

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.45 P.M. ON TUESDAY, 22 MARCH 2022****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Mohammed Pappu (Chair)

Councillor Shad Chowdhury

Councillor Victoria Obaze

Officers Present:

David Wong	–	(Legal Services)	
Corinne Holland	–	(Licensing Officer)	
Farhana Zia	–	(Democratic Services Officer, Committees, Governance)	

Representing applicants	Item Number	Role
Suleyman Solak	4.1	Applicant
Alex Brander	4.3	(Trading Standards Officer)
PC Mark Perry	4.3	(Metropolitan Police)

Representing objectors	Item Number	Role
Laura Spenceley	4.1	(Resident)
Anwar Khan	4.3	(Solicitor for DPS)
MD Al Mamunul Huq	4.3	(Designated Premises Supervisor)
Mohammed Mehedi Hasan	4.3	Cashier

Apologies**1. DECLARATIONS OF INTEREST**

There were no declarations of interest made.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the meetings held on 8th and 22nd February were agreed and approved as a correct record.

4. ITEMS FOR CONSIDERATION

4.1 Licensing Act 2003 Application for a new Premises Licence for Organic Grocery Store, 284-286 Poplar High Street, London, E14 0BB

At the request of the Chair, Ms Corinne Holland, Licensing Officer, introduced the report which detailed the application for a new premises licence for Organic Grocery Store, 284 – 286 Poplar High Street, London E14 0BB. It was noted that an objection had been received from a local resident, in relation to the prevention of public nuisance.

At the request of the Chair, Mr Suleyman Solak, the Applicant explained the premises was operated by a new business, a convenience store, looking to sell organic fruit and vegetables, alcohol, and household products. Mr Solak said the premises had taken all the necessary precautions to ensure the licensing objectives would be upheld. Public notices advertising the Challenge 25 policy have been placed in the premises and CCTV had been installed. Mr Solak said his staff had been trained not to sell alcohol to those who were drunk or those who would cause anti-social behaviour. He said there would be no drinks promotions and they would fully cooperate with the responsible authorities.

Members then heard from the Objector, Ms Laura Spenceley, who said she lived directly above the premises. She said she already felt threatened by the anti-social behaviour of teenagers in the vicinity and felt unsafe when passing by them. Ms Spenceley said she was concerned about the late opening of the premises and the sale of alcohol until 23:00 hours.

In response to questions the following was noted;

- The objector was advised to speak to her landlord about the sale of the flats above the commercial property and her claim that the flats were sold on the premise that an alcohol led business would not be occupying the commercial space. It was made clear to the objector this was outside the remit of the Licensing Sub-Committee and therefore this could not be given consideration.
- The Applicant confirmed he had tried to meet with Ms Spenceley and had sent her two emails requesting a meeting. Ms Spenceley confirmed the Applicant had been in touch.

- The Applicant clarified the alcohol was not the core element of the business and said this would only make up 20 – 30% of the overall business revenue.
- The Applicant confirmed that he would be happy to reduce the sale of alcohol hours to the Council's framework hours. The Objector agreed to this and said she did not object to the business, but was concerned about the selling of alcohol so late in the evening in light of existing local anti-social behaviour that she had experienced.

Concluding remarks were made by both parties.

The Licensing Objectives

In considering the application, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and in particular to have regard to the promotion of the four licensing objectives:

1. The Prevention of Crime and Disorder;
2. Public Safety;
3. The Prevention of Public Nuisance; and
4. The Protection of Children from Harm.

Consideration

The Sub-Committee considered an application for a new premises licence in respect of Organic Grocery Store, 284-286 Poplar High Street, London E14 0BB ("the Premises"). The application sought a sale of alcohol (off sales) licence Monday to Thursday from 07:00 hours to 23:00 hours and Friday and Saturday from 7:00 hours to 00:00 hours (midnight). The application had received an objection from a resident living directly above the premises who was concerned about the opening times of the premises and the sale of alcohol late into the evening.

The Sub-Committee noted the concerns of the resident, who stated there were existing issues with anti-social behaviour in the area, with teenagers congregating in the vicinity and behaving in an anti-social manner. The objector said the selling of alcohol late in the evening, would exacerbate the problem.

The Sub-Committee considered the Applicant's submission, who stated that this was a new business whose primary source of business would be the selling of organic groceries such as fruit and vegetables as well as household products. The Applicant stated the sale of alcohol would contribute 20%-30% of sales and said they would comply with the conditions offered up in the operating schedule. The Sub-Committee asked the Applicant if he would consider reducing the hours of operation to the legal framework hours, in particular for Sunday and asked if this would be acceptable to the business.

Mr Solak agreed to this amendment, which was also acceptable to the objector.

