

THE LONDON BOROUGH OF CAMDEN

At a hearing of **LICENSING PANEL E** held on **THURSDAY, 5TH OCTOBER, 2023** at 10.00 am in Committee Room 1, Town Hall, Judd Street, London WC1H 9JE

MEMBERS OF THE PANEL PRESENT

Councillors Meric Apak and Sylvia McNamara

MEMBERS OF THE PANEL ABSENT

Councillors Richard Olszewski

The minutes should be read in conjunction with the agenda for the hearing. They are subject to approval and signature at the next hearing of Licensing Panel E and any corrections approved at that hearing will be recorded in those minutes.

MINUTES

1. ELECTION OF CHAIR

The Principal Committee Officer opened the meeting and invited nominations for the election of Chair of the Licensing Panel.

RESOLVED –

THAT Councillor Meric Apak be elected Chair of the Panel for the 2023/24 municipal year.

2. GUIDANCE ON REMOTE MEETINGS HELD UNDER THE LICENSING ACT 2003 AND ASSOCIATED REGULATIONS

RESOLVED –

THAT the guidance on hybrid meetings as detailed in Part 4.1 of the Council's Constitution.

3. APOLOGIES

Apologies were received from Councillor Richard Olszewski.

It was noted that the hearing was still quorate with 2 members.

4. DECLARATIONS BY MEMBERS OF STATUTORY DISCLOSABLE PECUNIARY INTERESTS, COMPULSORY REGISTERABLE NON-PECUNIARY INTERESTS AND VOLUNTARY REGISTERABLE NON-PECUNIARY INTERESTS IN MATTERS ON THIS AGENDA

There were none.

5. ANNOUNCEMENTS

Webcasting

The Chair announced that the meeting was being broadcast live to the internet and would be capable of repeated viewing and copies of the recording could be made available to those that requested them. Those participating in the meeting were deemed to consent to having their contributions recorded and broadcast.

Supplementary Agenda

Since the publication of the agenda, a supplementary agenda had been published in relation to item 8, Costcutter contained additional information, 15 proposed conditions to be attached to the licence submitted by the Licence Holder's representative.

6. NOTIFICATION OF ANY ITEMS OF BUSINESS THAT THE CHAIR DECIDES TO TAKE AS URGENT

There were none.

7. MINUTES

RESOLVED –

THAT the minutes of the meeting held on 22 June 2023 be approved and signed as a correct record.

8. COSTCUTTER, 141-153 DRUMMOND STREET, LONDON NW1 2PB

Consideration was given to a report of the Executive Director Supporting Communities detailing an application to review a premises licence under Section 51 of the Licensing Act 2003.

Samina Khan, Licensing Officer, summarised the report explaining that the application to review the licence had been lodged by the Police Responsible Authority because they did not believe that the licensing objective, the prevention of

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crime and disorder was being upheld. 14 representations had been received in relation to the application, 7 representations, including from the Licensing Authority, Public Health and Camden Council Community Safety Responsible Authorities and 4 local residents were in support of the review application on the grounds that the 4 licensing objectives were not being upheld the prevention of crime and disorder, prevention of Public Nuisance, Prevention of Public Safety and the prevention of harm to children. While 7 representations from members of the public opposed the review application.

She notified the hearing that any determination of the Panel would not have effect until the end of the period given for appealing against the decision, or if the decision was appealed against until the decision was disposed of.

In response to a question of clarification from the Chair, the Licensing officer advised that there was an administrative error in the report, the report only referred to the crime and disorder licensing Objective whereas the representations in support of the application had referred to all four licensing objectives.

The License holder's legal representative Mr David Dadds understood the clarification provided by the Licensing Officer, agreeing that all 4 licensing objectives had been referred to in the representations remarking that, whether all 4 were not being upheld was a separate issue.

The Clerk informed the hearing that an interested party Lorraine Hayward had asked for her representation to be read out, in response the Panel commented that all representations had been read and understood and would be taken into consideration during deliberation, there was no need to read the representation out at the hearing.

