

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 2.00 P.M. ON TUESDAY, 7 SEPTEMBER 2010

**THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Peter Golds (Chair)

Councillor Kabir Ahmed
Councillor Rajib Ahmed

Officers Present:

Kathy Driver	- (Acting Principal Licensing Officer)
Kerry Mure	- (Senior Lawyer)
Cain Ormondroyd	- (Legal Advisor)
Simmi Yesmin	- (Senior Committee Officer)

Applicants In Attendance:

Andy Jackson	- (Metropolitan Police)
Ian Moseley	- (Trading Standards)

Objectors In Attendance:

Nick Arron	- (Teviot Food & Wine)
Balteg Singh	- (Teviot Food & Wine)
Gurnaid Singh	- (Teviot Food & Wine)
Safdar Hussain	- (Fairprice Cash & Carry)
Bee Hamid	- (Parnell Mini Market)
Rizwana Miah	- (Parnell Mini Market)
Mr Malik	- (Parnell Mini Market)
Caner Akin	- (Montana & Co)

The Chair welcomed everyone to the meeting, ensured that introductions were made and then briefly outlined the procedure of the meeting.

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Aminur Khan for whom Councillor Kabir Ahmed substituted for.

2. DECLARATIONS OF INTEREST

Councillor Rajib Ahmed declared a personal interest in agenda item 4.1, application for a review of the premises licence for Teviot Food and Wine, 173 – 175 Teviot Street, London E14 6PY on the basis that the premises was in his ward, however he confirmed that he had not had any discussions regarding this application prior to the hearing.

3. RULES OF PROCEDURE

The Rules of Procedures were noted.

4. ITEMS FOR CONSIDERATION

4.1 Application to Review the Premises Licence for Teviot Food & Wine, 173-175 Teviot Street, E14 6PY (LSC 23/011)

At the request of the Chair, Ms Kathy Driver, Acting Principal Licensing Officer, introduced the report which detailed the application for a review of the premises license for Teviot Food and Wine, 173 – 175 Teviot Street, London E14 6PY. It was noted that the review had been triggered by the Metropolitan Police.

At the request of the Chair, Mr Andy Jackson explained that the review related to a series of operations run jointly with Police, Trading Standards and HRMC Customs. It was noted that certain off licences were identified following a review of intelligence from all three agencies. The premise was visited on 21st April 2010, on entry to the premises, a total of 89.6 litres (128 bottles) of mixed spirits were found, which displayed counterfeit duty stamps. Further examination of the wine on sale revealed that there were 305 bottles (228.75 litres) of mixed wine which were non duty paid, these were then seized. There had been no receipts produced for the goods at the time the goods were seized and nor within the 28 day period. It was noted that the goods seized amounted to total duty evaded of £1512.62.

Mr Jackson referred Members to the DCMS guidance which stated that the sale of smuggled tobacco and alcohol should be treated particularly seriously. Due to the large amount of goods found, he urged members to revoke the license in this instance in order to send a powerful message to the premises and to all other off licenses in the area.

At the request of the Chair, Mr Nick Arron, Legal Representative for the Premise License Holder, presented the Sub Committee with some receipts for the purchase of alcohol, he explained that the premises was a well run business where large quantities are sold. Mr Arron explained that the alcohol was purchased in good faith legitimately from wholesalers. It was noted that the quantities of wine were also brought legitimately from MDD Trading wholesalers. He explained that from the 89.6 litres of spirits, 56 litres have

receipts which show that these were brought from the wholesalers, however the remaining 35.6 litres of spirits were left over from a family wedding which was held on 20th October 2007, where large quantities were purchased for the wedding and the remaining bottles were stored at the shop, not on the shop premise but in the store room.

Mr Arron then referred to supporting documents, which highlighted the Premises License Holder's good character, his responsible attitude and his award for bravery. It was noted that he had been trading since 1984, he had helped the Police on many occasions, by obtaining a number of Anti-Social Behaviour Orders within the area, and in 1991 he was held at gun point and shot at the shop for which he was awarded a Gallantry Award from the Police for his bravery.