Whilst the Sub-Committee sympathised with the objector's concerns, the Sub-Committee considered that the low percentage of alcohol forming part of the overall sales, meant that this would not be an alcohol led business, which combined with the conditions offered up in the operating schedule and the above reduction in operating hours, should not lead to these premises exacerbating anti-social behaviour issues in the area.

Therefore, Members of made a decision and the decision was unanimous. Members granted the application, with reduced hours for the sale of alcohol, as per the Council's legal framework hours.

Accordingly, the Sub-Committee unanimously;

RESOLVED

That the application for a new premises licence for Organic Grocery Store, 284-286 Poplar High Street, London E14 0BB be **GRANTED** with reduced operating hours for the sale of alcohol.

Sale of Alcohol (Off sales)

Monday to Thursday, from 07:00 hours to 23:00 hours

Friday and Saturday, from 07:00 hours to 00:00 hours (midnight)

Sunday, from 07:00 hours to 22:30 hours

Opening times

Sunday to Thursday 07:00 to 23:00 hours

Friday and Saturday 07:00 hours to 00:00 hours (midnight)

Conditions

1. The premises shall install and maintain a comprehensive CCTV system. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of the Police or an authorised officer throughout the entire 31day period.
2. An incident log shall be kept at the premises and be available on request to the Police or an authorised officer. It must be completed within 24 hours of any incident and will record the following:
 - a) all crimes reported to the venue;
 - b) any incidents of disorder;

- c) any faults in the CCTV system,
 - d) any refusal of the sale of alcohol;
 - e) any visit by a relevant authority or emergency service.
3. There will be a prominent signage near the door to the premises reminding the customers to leave the area quietly.
 4. Deliveries to the premises shall only be made during normal working hours.
 5. Rubbish from the premises shall be securely stored in a bin in a designated area. No refuse, including bottles shall be placed outside the premises between 22:00 hours and 08:00 hours the following day.
 6. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
 7. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer at all times whilst the premises is open.
 8. Children under the age of 14 years shall not be allowed to enter the premises after 21:00 hours unless accompanied by a person over the age of 18 years.

4.2 Licensing Act 2003 Application for a new Premises Licence for St Peter's Church Crypt, St Peter's Close, London, E2 7AE

The objector having withdrawn her objection shortly before the meeting, this application was granted.

4.3 Licensing Act 2003 Application to Review the Premises Licence for (Parnell Mini-Market) 117a Parnell Road, London, E3 2RT

At the request of the Chair, Ms Corinne Holland, Licensing Officer, introduced the report which detailed the application for a review of the premises licence for Parnell Mini-Market, 177a Parnell Road, London E3 2RT. It was noted that the review had been brought by Trading Standards and was based on the licensing objective of protection of children from harm.

At the request of the Chair, Mr Alex Brander, Trading Standards Officer, explained the grounds for the review and said that following a complaint from a concerned parent on the 1st December 2021, a test purchase was undertaken by two police cadets on the 13th December 2021. The cadets

were sold a can of larger, with no proof of age being asked for by the cashier. During the investigation, Mr MD Al Mamunul Huq, the Designated Premises Supervisor (DPS), provided additional information and stated that the cashier did not believe the female cadet was underage and therefore allowed the sale.

Mr Brander said when Mr Huq, when questioned by Trading Standards at the interview on the 20th January 2022, he did not fully comprehend what a sale by proxy was or how to apply the Challenge 25 policy. Mr Brander said this was equally true for the members of staff employed by Mr Huq. He said the signage within the premises was obscure and did not meet with licensing requirements.

Furthermore, Mr Brander said Mr Huq could not explain the entries that had been retrospectively added to the training log. Mr Brander said that as part of a separate investigation into the sale of tobacco to underage children, the Trading Standards Tobacco Enforcement Officer, had visited the premises on the 12th November 2021. The Enforcement Officer had taken a photograph of the log, in which three entries existed, dated 08/03/21, 10/03/21 and 07/09/21. However, after that visit, Mr Huq had provided a copy of the training log to Trading Standards, at which point Trading Standards noted that further entries had been made to the training log predating the above visit, which had not been in that log at the time of that visit, namely entries dated 17/10/21, 24/10/21, and 15/11/21. Mr Brander said Mr Huq had been unable to provide a satisfactory explanation for this and admitted he had made entries in the log.

Mr Brander continued that Trading Standards were concerned about the lack of leadership at the premises and the consistent disregard for the licensing objectives. Mr Brander informed the Sub-Committee that the premises and the DPS had previously been fined £440 each due to selling cigarettes to underage children, on the 8th March 2020 and 29th July 2021. Mr Brander said he was alarmed at the text messages Mr Huq had sent staff, following the incident of 29th July, whereby he appeared to warn staff to be careful of test purchasers rather than focusing staff on upholding the licensing objectives.