Ms Stephanie Bruce-Smith Police Responsible Authority legal representative outlined the application for review and made the following key points:

In the view of the Police the Licencing objective, the prevention of crime and disorder was not being upheld by the licence holder because of persistent breaching of the licence conditions and in particular of the licence itself. This included selling of alcohol outside of the permitted hours and persistent failure to comply with CCTV conditions.

There had been an incident at the premises of a staff member wielding a knife which added to the concerns, this was set out in the Police witness statement.

There was a previous licence for this premises, which was revoked on 11th June 2019, at that time evidence presented to the Panel was that the premises was selling alcohol outside of the permitted hours and to underage people. There were numerous breaches of those licence conditions going back to 2016, the then Licence holder and Designated Premises Supervisor (DPS) was Mr Said Sadiqee.

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When the new premises licence application was granted in December 2019, 6 months after the revocation, a condition of the licence was that Mr Sadiqee should not be allowed in to or work at the premises. This was relevant in relation to the third incident detailed in PC Nicholls witness statement on page 132 of the agenda. During an enforcement visit to the premises carried out by the Police, Mr Said Sadiqee was found to be serving customers on the premises in breach of the condition. The CCTV was not able to be shown and when it did become available it was only found to go back 14 days.

Other incidents that led to the review were highlighted in PC Nicholls statements on pages 65-75 and 133 of the agenda. There was the incident of 15th January 2023 at 2.45am, officers saw two males entering the shop and leave carrying 4 cans of beer. The CCTV at the time could not be shown when officers requested it. Mr Kalum who was managing the premises confirmed that the two men had purchased alcohol. A section 136 notice was presented to the premises, which was on page 116 of the agenda.

Another incident on 18th March 2023 was detailed on page 121 of the agenda, a male was seen exiting the premises at 1.10am with a bottle of champagne in a carrier bag. On this occasion it showed that the manager went to the backroom to get the alcohol which was sold to a customer. The Police were of the view that this was a standard practise established at this premises in how they went about selling alcohol.

The CCTV for 18th March 2023 incident was not provided for download despite repeated requests as highlighted on page 131 of the agenda.

Another incident involving a knife occurred at the premises in September 2023 highlighted on pages 133 which was being investigated. This further undermined the confidence that the police had in the premises.

In summary there was evidence of the premises selling alcohol outside of permitted hours with all indications that this was a regular occurrence, persistent failure to comply with the conditions on the licence, particularly in relation to CCTV conditions, allegations of crime against members of staff. There appeared to be situations of going from breaches of licensing conditions from failing to prevent crime and disorder to allegations of incidents which could amount to crime and disorder which was currently under investigation.

The Police had also approached the new premises licence as a new start with an open mind and attempted to engage in correspondence with the premises. There was a breach first identified in May 2022, the premises were notified and informed that this was unacceptable. There were emails sent by the Police on July 2022, January 2023 and March 2023.

The premises manager was spoken to on several occasions including the day he was found to be selling alcohol outside of permitted hours, there was a meeting that took place at Kentish Town Police Station on 3rd April 2023 between the Police, the

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Premises Manager and the Premises Licence holder (Mr Rashidi) at which they were warned that the police were likely to review the licence if things did not change.

It was following this meeting that there was a failure of the premises to provide CCTV a few days later on 7th April 2023 and a number of other offences already referred to on 11th July and the incident relating to allegations of staff wielding a knife in September 2023.

The Police were seeking revocation of the Licence because under section 182 of the Licensing Act paragraph 11.23 where a premises was found to be trading irresponsibly, the Licensing Authority should not hesitate where appropriate to take tough action to tackle problems at the premises and where other measures were deemed insufficient revoke the licence. It was the Police case that there were persistent breaches coupled with a history of the premises selling alcohol out of hours. Inaction on the part of the Premises Licence holder to heed multiple written warnings, the police were of the view that revocation of the licence was the most appropriate course of action.

