

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

7 November 2016

Members Present:-

Chairman – Councillor John Hart  
Councillor Alison Cornelius  
Councillor Zakia Zubairi

Officers present:

Sinead Clifford – HB Public Law  
Abigail Lewis – Governance Officer  
Daniel Pattenden – Licensing Officer

Also in attendance:

PC Vicky Wilcock  
PC Francesca Downs  
PC Akers

### **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 noted the procedure following an introduction of the members of the sub-committee, the officers, and the applicant.

### **5. REVIEW OF PREMISES LICENCE – HENDON WAY CONVENIENCE STORE, 403 HENDON WAY, LONDON, NW4 3LH**

The Sub-committee considered a review of the premises license for Hendon Way Convenience Store, 403 Hendon Way, London, NW4 3LH, together with submissions from the Licensing officer and the Applicant.

### **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. ANNEX 1 - REVIEW APPLICATION - EXEMPT**

### **8. TEST PURCHASE STATEMENT - EXEMPT**

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

The sub-committee retired to deliberate in private session, accompanied by the council's legal and governance officers, to consider the facts of the application and the measures necessary (if any) to ensure the promotion of the licensing objectives.

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

The parties to the application were readmitted to the meeting and the Chairman conveyed the Sub-Committee's decision as follows:

This was an application for a review of the premises licence for Hendon Way Convenience Store, 403 Hendon Way, London NW4 3LH. The review of the premises licence, under s.51 of the Licensing Act 2003, was made by the Metropolitan Police and relates to the licensing objectives of the prevention of crime and disorder and public safety. It follows a search of the premises under s.23 of the Misuse of Drugs Act 1971 on the 20<sup>th</sup> August 2016 whereby a person employed by the current premises owner was found to be in possession of drugs and drug paraphernalia.

The guidance to the Licensing Act 2003 lists certain criminal activities that are to be taken particularly seriously on a review, and for which consideration may be given to revoking a licence even in the first instance. The sale and distribution of class A drugs are on the list.

Neither the current licensee nor Mr Selbarajah, the current business owner, attended the hearing despite being aware of the hearing today. We have been informed that notice of the hearing was sent to Mr Selbarajah and a notice of today's hearing was attached to the premises. PC Akers confirmed that Mr Selbarajah emailed him a copy of the letter dated the 13<sup>th</sup> October 2016 sent by the Licensing Authority, which informed him of the hearing today. We are satisfied that Mr Selbarajah had sufficient notice of the hearing.

We have heard representations from the Metropolitan Police that following a search of the premises on the 20<sup>th</sup> August 2016 a large quantity of Class A drugs were found within the vicinity of the premises, and a large quantity of cash and self seal bags was found on the premises. The employee present at the premises at the time of the search was arrested. The Police advised us that Mr Selbarajah told them that he had subsequently terminated this individual's employment. Furthermore, we are informed that on the 5<sup>th</sup> October 2016 a male employee sold alcohol to underage Police Cadets without asking for ID.

We have been informed that the business was sold in August 2015. The Licensing Officer confirmed that to date no written application to transfer the licence and change the DPS has been received. Therefore the licensable activity has been carried out illegally since the business was sold.

During a visit to the premises on the 6<sup>th</sup> September 2016, the licence was not on display and the male present at the time could not provide a copy of the current premises licence. We were advised that conditions 3 and 4 of the licence were not being complied with, namely: no one present at the premises was able to operate the CCTV, four of the cameras were not working and no refusals register was available to inspect.

Paragraph 11.27 of the guidance to the Licensing Act 2003 sets out various matters that are to be treated as being particularly serious and these include the sale and distribution

of Class A drugs. If it is determined that the crime prevention objective is being undermined we are expected to consider seriously the revocation of the licence. Our role is to determine what steps should be taken in connection with the premises licence, namely the promotion of the crime prevention objective in the interests of the wider community.

We must consider whether the owner or any DPS is able or indeed willing to comply with the legal requirements of holding a licence and what action is appropriate to promote the licensing objectives in view of the problems at these premises. What we have to consider however is not punishment, but how to promote the licensing objectives. We do not feel therefore that the matter may be left at the termination of the employee's employment. It seems inappropriate therefore to modify the conditions of the licence, remove the DPS or exclude a licensable activity. If the licence were to be suspended for up to three months we do not believe that the licensee would promote the licensing objectives when the suspension expired.

We unanimously agree that the premises owner has failed to promote the licensing objectives over a period of time, and the review is based on events that are to be taken particularly seriously. Based on the representations made today, we believe that the premises seems to have been extremely poorly run, and the only appropriate course of action is to revoke the premises licence.

Any party aggrieved with the decision of the licensing panel 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. Appeals should be made to Willesden Magistrates' Court, 448 High Road London England NW10 2DZ (Telephone 020 8955 0555, DX 110850 Willesden 2) by way of Complaint for an Order. The Court may either dismiss the appeal, substitute for the decision appealed against any other decision which could have been made by the Licensing Authority or remit the case to the Licensing Authority to dispose of it in accordance with the directions of the court, and can make such order as to costs as it thinks fit.

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

None.

The meeting finished at 12.05pm