PC Mark Perry, from the Metropolitan Police concurred with Mr Brander and supported the application for review. He stated that the history of selling to underage children, demonstrated that the premises and the DPS showed scant regard for the licensing objectives and therefore recommended the premises licence be revoked.

Members then heard from Mr Anwar Khan, solicitor for the DPS – Mr Huq, who initially asked to be able to cross-examine Mr Brander. Mr Wong, legal adviser to the Sub-Committee advised the Members that this was not permissible. Whilst the Sub-Committee was a quasi-judicial body, these were civil administrative proceedings governed by the Licensing Act 2003 (Hearings) Regulations 2005, regulation 23 of which said, “A hearing shall take the form of a discussion led by the authority and cross-examination shall not be permitted unless the authority considers that cross-examination is required for it to consider the representations, application or notice as the

case may require.” Mr Anwar proceeded to state that the staff at the premises had undertaken a professional training course and were now fully conversant with the Challenge 25 policy and its application. He said Mr Huq intended to follow up the training with monthly in-house refresher courses and would ensure staff were monitored when he was not in the premises, by calling and texting his staff members. He said he would do this so to ensure they did not sell age-restricted products to underage children. Mr Anwar said the signage in the premises had been improved to show they operated a Challenge 25 policy. Mr Anwar said his client, Mr Huq apologised for the errors made and asked that the licence not to be revoked.

In response to questions the following was noted:

- Mr Brander clarified that company operating the premises and Mr Huq had been fined £440 each, for the breach of selling tobacco to underage children. Mr Brander confirmed these related to incidents on the 8th March 2020 and 29th July 2021.
- In response, Mr Huq stated that the business was relatively new at the time, and they were confused about the rules. He said staff had been sent on a training course and are now aware of the rules and regulations.
- Mr Huq said the staff member who sold the can of larger to the police cadet did not think the customer was 16 years of age or under. He referred to video footage of a sale an hour before the test purchase, which allegedly showed a purchase where the cashier had applied the Challenge 25 policy.
- Mr Huq accepted the signage in the premises was obscure and said this had been improved to make it more visible to customers.
- Mr Huq said prior to the test purchase of 13th December, staff were personally trained by him, but since then, all members of staff had been on a professional training course.
- Mr Huq said the training log had been adjusted to record training that had been completed previously.
- Mr Huq said it was common practice for the premises to operate a ‘tab’ system of payment, once the customer’s ID had been verified and the customer was known to them.

Concluding remarks were made by both parties.

The Licensing Objectives

In considering the application, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Home Office Guidance and the Council’s Statement of Licensing Policy and in particular to have regard to the promotion of the four licensing objectives:

1. The Prevention of Crime and Disorder;

2. Public Safety;
3. The Prevention of Public Nuisance; and
4. The Protection of Children from Harm.

Consideration

The Sub-Committee considered an application by Mr Alex Brander, on behalf of Tower Hamlets Trading Standards, for a review of the premises licence held by Huq Neighbours Limited in respect of Parnell Mini Market, 177a Parnell Road, London E3 2RT ("the Premises"). The review was based on the licensing objective of the protection of children from harm.

The Sub-Committee heard from Mr Brander that on the 1st December 2021, Trading Standards received a complaint from a concerned parent about the sale of alcohol to underage children. The parent stated the child had been able to purchase alcohol despite not having money for it, with the premises allowing the child to have a 'tab' with them. Mr Brander stated that as part of the Trading Standards operation, on the 13th December 2021, two underage police cadets were instructed to buy alcohol from the premises. Mr Brander said the test purchase occurred at approximately 18:48 hours, when the cadets were sold a can of lager. Mr Brander said that at no point during the transaction did the person serving at the till challenge the cadets for proof of age.

The Sub-Committee heard from Mr Brander that when Mr MD Al Mamunul Huq, the Designated Premises Supervisor, was interviewed by Trading Standards, he stated that the person at the till, Mr Mehedi Hasan did not think the female cadet was underage and therefore allowed the transaction. Mr Brander said it was clear the person manning the till did not understand what it meant to operate a Challenge 25 policy. Furthermore, when interviewed Mr Huq did not comprehend what a proxy sale was as it is illegal for an adult to buy alcohol on behalf of a child. Although in this instance the cadet was 16 years of age. Mr Brander said it was evident Mr Huq's staff did not know how to apply the Challenge 25 policy, nor had he trained his staff on sales by proxy.