The Premises Licence holder had proposed a number of conditions as an alternative to revocation which were circulated yesterday. The Police had not had much time to go through them, however the conditions were identical if not weaker and covered all the same grounds as the existing conditions and removed some of the conditions already there. The problem was that the premises management was not complying with the existing conditions and the police had no confidence that this would change.

Responding to questions Ms Stephanie Bruce-Smith advised:

- The Police had no confidence that any further condition added to the licence would be complied with given the persistent failure of the premises management to comply with existing licensing conditions which were strong.
- It was not just the breach of conditions, that raised concerns it was the selling of alcohol outside the permitted hours which was the term of the licence.
- In any other circumstances removal of the Designated Premises Supervisor would be considered appropriate, however the Police believed that the problem here was the management of the premises.
- With regards to whether communication/language understanding was an issue for the premises management, this was not seen as a problem because of some of the correspondence where the Designated Premises Supervisor (Mr Rashidi) which was on pages 110, 126 and 117 of the agenda had been engaging with the police.
- PC Nicholls invited to comment on whether Mr Rashidi understood what he was being told, informed the Panel that at the meeting he had with Mr Rashidi he asked him at least 3 or 4 times whether he understood and knew the

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seriousness of the issues that were being presented to him. Mr Rashidi was made to understand the seriousness of the issues and was told that any further breaches would result in revocation of the licence.

- In response to a question from Mr Dadds (Licence holder's legal representative) PC Nicholls commented that he was aware that language may have been an issue of which he was mindful, however all indications were that Mr Rashidi understood.
- PC Nicholls confirmed that he informed Mr Rashidi that there could be a review of the premises licence and all options were on the table.
- If the licence were removed there would have to be an application to get the licensed activity back on which would be treated as a fresh application.
- After the warning given at the meeting at the Police Station on 3rd April, there were no letters, but there were 2 documents detailing the breaches left at the premises in addition to the phone call that was made in April.
- There were no prosecutions brought by the police for a licensing offence, the first protocol rather than bring a prosecution was a review of the licence.
- The Police did not have any part in the Home Office investigation and the nature of their investigation.
- The precise details regarding the knife incident should be taken from PC Nicholls statement on page 133 of the agenda and any paraphrasing from this statement was incorrect.

Piers Simey Public Health responsible authority summarised their representation in support of the application to revoke the premises licence included within the main agenda (pages 140-142), in summary it was highlighted that harmful and hazardous drinking was an increasing public health issue with major costs to individuals, communities and societies, resulting in a major impact on services across London and nationally driven by availability of alcohol. Selling of alcohol outside of framework hours contributed to this by making alcohol more accessible and increased harm related to alcohol and the effect this had on frontline services.

Esther Jones, Licensing Authority responsible authority speaking in support of the application for review, summarised their representation (pages 135-139), highlighting that the premises was not upholding the Licensing objectives, the prevention of public nuisance and prevention of crime and disorder having received several complaints from residents about anti-social behaviour of people that visited this premises since 2022.

The hearing was informed that Licensing Enforcement sent a letter to the premises on 18th July 2022, A joint visit to the premises with the Police and Immigration

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Officers took place on 11th July 2023 to ascertain compliance with the premises licence conditions, during the visit 14 breaches of the licensing conditions were witnessed by licensing enforcement. Despite engaging with the premises, it still appeared to be breaching the conditions of its licence and Licensing Enforcement had no option but to support the police in their application to revoke the premises licence. If the Panel were not minded to revoke the licence, Licensing Enforcement asked that a number of further conditions be imposed such as the reduction of the hours for licensable activity so that sale of alcohol stopped at 8pm and change of current Designated Premises Supervisor and staff training to ensure all staff members were trained and competent with the provisions of the licensing act and the repercussions of breaching any of the four licencing objectives.