Mr Arron suggested some amendments to the conditions set out in page 83 of the agenda from Trading Standards. He explained that the alcohol was brought in good faith. He was an experienced shop keeper, a family shop with no issues of crime and disorder and that two underage sales test were correctly refused in the last 6 months and therefore felt that revocation was not proportionate.

In response to questions it was noted that the Police were only made aware of the receipts from the wholesalers two weeks ago, however it had been difficult to get hold of customs to vary this. It was noted that 54 litres of the mixed spirits and the wine was accounted for in the receipts, however the 36.5 litres of spirits could not be accounted for as they were left over from the wedding. In response to a further question, Mr Jackson did confirm that most of the alcohol seized was found in the storage area. It was noted that HRMC Customs were investigating into MDD Trading.

After hearing the representation on behalf of the Premise License Holder, Mr Andy Jackson recommended suspension, and additional conditions should be considered in this instance.

The Chair advised that the Sub Committee would at 2.45pm adjourn to consider the evidence presented. Members reconvened at 3.05pm. The Chair reported that;

Having heard representations from the Metropolitan Police and from the Premise Licence Holder, Members decided to SUSPEND the licence for a period of one calendar month running from receipt of the decision notice and to MODIFY the conditions on the licence by imposing further conditions as listed below. Both actions were in order to further the licensing objective of preventing crime and disorder.

Members had regard to the relatively large quantities of non-duty paid wine and spirits that had been found on the premises, and the correspondingly large sums that had been lost to the revenue. They had regard to the statutory guidance which provides that the sale of smuggled tobacco and alcohol should be treated "particularly seriously" when reviewing a licence (paragraph 11.26).

They also had regard to the fact that this appeared to be the first case of illegal activity at the premises, and that the licence holder had now been able to account for the presence of the wines by production of a relevant receipt.

They therefore decided that a period of suspension was necessary to promote the relevant licensing objective, in view of the seriousness of the problem in Tower Hamlets and in order to deter similar incidence of crime.

The Premise Licence Holder suggested that further conditions be imposed. Members considered that these conditions were necessary for the prevention of similar incidence of illegal activity at the premises in future.

RESOLVED

That the review application for Teviot Food and Wine, 173 – 175 Teviot Street, London E14 6PY, be **GRANTED** with the suspension of the sale of alcohol license for a period of one calendar month running from receipt of the decision notice and with the following conditions;

Conditions

- 1) The premises licence holder and any other persons responsible for the purchase of stock shall not purchase any goods from door-to-door sellers unless a valid receipt is supplied at the time of the purchase.
- 2) If stock is purchased from a door-to-door seller the premises licence holder shall ensure that a record is kept of the seller's vehicle registration number.
- 3) The premises licence holder shall ensure that all receipts for goods bought include the following details:
 - a. Seller's name and address
 - b. Seller's company details, if applicable
 - c. Seller's VAT details, if applicable
- 4) Copies of the documents referred to in 3) shall be made available to officers on request.
- 5) An appropriate device for checking the authenticity of duty stamps (such as an ultra-violet lamp) shall be installed on the premises and retained in working order.

6) The authenticity of the duty stamp on any goods shall be checked on receipt of those goods.

7) The premises licence holder shall inform the police in the event that they are sold counterfeit goods or goods with a fake duty stamp.

4.2 Application to Review the Premises Licence for: Fairprice Cash & Carry, 524 Roman Road, E3 5ES (LSC 24/011)

Having considered the letter dated 6 September 2010 from Stainforth Solicitors on behalf of the licence holder, and the accompanying evidence, members decided that it was necessary in the public interest to **ADJOURN** the review application for consideration on 30 September 2010.

4.3 Application to Review the Premises Licence for Parnell Mini Market, 117a Parnell Road, E3 2RT (LSC 25/011)

At the request of the Chair, Ms Kathy Driver, Acting Principal Licensing Officer, introduced the report which detailed the application for a review of the premises license for Parnell Mini Market, 117a Parnell Road, London E3 2RT. It was noted that the review had been triggered by the Metropolitan Police.

