

**LONDON BOROUGH OF TOWER HAMLETS**

**MINUTES OF THE LICENSING SUB COMMITTEE**

**HELD AT 2.05 P.M. ON TUESDAY, 9 FEBRUARY 2010**

**COMMITTEE ROOM C1, TOWN HALL, MULBERRY PLACE, 5 CLOVE  
CRESCENT, LONDON, E14 2BG**

**Members Present:**

Councillor Peter Golds (Chair)

Councillor Rajib Ahmed  
Councillor Rachael Saunders

**Other Councillors Present:**

Councillor Marc Francis  
Councillor Alex Heslop

**Officers Present:**

Kathy Butler	- (Acting Principal Licensing Officer)
Zakir Hussain	- (Solicitor)
Jackie Randall-Peltier	- (Acting Licensing Services Manager)
Simmi Yesmin	- (Senior Committee Officer)

**Applicants In Attendance:**

PC Alan Cruickshank	- Metropolitan Police
PC Andy Jackson	- Metropolitan Police
Ian Mosely	- Trading Standards
Mahbub Alom	- (Royal Duke Superstore)
Abdul Hussain	- (Royal Duke Superstore)
Elaine King	- (Royal Duke Superstore)
Dawn Bever	- (Royal Duke Superstore)

**Objectors In Attendance:**

Robert Benzynie	- (Old Ford Mini Market)
Ibrahim Ozan	- (Old Ford Mini Market)
Hasan Ozan	- (Old Ford Mini Market)
Stephen Whale	- (Royal Duke Superstore)
Rashmi Patel	- (Royal Duke Superstore)
Zane Malik	- (Royal Duke Superstore)
Harry Bentley	- (Lovers Wines & Sprits)
Kalendar Onay	- (Lovers Wines & Sprits)
Kayar Ali	- (Lovers Wines & Sprits)

## 1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

## 2. DECLARATIONS OF INTEREST

**Councillor Peter Golds** declared a personal interest in agenda item 5.2, Application to review the premises license for Royal Duke Superstore, 474 Commercial Road, London E1 on the basis that over the past two years he has raised and handled numerous enquires from residents in his capacity as a Councillor. He referred those in attendance to page 202 of the agenda where there was a copy of an email request from residents, dated January 2008, to raise a members' enquiry regarding anti-social behaviour on the Pitsea Estate. This was done by passing the matters raised to an officer in Members Services.

Cllr Golds stated that by simply raising an enquiry from residents some two years ago would not impair his judgement in any way in considering this application on its merits.

**Councillor Alex Heslop**, from the Public Gallery declared a personal interest in agenda item 5.1, Application to Review the Premises License for Old Ford Mini Market, 389 Old Ford Road, London E3 2LU on the basis that he was a Ward Councillor and was a freeholder of the property on 385 Old Ford Road, which was a few doors away from the premises.

## 3. RULES OF PROCEDURE

The rules of procedures were noted.

## 4. UNRESTRICTED MINUTES

The minutes of the Licensing Sub Committee held on 14<sup>th</sup> January 2010 were agreed as a correct record of proceedings.

## 5. ITEMS FOR CONSIDERATION

### 5.1 Application to Review the Premises Licence for Old Ford Mini Market, 389 Old Ford Road, London, E3 2LU (LSC 048/910)

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

At the request of the Chair, Kathy Butler, Acting Principal Licensing Officer introduced the report which detailed the review application for the Old Ford Mini Market, 389 Old Ford Road, London E3 2LU. It was noted that the review had been triggered by the Metropolitan Police Authority.

At the request of the Chair PC Andy Jackson, Metropolitan Police addressed the committee and explained that under the Licensing Act Her Majesty's Revenues & Customs (HMRC) carried out an operation in which the Police and Trading Standards were involved in where 14 premises were raided and out of the 14, 8 were found in possession of counterfeit goods therefore reviews have been triggered.

He then referred to his statement on page 38 of the agenda which explained the incident which had led to the review when officers from HMRC attended the premises and seized 103.5 litres of smuggled wine and 48.5 litres of smuggled spirits.