Immigration obligations and the Police crime and disorder objectives were not being upheld by the licence holder. A list of proposed additional conditions could be applied to the licence if the panel were so minded.

Responding to questions Ms Esther Jones advised:

- The letter from Licensing Enforcement was sent to the premises in July 2022, the current Licensing Enforcement Officer wrote to the premises in April 2023, conducted a visit and a walkaround in April and visited the premises again in July 2023
- During the visit of Licensing Enforcement to the area in April 2023 there were people exhibiting anti-social behaviour within the vicinity of Costcutter.
- There were lots of other shops within the vicinity of Costcutter, however residents did not complain about the other shops.
- The premises was visited twice by Licensing Enforcement, were written to and advised of the impact on residents in the area due to the way the premises was operating.
- Licensing Enforcement representation was based on the fact that complaints were received from members of the public. The premises was not situated within a cumulative impact policy area.

Mr David Dadds, solicitor speaking on behalf of the Premise Licence Holder, addressed the Panel. He provided the following information:

He was concerned with the Police's approach of calling a review as this appeared to give the impression that it was punishing the premises licence holder although that might not be the intended consequences.

If the individual was culpable of causing harm or committing offences then that should be dealt with at the magistrate's court. There had been no suggestion that the Premises Licence holder had committed an offence, neither was there any evidence of this. With regards to the immigration issues and someone being arrested at a

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property, the premises licence holder had not been given any civil penalties or charged with a criminal offence.

The Council's legal officer in response to a question from the chair about the relevance of immigration to the Licensing objectives was advised that it was relevant in so far as the court had ruled that if a civil penalty had been issued then it was relevant to the Licensing objectives. In this case a civil penalty had not been issued.

In relation to the allegations against the member of staff, there was currently a police investigation going on, the member of staff had been suspended pending the outcome of the investigation. The premises licence holder did not believe any offence had been committed, there had been no charges, if things changed in the future that does not stop the police from coming back, so these allegations should be set aside as nothing had been proven.

Since the meeting in April the Premises Licence holder had installed shutters and for 6 months there had been no sale of alcohol outside the permitted hours. The premises had not been prosecuted for any offences under the Licensing Act either.

The 49 conditions on the licence had been translated directly into the Premises Licence holder's own language and whittled down to 12 conditions which had made it easier for the premises licence holder to understand. They replicated the main conditions, if any of the original conditions had been missed out this had not been intentional.

The Premises Licence holder may have had an issue with understanding the information presented by the Police at the meeting in April. He understood that he was required to install the shutters and to make sure no alcohol was sold outside permitted hours. He understood if that continued there could be a review but there appeared to be no understanding of what a review meant particularly when the officer said all options were open.

The conditions relating to CCTV not fully recording and not being present had been translated for the premises Licence holder and it had been made clear what the position was. The Panel could take a proportionate step by suspending the licence for a short period of time, removing the Designated Premises Supervisor to someone that had a better understanding and could communicate with the responsible authorities on a day-to-day basis. Revocation was completely disproportionate in this case.

The garden area behind the premises did unfortunately attract some people under the archway that were not directly linked to the premises. The public health representation had also indicated that there was no direct link to the premises and the statistics quoted were general statistics. The statutory guidance did say that unless it could be a positive link it could be relevant in new application but not a review application.

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There had been no primary evidence in the agenda such as witness statements from anyone regarding street drinkers, or any crime in the neighbourhood that had been directly linked to this premises.

Mr Dadds was looking to get someone to provide personal training for the Premises Licence holder so that he was aware of some of the issues that had arisen.

The premises licence holder was a family man with 3 daughters who would not sell alcohol to anyone underage or drunk and wanted to look after neighbours and the community. It was a family business with no other source of income, the impact would be kept to a minimum if it was a means of deterring him rather than seen as punishment.