At the request of the Chair, Mr Andy Jackson, Metropolitan Police explained that the review related to a series of operations run jointly between the Police, Trading Standards and Customs & Excises. It was noted that Parnell Mini Market was visited on 21st April 2010 and on entry to the premise, a total of 77.25 litres (103 bottles) of non duty paid mixed wine were found on the premises these were then seized. There had been no receipts produced for the goods at the time of seizure to prove that they were brought from a wholesaler. The owners were given 28 days to produce the receipts for the goods seized, however this period have expired and the receipts have not yet been produced.

It was noted that the goods seized amounted to a total duty evaded of £173.76. Mr Jackson referred Members to the DCMS guidance which stated that the sale of smuggled tobacco and alcohol should be treated particularly seriously. In this instance where there had been a smaller amount of smuggled goods, a suspension of the licence was sought and the length of suspension was to be decided by the Sub Committee in order to send a powerful message to the premises and to all other off licenses in the area.

Mr Ian Moseley, Trading Standards stated that there had been one incident of underage sale of alcohol and a written warning had been issued. He also suggested possible conditions set out in his representation.

At the request of the Chair, Ms Bee Hamid, Counsel, presented on behalf of the Premises License Holder, Ms Rizwana Miah, she explained that Ms Miah was not aware that the goods were counterfeit. She then referred Members to the statement from Ms Miah, which explained that she was very remorseful, that she always purchased from wholesalers and that the seller had misled her into buying these goods which were thought to be legitimate and was told that the receipt book had run out and would be brought back the next day with a receipt for the goods, unfortunately the seller did not return and Ms Miah did not think of taking down sellers car details at the time.

Ms Hamid asked the Sub-Committee not to suspend the license but to impose conditions to promote the licensing objectives, she explained that Ms Miah regrets what happened and is currently running her business at a loss, and if her license is suspended this would highly impact on her business financially.

In response to questions it was confirmed that Ms Miah had been trading for over two years and not had any previous complaints prior to this and that a refusal book is maintained in the premises.

The Chair advised that the Sub Committee would at 3.30pm adjourn to consider the evidence presented. Members reconvened at 3.40pm. The Chair reported that;

Having heard representations from the Metropolitan Police, the Trading Standards Officer and the Premises Licence Holder, Members decided to SUSPEND the licence for a period of one weekend following receipt of the decision notice and to MODIFY the conditions on the licence by imposing further conditions as listed below. Both actions were in order to further the licensing objective of preventing crime and disorder.

Members had regard to the amount of non-duty paid wine that had been found on the premises, and the sums that had been lost to the revenue. They had regard to the statutory guidance which provides that the sale of smuggled tobacco and alcohol should be treated "particularly seriously" when reviewing a licence (paragraph 11.26).

They also had regard to the fact that this appeared to be the first case of illegal activity at the premises (save for an under age sale in April 2010 which had been dealt with by way of a written warning).

They therefore decided that a period of suspension was necessary to promote the relevant licensing objective, in view of the seriousness of the problem in Tower Hamlets and in order to deter similar incidence of crime. A short period of suspension would be proportionate to the seriousness of the situation.

The Premise Licence Holder and Trading Standards Officer suggested that further conditions be imposed. Members considered that the conditions listed below were necessary for the prevention of similar incidence of illegal activity at the premises in future.

RESOLVED

That the review application for Parnell Mini Market, 117a Parnell Road, London E3 2RT, be **GRANTED** with the suspension of the sale of alcohol license for a period of one weekend following receipt of the decision notice and with the following conditions;

Conditions

- 1) The premises licence holder and any other persons responsible for the purchase of stock shall not purchase any goods from door-to-door sellers unless a valid receipt is supplied at the time of the purchase.
- 2) If stock is purchased from a door-to-door seller the premises licence holder shall ensure that a record is kept of the seller's vehicle registration number.
- 3) The premises licence holder shall ensure that all receipts for goods bought include the following details:
 - a. Seller's name and address
 - b. Seller's company details, if applicable
 - c. Seller's VAT details, if applicable
- 4) Copies of the documents referred to in 3) shall be made available to officers on request.
- 5) An appropriate device for checking the authenticity of duty stamps (such as an ultra-violet lamp) shall be installed on the premises and retained in working order.
- 6) The authenticity of the duty stamp on any goods shall be checked on receipt of those goods.
- 7) The premises licence holder shall inform the police in the event that they are sold counterfeit goods or goods with a fake duty stamp.