Mr Ian Mosely, Trading Standards Officer informed Members that on 6<sup>th</sup> December 2005 a penalty charge notice was issued to a Mr Hasan Ozan in relation to the sale of alcohol to an underage test purchase volunteer. On 16<sup>th</sup> October 2008 a quantity of non-duty paid tobacco was found on the premises. Mr Ibrahim Ozan Junior, the premises owner accepted a simple caution under the provisions of the Consumer Protection Act 1987. On 26<sup>th</sup> May 2009 an underage test purchase attempt for tobacco was refused. On 24<sup>th</sup> August 2009 an underage test purchase attempt for alcohol was refused. And on 5<sup>th</sup> December 2009 alcohol was sold to an adult test purchaser outside the permitted hours of the licence. This was evidenced by the statement tabled at the meeting.

Mr Jackson then referred to page 40 of the agenda, the HMRC Officer's report which gave a detailed breakdown of the alcohol that had been seized as it was apparent that duty had not been paid as there were no supporting invoices and in total it was calculated that the total amount of evaded tax duty and VAT was of the sum of £754.80.

Mr Jackson referred to guidance from DCMS on the seriousness of the sale of smuggled tobacco and alcohol. Mr Jackson also questioned the authenticity of the supporting petition submitted on behalf of the Premises License Holder and highlighted that some addresses had been duplicated and were mainly of business premises rather than residential properties. He also mentioned that the letters of support were in relation to purchases of groceries and not alcohol and therefore the store could still operate without the sale of alcohol. Mr Jackson concluded by asking for revocation of the license.

At the request of the Chair Mr Robert Benzynie, Counsel for the Premises License Holder, Mr Ibrahim Ozan Junior, stated that the petition was made up of people and addresses of those who visited the shop on a regular basis which did include local residents and therefore these are to be accepted as there was a large number of names who have provided their support. Mr Benzynie read through a tabled document, a statement from Mr Ibrahim Ozan Senior who was the father of Ibrahim and Hasan Ozan which provided mitigating circumstances for the purchase of the counterfeit alcohol. It was noted that for a short period in November Mr Ozan Senior was helping out in the shop when both his sons were either recovering from an operation or ill. Whilst at the shop he was approached by a salesman selling alcoholic

products, who also said that he had competitive prices and had sold the same products to other local shops in the area. He explained that he would not have been able to buy stock from the cash and carry as he was on his own so he had purchased items which he thought were needed. He had been given a receipt which he had placed in the receipt book. He also explained that when his sons returned to the shop they had asked about the purchase and he had said that he had placed the receipt in the receipt book.

He then explained that after a few days the HMRC officer visited the premises, he had tried to locate the receipt but could not find it. He had thought the purchase had been correct as the man who had sold them appeared genuine and couldn't see anything wrong with the purchase as the bottle didn't look any different. He concluded that he was distressed with the problems he had caused his sons. Mr Benzynie explained that the purchase was accepted by the Premises License Holder however this had been purchased by the father and not him and therefore revocation was an extreme measure.

Mr Benzynie gave a brief background history of the premises, its owners and their style of operation. It was noted that since 2005 the shop had been running very successfully. He then addressed the statement from the Trading Standards Officer, indicating that after the first incident of underage sale of alcohol, Mr Hasan Ozan transferred the license to Mr Ibrahim Ozan Junior. The second incident, the cigarettes had not been for sale but for personal use as only one carton of 200 cigarettes were found. He then highlighted the other two incidents when purchases had been correctly refused.

Mr Benzynie concluded by asking Members to take into account the mitigating circumstances for the purchase of the counterfeit alcohol and it was noted that a further visit was done by HMRC after a week of the raid and there was no report of any repeated incidents.

Cllr Alex Heslop then addressed the Committee in support of the Premises License Holder he stated that he didn't dispute the findings or condoned the happenings however highlighted the impact it would have on local residents if revocation was granted. It was noted that the area was primarily a residential area which needed to be taken into account and gave examples of the reassurances the premises supplies to local residents and asked for the mitigating circumstances to be taken into account.