In response to questions from Members, Mr Dadds, representing the License Holder, made the following further comments:

- Due to other work commitments the revised proposed conditions suggested by the Licence holder's legal representative took longer to provide to the Panel and other parties to the hearing and should have been accompanied with an explanation.
- Mr Dadds began representing the Designated Premises Licence holder about 3 weeks ago and as indicated due to work commitments and time constraints there had been limited time to engage with the responsible authorities.
- The sale of champagne outside permitted hours was accepted as a breach of the condition of the licence, there was however no evidence of any other sales of alcohol outside permitted hours personally by the Designated Premises Supervisor.
- In relation to the CCTV, if the CCTV was not functioning, there was no way of knowing what had occurred, it was however functioning for 14 days around the time of the Police inspection which was checked by the police. There had been no breaches found during the 14 days of the CCTV functioning. The CCTV had been an issue and that had now been fixed.
- The issue with regards to Mr Sadiqee, the immigration service wanted to carry out checks on staff working behind the counter, and officers had asked Mr Sadiqee to cover behind the counter for those members of staff while the checks were being carried out.
- Since the warning given by the police in March, there had been no outside permitted sales of alcohol, the Designated Premises Supervisor regularly monitored the CCTV system as he was able to log on remotely and been checking and making sure the shutters were down at the appropriate time, he spent 4 to 5 hours a day at the premises. One of his daughters also worked at the shop so there was more supervision.

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- While some residents had written in complaining about the shop selling alcohol to people causing nuisance and anti-social behaviour there had been other residents writing in support of the premises saying the premises was well run. The views of residence needed to be balanced.
- In relation to the complaints made about Costcutter by some interested parties as recently as 12th September, just because they have made a complaint did not make it true, they could be mistaken the casual link could have come from different places. As already indicated from the Responsible Authorities had not provided a primary or casual link to the premises. There had been problems with the premises but this had improved.
- In relation to Mr Sadiqee serving behind the counter on 2 different occasions, 9th July 2022 and 11th July 2023, the instructions provided by the Designated Premises Licence holder only referred to the immigration officers visit on 11th July 2023, no information was provided regarding 9th July visit where he was found to be working in the shop.
- With regards to whether the Designated Premises Supervisor understood the Licensing conditions since the License was granted in 2019, although he had some understanding of the conditions there had not been a full understanding of all the conditions, particularly as English was not his first language. Although the conditions may have been read, they may have not been fully understood. Once the outcome of the hearing was known, an arrangement could be made to rerun the training in the Designated Premises Supervisor's language.
- It was Mr Dadds' opinion that the Designated Premises Supervisor's reading capability in English was very basic and it would be best that all the conditions and training was translated into his own language so there was no difficulty with the understanding of what was expected of him.
- The Police had also indicated that there had been no evidence directly linking the premises to crime and disorder and anti-social behaviour in the last 6 months.

In their closing remarks, Ms Stephanie Bruce-Smith (Police legal representative) stated that rather than there being an issue with the conditions of the licence which were quite clear, the problem seemed to be with the ownership of the premises. The Police had been in this situation before with revocation of the Licence back in 2019 for the same type of breaches. The Licence Holder's representative had referred to lack of evidence this was however due to the failure of the premises to provide CCTV which would be the primary evidence. The alternatives proposed such as changing the DPS, reducing the hours for sale of alcohol or suspending the Licence for 3 months would result in the problems reoccurring. The persistent breaches given the engagement the police had with these premises were an indication that nothing

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would change and there was no other alternative than to request the revocation of the Licence.

Esther Jones Licensing Authority summarised her submission requesting in support of the Police submission, that the Licence be revoked.

In their closing remarks, Mr Dadds representing the Premises Licence holder asked that the Panel considered the proportionate approach, there had been problems at the premises but these had now been resolved with working CCTV. There was no evidence provided by the Police of crime and disorder linked to the premises, the licensing objectives had not been undermined. It was not about looking back but going forward, promoting the licensing objectives and providing a proportionate decision.