4.4 Application to Review the Premises Licence for: Montana & Co, 101 Burdett Road, E3 4JN (LSC 26/011)

At the request of the Chair, Ms Kathy Driver, Acting Principal Licensing Officer, introduced the report which detailed the application for a review of the premises license for Montana & Co, 101 Burdett Road, London E3 4JN. It was noted that the review had been triggered by the Metropolitan Police.

At the request of the Chair, Mr Andy Jackson explained that he had been produced with some receipts by the Premises License Holder which was for the appropriate time period and amount of alcohol which were seized. He therefore suggested that conditions, those which were suggested by Trading Standards be imposed in order to deter such incidents possibly occurring in the future.

At the request of the Chair, Mr Caner Akin, Premise License Holder apologised for not bringing these receipts earlier, however stated that his Accountant had sent a letter together with these receipts to HRMC Customs a couple of weeks after the seizure in April 2010, as the receipts were with the accountant at the time of seizure. At this point the Sub Committee were shown the letter and receipts.

In response to questions it was confirmed that the letter and receipts were sent by the Accountant a couple of weeks after the seizure. The police accepted these receipts however was disappointed that these had not been produced sooner.

The Chair advised that the Sub Committee would at 3.55pm adjourn to consider the evidence presented. Members reconvened at 4.05pm. The Chair reported that;

Having heard representations from the Metropolitan Police, the Trading Standards Officer and the Premise Licence Holder, Members decided to MODIFY the conditions on the licence by imposing further conditions as listed below, in order to further the licensing objective of preventing crime and disorder.

Members had regard to the relatively small amounts of non-duty paid wine and spirits that had been found on the premises, and the sums that had been lost to the revenue. They had regard to the statutory guidance which provides that the sale of smuggled tobacco and alcohol should be treated "particularly seriously" when reviewing a licence (paragraph 11.26).

They also had regard to the fact that this appeared to be the first case of illegal activity at the premises (save for the presence of a small quantity of counterfeit condoms in August 2009) which had been dealt with by way of a written warning).

Members were conscious that it was not their role to determine the guilt or innocence of any individual. Nevertheless, they were of the view that the premise licence holder in this case had not been guilty of any intentional wrong doing in respect of the wines at least. They had regard to the fact that the responsible authorities were no longer seeking suspension of the licence.

Members were concerned about the presence of non-duty paid alcohol at the premises and considered that it was necessary in order to promote the relevant licensing objective that further conditions should be imposed on the licence. This would help to prevent crime and disorder associated with the sale of counterfeit and non-duty paid items on the premises in the future.

RESOLVED

That the review application for Montana & Co, 101 Burdett Road, London E3 4JN, be **GRANTED** with the following conditions;

Conditions

- 1) The premises licence holder and any other persons responsible for the purchase of stock shall not purchase any goods from door-to-door sellers unless a valid receipt is supplied at the time of the purchase.
- 2) If stock is purchased from a door-to-door seller the premises licence holder shall ensure that a record is kept of the seller's vehicle registration number.
- 3) The premises licence holder shall ensure that all receipts for goods bought include the following details:
 - a. Seller's name and address
 - b. Seller's company details, if applicable
 - c. Seller's VAT details, if applicable
- 4) Copies of the documents referred to in 3) shall be made available to officers on request.
- 5) An appropriate device for checking the authenticity of duty stamps (such as an ultra-violet lamp) shall be installed on the premises and retained in working order.
- 6) The authenticity of the duty stamp on any goods shall be checked on receipt of those goods.
- 7) The premises licence holder shall inform the police in the event that they are sold counterfeit goods or goods with a fake duty stamp.

The meeting ended at 4.15 p.m.

Chair, Councillor Peter Golds
Licensing Sub Committee