Cllr Marc Francis explained that the shop was well managed, which was apparent by the number of supporter for the premises, he stated that he had been in the shop and had seen the brothers (Hasan & Ibrahim Ozan) to be well regarded by their customers, and was more of a community facility. Cllr Francis stressed that the Premises License Holders had clearly learnt their lesson and if the license for sale of alcohol was to be revoked they would not be able to survive. Also this would mean that local people would have to walk to Roman Road for their groceries and residents would feel unsafe going there as there have been a lot of anti-social behaviour in the area with a recent murder and stabbing etc.

In response to questions from members Mr Ozan confirmed that they had CCTV cameras in operation which were kept for a week but they were currently considering keeping the tapes for 31 days.

In response to questions, Mr Jackson explained the visible differences between original products and counterfeit products. It was noted that the cigarettes had been purchased at the market for personal use and just the one time. It was noted that Mr Ozan Senior was helping in the shop for a week. It was noted that the alcohol did not look dubious and therefore not questioned. The receipt was kept in the receipt book which was taken to the accountants and was then missing. Members also questioned how the alcohol was paid for and where they normally buy their stock.

Concluding remarks were sought from both parties, who gave a brief summary of their previous submissions.

The Chair advised that the Sub Committee would at 3.10pm adjourn to consider the evidence presented. The Members reconvened at 3.20pm, to ask further questions of the Premises License Holder.

In response to a question Mr Hasan Ozan stated that banking was done every 1-2 days and that minimum cash each day would be £800 and maximum £1000 and including card payments, oyster, mobile top ups etc would be a maximum taking of £2500 per day.

The Chair advised that the Sub Committee would at 3.22pm adjourn to consider the evidence presented. The Members reconvened at 3.28pm, the Chair reported that the Sub Committee had;

### **RESOLVED**

That the review application for the premises license for Old Ford Mini Market, 389 Old Ford Road, London E3 2LU be **GRANTED** with the revocation of the license for the sale of alcohol.

### **Reason for Decision**

After hearing representations from the Metropolitan Police, Trading Standards and subsequently hearing submissions from the Licensee and Local Ward Councillors, Members felt that they could not be satisfied that the Licensee would promote the licensing objectives of crime and disorder.

Members felt that they heard no specific reassurances from the Licensee to satisfy them that appropriate steps would be taken and followed. Members were very concerned at the licensee's admission that despite a large quantity of alcohol having been bought in the absence of the two people that run the shop, the licensee did not look at the purchases properly nor make enquiries even though the new stock was clearly visible around the shop.

Therefore Members felt that there was no other option but to revoke the sale of alcohol license.

In reaching their decision, Members also took into consideration that previously a penalty charge notice had been issued and the licensee had accepted a simple caution in relation to non-duty paid tobacco and also that recently alcohol had been sold beyond the terminal hours under the licence which is a breach of licensing conditions.

## **5.2 Application to Review the Premises Licence for Royal Duke Superstore, 474 Commercial Road, London E1 (LSC 049/910)**

At the request of the Chair, Kathy Butler, Acting Principal Licensing Officer introduced the report which detailed the review application for the Royal Duke Superstore, 474 Commercial Road, London E1. It was noted that the review had been triggered by the Metropolitan Police Authority and supported by the Local Tenants Resident Association and local residents.

At the request of the Chair PC Alan Cruickshank, Metropolitan Police explained the incidents that had led to the review, he explained that as part of a multi-agency approach with HMRC and Trading Standards a search was taken place on the premises and smuggled goods were found on the shelves and in the basement stock room which were seized. Mr Cruickshank referred to the statement by Matthew Clark an HMRC Officer and it was noted that one hundred and fifty bottles of non UK duty paid wine were seized and the total amount of duty evaded was £269.33.

Mr Ian Mosely, Trading Standards Officer referred to his statement on page 94 of the agenda and explained the incidents that had occurred he mentioned that on 4<sup>th</sup> November 2009, a member of staff sold a can of fosters lager to a volunteer aged under eighteen and as a result the member of staff was issued with a penalty notice of £80. On 20<sup>th</sup> August 2009 and 15<sup>th</sup> September 2009 underage tests purchases for tobacco and alcohol was correctly refused. During the joint visit on 17<sup>th</sup> November 2009 with the Police and HMRC, no problems relating to Trading Standards were raised.

