

## Decisions of the Licensing Sub-Committee

7 August 2018

Members Present:-

Councillor Claire Farrier  
(Chairman)

Councillor Alison Cornelius  
Councillor Lachhya Gurung

### 1. APPOINTMENT OF CHAIRMAN

**RESOLVED** that Councillor Claire Farrier 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 - BEST ONE, 76 HIGH STREET EDGWARE HA8 7EJ

The Committee considered an application to review a premises licence for Best One, 76 Hight Street Edgware HA8 73J under Section 51 of the Licensing Act 2003.

### 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 was an application for a review of the premises licence for Best One, 76 High Street, Edgware, HA8 7EJ (“the premises”) under s.51 of the Licensing Act 2003. It was made by the Metropolitan Police and related to the licensing objectives of the prevention of crime and disorder. It follows a search of the premises on 15 May 2018 whereby alcohol and tobacco, suspected to be non-UK duty paid, were found in the premises.

The Sub-Committee has reviewed and considered the written and oral evidence and representations set out within the papers and put forward by the parties.

We have heard oral representations from PC Francesca Downes and PC Vicky Wilcock on behalf of the Metropolitan Police that during a search of the premises on 15 May 2018 numerous items were found in the stock room and shop floor whereby the duty could not be accounted for. We have also considered the section 9 statement of Mathew Allen, High Officer HM Revenue and Customs. He noted that the following items were seized in May 2018:

- 1) Chewing tobacco (RMD + Mirage) 712g
- 2) Mixed Polish beer brands 324 litres
- 3) Alfreddo mixed wine 85.50 litres.

It was submitted that the keeping of goods on the premises where UK duty had not been paid was in breach of section 112 of the Customs and Excise Management Act 1979.

The total amount of UK excise duty evaded from the seizure is £840. Of particular concern is the sale of chewing tobacco, the sale of which is unregulated, and the fact that there has been an increase in the amount of chewing tobacco which was being sold.

We have also been informed that this is the second seizure of suspected non-duty paid goods – the first being November 2017.

We have heard oral representations from Mr Suresh Kanapathi on behalf of Mr Nadarajah Rajamohan, the premises licence holder, and Mr Rajamohan also spoke on his own account. We were informed that Mr Rajamohan had run the business since 1997, twenty-one years, and had become the premises licence holder since 2005. Mr Kanapathi explained that due to Mr Rajamohan’s ill health he could no longer do heavy lifting. In 2015, he had gone into partnership with Mr Pirasanthan, who had become the designated premises supervisor (DPS) and had become responsible for the day to day running of the business. Mr Pirasanthan was responsible for going to the Cash and Carry and purchasing items. Mr Rajamohan stated that since 2015 he had only been running the shop three days a week and the rest of the time Mr Pirasanthan or other members of staff were in the shop. He claimed that he was unaware that Mr Pirasanthan had not paid the duty on the alcohol and claimed to be unaware that the premises were selling foreign chewing tobacco. However, he admitted when questioned that he was aware of the inspection in November 2017, although he had not been in attendance and he had told Mr Pirasanthan to stop selling non-duty paid products. In addition, the Sub-Committee noted that on 15 May 2018, the chewing tobacco had been found behind the store’s counter where he had been standing. When questioned about the tobacco, he stated that he was not aware of the tobacco because the package was sealed. Mr Kanapathi stated that Mr Pirasanthan had stopped being the DPS since 24 May 2018 following the inspection and Mr Rajamohan had appointed another DPS called Subramanian Krishnathasan, who runs another off licence nearby. He stated that this man would be in the premises three times a week for 4-5 hours and would be responsible for purchasing the heavier items of alcohol at the Cash and Carry. He also stated that his wife was being trained as a premises licence holder and his son was now

involved in the business. He proposed additional licensing conditions including that he would not sell beers, lagers or ciders above 6.5%, which accounted for £40-£50 of his daily business, that Mr Pirasanthan would be barred from the business, that invoices would be kept on the premises for 18 months and more detail of incidents to be recorded in the incident log.

PC Downes stated that the police did not have any confidence that additional conditions would increase compliance and they recommended revocation of the licence.

We have also heard oral representations from the London Borough of Barnet's Licensing Team and written representations from the Trading Standards Team.

Paragraph 11.27 of the Revised Guidance to the Licensing Act 2003 sets out various matters that are to be treated as being particularly serious and these include the sale or storage of smuggled tobacco and alcohol.

We must consider whether Mr Rajamohan is able to 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.

After hearing and considering all the evidence and the representations made by the parties today, we are not satisfied that Mr Rajamohan can comply with the conditions of the licence or indeed licensing regulations. 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. There are several reasons for this. Firstly, this is not the first time that non-duty paid goods were found on the premises, as there was a prior occasion in November 2017. The Sub-Committee were concerned that although Mr Rajamohan was not present on the first occasion he was aware of what had occurred and had not taken sufficient steps to prevent Mr Pirasanthan from continuing to purchase non-duty products. The Sub-Committee thought it was extremely unlikely that this was an isolated incident and Mr Rajamohan must have been aware that Mr Pirasanthan had continued to purchase non-duty products. He is an experienced licensee and should have been aware of what products were being sold in his shop. It is clear that he was not checking the stock and therefore the Sub-Committee were not satisfied that, irrespective of his proposed conditions, he would take sufficient care. In addition, the Sub-Committee were not satisfied that the new DPS is on site enough. Three days a week for 4-5 hours per day is not sufficient and the Sub-Committee were not satisfied that temptation would not arise again and there was not adequate supervision in place to ensure that non-duty products would not be purchased. The Sub-Committee was also concerned that there was an increase in the value of the non-duty products which were being sold between November 2017 and May 2018 and it was not only alcohol but chewing tobacco which is unregulated.

The Sub-Committee were not satisfied that the other options that were available would allay their concerns and the only option in the circumstances would be to revoke the licence. The Sub-Committee were gravely concerned that the premises have failed to promote the licensing objectives over a period of time, and that the premises licence

holder has failed to comply with his obligations under the Licensing Act 2003 and was in breach of the licence conditions. The Sub-Committee view this non-compliance particularly seriously.

The Sub-Committee therefore believes it is appropriate to revoke the premise licence in order to further the licensing objectives, namely the prevention of crime and disorder, and therefore the Sub-Committee has resolved to revoke the licence.

**Right to appeal**

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

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

None.

The meeting finished at 1pm.

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