The Sub-Committee heard from Mr Brander that as part of the investigation, entries had been made in the training log to show staff had been given training in regard to the sale of age-restricted products. He said originally three entries were in the log, 08/03/21, 10/03/21 and 07/09/21. This was verified by a photograph taken by the Trading Standards Tobacco Enforcement Officer, who had visited the premises on the 12th November 2021, in respect to the selling of tobacco products to underage children. However further entries had been made in the log for 17/10/21, 24/10/21, 15/11/21 and 29/11/21. Mr Brander said Mr Huq sent the training records to him on the 20th December 2021 (page 231 of the agenda pack). Mr Brander had noted that the last four entries then appearing on the extract of the training log sent by Mr Huq had been added after the visit from the Trading Standards Tobacco Enforcement Officer. The Sub-Committee noted that only the last of these four entries should have been added to the training log since

the Trading Standards Tobacco Enforcement Officer's visit on 12th November 2021, and that the entries dated 17/10/21, 24/10/21, and 15/11/21 had not been there at the time of the visit to the premises on 12th November 2021, according to Mr Brander's evidence, with particular reference to page 238 of the agenda pack. The Sub-Committee noted from Mr Brander that when Mr Huq was interviewed on the 20th January 2022, he was unable to satisfactorily explain these additions to the log.

The Sub-Committee were concerned to hear from Mr Brander that the premises had a track record of selling age-restricted goods to minors. He said the premises had been prosecuted for the sale of cigarettes to underage people, following a test purchase operation on the 8th March 2020 and 29th July 2021. Mr Brander said following those occasions, Mr Huq and the premises were each fined £440.

The Sub-Committee heard from Mr Brander about the text messages Mr Huq had sent his staff following the incident of 29th July 2021, whereby he instructed his staff to be careful of test purchasers, and the Sub-Committee shared Mr Brander's concern that this was no substitute for adequate training or operation of an effective challenge policy. The Sub-Committee shared concern expressed by Mr Brander that Mr Huq was unfit to operate a premises licence, as he did not fully comprehend or appreciate the licensing objectives and had on a number of occasions as designated premises supervisor, presided over a licensed business which had sold age-restricted goods to underage persons.

The Sub-Committee noted representations made by Mr Anwar Khan, solicitor for the designated premises supervisor, that his client had sent his staff on a professional training course, since the incident of 13th December 2021; staff were now aware of how to apply the Challenge 25 policy; Mr Huq intended to follow this up with monthly in-house refresher courses; Mr Huq would be monitoring his staff, when not in the premises by calling and texting his staff members to ensure they did not sell age-restricted products to underage children; the signage within the premises had also been improved to show they operated the Challenge 25 policy; and Mr Huq apologised for the errors and asked for the licence not to be revoked.

However, the Sub-Committee found the designated premises supervisor's representations wholly unconvincing, especially because when questioned about whether the premises operated a 'tab' system of payment, Mr Huq said it was common practice for the premises to offer 'tabs' in lieu of payment, which they did once they had verified the identity of the customer and the customer was known to them. The Sub-Committee found this to be a serious breach of responsibility in terms of leaving it open to minors to obtain alcohol through a tab system.

Furthermore, the Sub-Committee considered that the track record of the business in relation to underage sales of age-restricted goods left them with no confidence that the premises licence holder and designated premises supervisor would uphold the licensing objective of protecting children from harm. A premises licence to sell alcohol is granted on trust. If that trust has

been severely broken by a poor track record of compliances in relation to preventing underage sales, then that business cannot be trusted to retain its licence. Nor does it suffice to point to instances where underage sales have not taken place, because compliance with the law on some occasions cannot excuse non-compliances on other occasions, nor show that the business can be trusted to be consistent in upholding the licensing objectives.

Accordingly, the Sub-Committee unanimously;

RESOLVED

That the application for a review of the Premises licence for Parnell Mini-Market, 117a Parnell Road, London E3 2RT be **GRANTED and that the premises licence be revoked.**

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

Extension of deadline: Licensing Act 2003

Members agreed to extend the decision deadlines for the applications below to the dates stated; Licensing applications were extended due to the impact of the pandemic, and were adjourned under regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005, it was in the public interest to do so, and did not require representation from parties to the applications.

Premises	Extended to:
Kill the Cat – 14 Market Street, London E1	30/06/2022
Silver Sockeye AKA The Terrible Thames, Wapping Pier, King Henry's Stairs, Wapping High Street, London E1W 2NR	30/06/2022
Snake Collective, 144-146 Commercial Street, London E1 6N	30/06/2022
Rapha Racing Cycle Club, Café & Store, Spitalfields Market, 61-63 Brushfield Street, London E1 6AA	30/06/2022

The meeting ended at 8.09 p.m.

Chair, Councillor Mohammed Pappu
Licensing Sub Committee