It was noted that as a result of the joint operation this was one of four off licenses in Tower Hamlets which was being currently reviewed over the offence of smuggled goods. Mr Cruickshank referred to the DCMS guidance which stated that the selling of smuggled goods is deemed a serious criminal offence and therefore asked the Sub-Committee for revocation of the license.

The Chair then invited residents who wished to address the Committee, Mahbub Alom, Dawn Beaver, Abdul Hussain and Elaine King were among the residents who spoke in support of the review application, each addressing similar concerns in relation to crime and disorder, public nuisance, noise nuisance, and anti-social behaviour, and mainly the increase in anti-social behaviour due to premises having a alcohol license. Residents urged members to take their views into consideration when making the decision and revoke the licence.

At the request of the Chair, Mr Stephen Whale, Counsel presented on behalf of the Premises License Holder, Ms Rashmi Patel. He explained that the evidence submitted on behalf of the residents were wide materials dating back to years old and that there concerns were wider than what is being considered in terms of crime and disorder for which the review had been triggered for and not for public nuisance. He stated that the Premises License Holder accepted the purchase and accepted the mistake made and apologised for the mistake as this was due to naivety on her part however there was no dishonesty and no intention to evade tax duty.

He explained that this was one error on an unblemished record, a one off incident and that the case should be dealt on its own merits. Mr Whale explained that the shop employed a Security Guard, had CCTV cameras inside and outside the shop which are kept for 31 days. Additional conditions were offered by the Premises License Holder such as meeting with the residents on a regular basis, employing an extra Security Guard for all hours of operation, further staff training on sale of alcohol and possibly the change of Designated Premises Supervisor.

Members asked questions about parking, and where alcohol is usually purchased from.

Concluding remarks were sought from both parties, who gave a brief summary of their previous submissions.

The Chair advised that the Sub Committee would at 4.16pm adjourn to consider the evidence presented. The Members reconvened at 4.35pm, the Chair reported that the Sub Committee had;

### **RESOLVED**

That the review application for the premises license for the Royal Duke Superstore, 474 Commercial Road, London E1 be **GRANTED** with the revocation of the license for the sale of alcohol.

### **Reason for Decision**

After hearing representations from the Metropolitan Police, Trading Standards, local residents and subsequently hearing submissions from the Licensee, Members felt that they could not be satisfied that the licensing objectives of crime and disorder and public nuisance would be upheld and promoted.

Members noted that issues of concern in relation to these premises were not solely due to the non-duty paid alcohol found on sale in the premises but also the crime and disorder being caused to residents from customers of the premises. Members did not feel that the licensee had proposed potential steps that could be taken to resolve issues and did not feel that they had been provided with an explanation as to why non-duty paid alcohol was purchased to sell.

Members accepted that residents had been subjected to serious anti-social behaviour and disorder and although they did consider the imposition of conditions to alleviate the strong concerns of the local residents, due to the beaches of licensing and other legislation, were not confident that conditions would resolve the issues.

**5.3 Application to Review the Premises Licence for Bar 54, 54 Commercial Street, London E1 6LT (LSC 050/910)**

This item was **adjourned** at the request of the Applicant

**5.4 Application to Review the Premises Licence for Lovers Wine, 69 Ben Jonson Road, London E1 6LT (LSC 051/910)**

At the request of the Chair, Kathy Butler, Acting Principal Licensing Officer introduced the report which detailed the review application for the Lovers Wines and Spirits, 69 Ben Jonson Road London E1 4SA . It was noted that the review had been triggered by the Metropolitan Police Authority.

At the request of the Chair Mr Alan Cruickshank explained that again a joint operation was conducted, taking part in a multi-agency approach with HMRC and Trading Standards. A search was conducted in the shop and smuggled goods were found in both the stock room and on top of a storage unit in the shop, they were then seized by HMRC. It was noted that thirty non UK duty paid cases of wine were seized and the total amount of duty evaded was £2055.71. This was supported by statement from an HMRC Officer.