On conclusion of the closing remarks, members sought privileged legal advice from the Panel's Legal Adviser and so

RESOLVED -

THAT the press and public be excluded from the proceedings of the Licensing Panel on 5th October 2023 during consideration of the respective item on the agenda on the grounds that it is likely, in view of the nature of the business to be transacted, that were members of the public to be present, there would be disclosure of exempt information as defined in Schedule 12A to the Local Government Act 1972 (as amended) and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

Specifically -

Publicity in respect of item 8 would be likely to lead to the disclosure of information in respect of which a claim to legal professional privilege could be maintained in legal proceedings by virtue of Category 5 of Schedule 12A of the Local Government Act 1972 (as amended).

The meeting went into closed session at 12.49 and resumed the public meeting at 12.55.

The Legal Adviser told the meeting that Members had sought legal advice concerning legally the steps and options available to them when determining the application and when their decision would take effect.

Decision and Reasons

Panel Members confirmed that they had been able to follow and understand the submissions and discussion in relation to the application to review the premises Licence.

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In deliberation, the Panel expressed concern with several aspects of the case which had been highlighted during the hearing. This included the length of time that the premises had appeared to be breaching conditions, there had been a revocation of the Licence in 2019 which meant that there had been breaches leading up to that revocation and when a change of licence holder occurred there had been a series of incidents from 2019 to 2023, which had also impacted on residents in the area who had called the police.

For the residents there had appeared to be a link from purchasing alcohol in the shop and anti-social behaviour happening in the area. The Panel was of the view that they could place whatever weight it wanted on the written evidence. Noting that, it was a number of residents with separate submissions that had a common thread of concern about the premises which raised alarm bells.

Looking at the written submissions from residents and the order in which the submissions appeared to have been received, the residents that appeared to have been really upset about being disturbed not being able to get to sleep, worrying about their safety, who had called the police and taken steps to initiate the police coming in and had taken steps to get things done in an orderly way appeared to corroborate issues of anti-social behaviour due to sale of alcohol from the premises.

The Panel disagreed with the Licence holder representative's assertion that the review should be taken as a stark warning because there had been a number of times when either quite severe warning notices had been issued to the premises and the premises licence holder, as well as visits by the Responsible Authorities to the premises and invites to the police station. All these instances should have been jolts and warned the premises licence holder of the seriousness of the situation. The issue for the Panel was given all these warnings whether the premises licence holder could be trusted to abide by and implement any other steps that were available to the Panel.

The Panel considered all the other available options such as adding additional conditions, reducing the hours for the sale of alcohol, removing the designated premises supervisor and suspending the Licence for 3 months.

The Panel noted that these measures such as changing the Designated Premises Supervisor had been tried before and had not made much difference, the premises had not been able to comply with current conditions and had sold alcohol outside permitted hours, there was definitely no guarantee that the premises would comply with reduced hours for sale of alcohol. Similarly, the Panel did not have any confidence that suspending the Licence for 3 months would result in a change in the way the premises was being run, despite the representation made by the Premises Licence holder's legal representative, that shutters had been installed, training had been received and CCTV was now functioning.

The Panel considered the issue with Premises Licence holder difficulty with the language and not understanding fully the conditions, noting that as a business it was

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the Designated Premises Licence holder's responsibility to understand the conditions and if there were issues with language to get these translated particularly, given that there had been a previous revocation of the licence and considered that this was not an acceptable reason.

Panel Members noted that it was not an easy decision to reach. however, given all the reasons above determined that they did not have any other alternative but to revoke the premises licence in order to uphold the licensing objectives.

Therefore, it was

RESOLVED –

To revoke the premises licence.

9. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT

There was none.

Having adjourned between 11.30am to 11.35am, 12.20am to 12.2am and 12.49am to 12.55am the meeting ended at 13.11pm

10. LOCAL GOVERNMENT ACT 1972 - ACCESS TO INFORMATION

The hearing ended at 1.11 pm.

CHAIR

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MINUTES END