003.

An amended Matters' for Decision was circulated, as an incorrect version was included with the agenda.

### **6. MOTION TO EXCLUDE THE PRESS AND PUBLIC**

**RESOLVED** that the parties be excluded from the meeting, together with the press and public, in accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings and Regulations 2005).

### **7. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION**

The Sub-Committee deliberated in private session, accompanied by the Officer from HB Public Law and the Governance Officer.

## **8. RE-ADMISSION OF THE PRESS AND PUBLIC: ANNOUNCEMENT OF THE DECISION OF THE SUB-COMMITTEE**

This is a review of the premises licence for PND Express 403 Hendon Way London NW4 3LH. It has been brought by the Licensing Department of the London Borough of Barnet acting as a Responsible Authority under the Licensing Act 2003.

The application cites two of the licensing objectives, the prevention of children from harm and the prevention of crime and disorder. In particular it refers to inspections of the premises carried out on 10 and 31 May, and 15 July 2017 during which various breaches of the licence conditions were noted. The concern for the Licensing team is that on the 3<sup>rd</sup> visit many of the breaches previously notified in writing to the premises were still evident. These included a requirement for price labelling showing the name of the premises, a refusals book being kept up to date, signage showing that CCTV was in operation, that no street drinkers would be sold alcohol, that no strong beers (over 6%) would be sold, nor single cans of alcohol, that there should be no loitering outside the premises, and that a challenge 25 system was in operation. The existence of such a policy was required, as was a notice asking customers to leave quietly, and that there be staff training in respect of licensing laws and regulations. These breaches were exacerbated by the premises failing a test purchase operation on 28 July when a minor was sold alcohol without challenge by the premises licence holder and DPS Mr Pahithran Selvarajah. There is a statement from the Police concerning this incident.

The premises have had a troubled past. In November 2016 the premises licence was revoked following a review hearing at which information was heard concerning drugs and drug paraphernalia being found on the premises and in car owned by a member of staff found just outside the premises. In February 2017 the premises licence was granted to Mr Selvarajah with conditions. It was noted that although he had been working on the premises at the time of the problems leading to the revocation he had not actually owned the premises and did not have full control of the business. The concerns of the Police were noted however (and shared by the Panel) and Mr Selvarajah could have been in little doubt as to what was required of him and what his responsibilities were.

The guidance to the Licensing Act makes it clear that sales of alcohol to underage customers are to be regarded as serious and possibly leading to revocation even on first instance (Paragraph 11.27). There is no evidence of persistent sales as set out in paragraph 11.30 although it is noted that the paragraph does refer to a challenge 25 policy being operated so as to prevent such sales.

In response Mr Selvarajah states that he has been confused as to all of the requirements on the Licence, but has found an agent that he is comfortable with and has passed subsequent test purchases. In addition the recent attendances by the Police and the Licensing Team have shown no breaches.

The Sub-Committee is very concerned about the continuing breaches, and although there has been an improvement it has only been made recently following many interventions by the Licensing Department and the Police. Even the correct passing of the test purchase in September was prejudiced by the Licencee's failure to enter the refusal in the refusals book.

The representative for the licensee has proposed various conditions to ensure that the licensing objectives are promoted. The Sub Committee has decided to add to these proposals as follows:-

Condition 10 shall be amended to require the Licencee to send to the Licensing Department of the London Borough of Barnet and to the Police Licensing Officer a copy of the refusals book every six months commencing no later than May 2018.

Condition 25 shall be amended to require that the training to all members of staff, the Premises Licence Holder and the DPS if different, be provided by an approved qualified trainer every six months starting no later than May 2018. Written confirmation of the training to include an agenda and all attendees shall be provided to the Licensing Department and the Police within seven days of it taking place.

There shall be a further condition that a qualified external licensing agent shall arrange for a test purchase to be carried out at the premises every six months starting no later than May 2018. The agent shall provide a copy of the report on the outcome of the test to the Licensing Department and the Police within seven days of the test.

It is clear that any improvement in the compliance with conditions by the Premises Licence Holder has been slow and only after encouragement from the authorities. The Sub Committee therefore suspends the licence for a period of three months in order to give the Licencee sufficient time to make sure that he, and all members of staff, understand the licence conditions and all licencing laws and regulations. The suspension will commence immediately save for the usual laws governing appeals.

The Licencee should know that the Sub Committee gave very serious consideration to revoking the licence. He should be aware that he is unlikely to be given any further chances should he continue to be in breach of his licence.

### **Right of Appeal**

Any party aggrieved with the decision of the Licensing Sub-Committee on one or more of the grounds set out in Schedule 5 of the Licensing Act 2003 may appeal to the Magistrates Court within 21 days of notification of this decision.

**Dated: 13 December 2017**

### **9. ANY OTHER ITEM(S) THE CHAIRMAN DECIDES ARE URGENT**

None.

The meeting finished at 12.40p.m.