Mr Ian Mosely, Trading Standards Officer referred to his statement on page 418 of the agenda and explained that on 19<sup>th</sup> August 2008 an adult test purchaser was able to buy non-duty paid cigarettes at the premises. A further visit to the premises found a quantity of non-duty paid tobacco products in a vehicle owned by a member of staff, however it was not proved that the items were intended for sale in the premises.

On 8<sup>th</sup> April and June 30<sup>th</sup> 2009 underage test purchasers were able to buy alcohol at those premises and a proposal to review the license was initially considered however on 6<sup>th</sup> July 2009 the license was transferred to a Mr Kalendar Onay with Mr Pinar the Leaseholder remaining as the Designated Premises Supervisor and the review process was then halted because of the change of control. A further attempt to make an underage test purchase was made on the 28<sup>th</sup> October 2009 and was correctly refused.

Mr Cruickshank concluded that a sword was also found in the shop which was denied of any criminal use and was for ceremonial use only and the owners had willingly agreed to have the sword destroyed. It was noted that the sword was behind the counter and the shop staff had easy access to it and this was of some concern to the police. He then referred to the DCMS guidance and suggested the revocation of the license.



Mr Harry Bentley, Counsel for the Premises License Holder, Mr Kalender Onay, read through a statement from the licensee, which gave a background of Mr Onay's previous experience, the reasons for the transfer of the license, how these goods had been purchased and the effects of this. He explained that the sword had been seen before by Officers but had not been raised as a concern but when this was mentioned it was destroyed. It was further noted that the licensee had received a text message from Times Cash & Carry about special offers on wines, spirits etc and therefore had sent Mr Pinar to make the purchase, Mr Pinar had left the receipt in the receipt book and when HMRC arrived the receipt was shown to officers however this had different wines listed on the receipt. He explained that a job advert had been placed for a new member of staff and once recruited, Mr Pinar would be dismissed.

Mr Bentley acknowledged there had been a problem with non duty paid cigarettes however the underage sale of alcohol had taken place before the current licensee. It was noted that Mr Onay became the Premise License Holder in July 2009 and the next test purchase was correctly refused when under Mr Onay's supervision. It was further noted Mr Onay was the Premise License Holder and DPS of his other premises, which had had no problems or complaints.

Mr Bentley explained that Mr Pinar's involvement in premises has caused complications and Mr Onay was mindful of that. He explained that there had been an immediate improvement when Mr Onay became in control. Mr Bentley concluded by suggesting some alternative conditions for members to consider such as immediate change of DPS, staff to undergo training etc. It was noted that this was Mr Onay's first offence, and a petition for support was also available if members wanted to view this.

Members asked questions about when the job advertisement was placed and where the counterfeit goods were brought from. It was further noted that Mr Pinar was the Leaseholder of the premises.

In accordance with the Council's Constitution, at 5.05pm the Chair extended the meeting by a further 30 minutes.

Concluding remarks were sought from both parties, who gave a brief summary of their previous submissions.

The Chair advised that the Sub Committee would at 5.08pm adjourn to consider the evidence presented. The Members reconvened at 5.20pm, the Chair reported that the Sub Committee had;

### **RESOLVED**

That the review application for the premises license for Lovers Wine, 69 Ben Jonson Road, London E1 4SA be **GRANTED** with the revocation of the license for the sale of alcohol.

### **Reason for Decision**

After hearing representations from both parties, Members reached the decision to GRANT the application and grant the revocation of the licence for sale of alcohol. Members noted the guidance that they were referred to by the Licensee's Counsel and also the guidance that they had been referred to by Metropolitan Police in particular the guidance issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003.

Members felt that serious issues existed in the management of the business which had led to non-duty paid alcohol being made available for purchase at the premises. Members were also surprised that the licensee did not advise the police that he had bought the alcohol from a cash and carry at the time the alcohol was discovered as the police confirmed that this was the first time that they had been advised of this.

Although the licensee's counsel did propose steps which may have alleviated concerns, he could not provide a complete assurance that the steps would be accepted by all parties and adhered to. Having evaluated the overall situation, members could not be satisfied that that existing problems would not continue and felt that there was no other option but to revoke the sale of alcohol license.

The meeting ended at 5.35 p.m.

Chair, Councillor Peter Golds  
Licensing Sub Committee