

LONDON BOROUGH OF TOWER HAMLETS
MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.32 P.M. ON TUESDAY, 17 SEPTEMBER 2019

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

Members Present:

Councillor Shah Ameen (Chair)
Councillor Sufia Alam
Councillor Gabriela Salva Macallan

Officers Present:

Luke Wilson	– Legal Services
Kathy Driver	– Principal Licensing Officer
PC Mark Perry	– Metropolitan Police
Kristian Dalley	– Trading Standards Officer
Samantha Neale	– Licensing Officer
Farhana Zia	– Senior Committee Services Officer

Representing applicants	Item Number	Role
Kristian Dalley	3.1	Trading Standards
Kathy Driver	3.1	Licensing Authority
PC Mark Perry	3.1	Metropolitan Police

Representing objectors	Item Number	Role
Mr Kashim Munem	3.1	Licence Holder's Brother
Mr Ashuk Uddin Choundhury	3.1	Manager and Personal Licence Holder
Mr Mohammed Ali	3.1	Manager

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

There were no disclosable pecuniary interests declared by the Members.

2. RULES OF PROCEDURE

The Rules of Procedure were noted by the Sub-Committee.

3. ITEMS FOR CONSIDERATION

3.1 Application to Review the Premises Licence for 24/7 Off Licence, 141 Commercial Road, London E1 1PX

At the request of the Chair, Ms Samantha Neale, Licensing Officer, presented the report which detailed the application for a review of the premises licence for 24/7 Off Licence, 141 Commercial Road, London E1 1PX. It was noted the review was triggered by the Responsible Authorities and officers representing the Licensing Authority, Metropolitan Police and Trading Standards had made representations.

The Sub-Committee heard from Mr Kristian Dalley, Trading Standards Officer, who informed the Sub-Committee that the Police and Trading Standards Officers had jointly executed a warrant on 23rd April 2019 and seized nitrous oxide charges, dispensers and balloons. Mr Dalley referred to the witness statement of his colleague, Mr Kevin Maple on pages 36–44 of the agenda pack and his own witness statement on page 45. In particular, Mr Dalley drew attention to the photographic evidence on pages 41-43 and confirmed that the search of the premises led to the seizure of 20 dispensers, labelled “Aluminium Cream whippers”, for use with nitrous oxide chargers. Mr Dalley said the box was concealed under a raised platform located behind the counter. Ten boxes of 24 nitrous oxide charges were found in a small safe under the counter and 15 nitrous oxide instant chargers and one packet of balloons were displayed on shelves immediately to the right of the counter.

Mr Dalley said the concealment of the products had led the Responsible Authorities to believe that these items were being supplied to members of the public for use as a psychoactive substance. Mr Dalley referred the Sub-Committee to pages 30-31 of the agenda which listed the visits made to the premises over the last five years. He said that following the underage tobacco positive test purchase in May 2018, the Premises Licence Holder, Mr Mahmud, was written to and asked to apply for a minor variation of the licence to include additional conditions.

Ms Kathy Driver, Principal Licensing Officer, said no such application to vary the licence conditions had been made by the Licence Holder. It was clear there was a history of non-compliance. There had been four test purchases in which the premises had sold alcohol beyond its licensing hours. On each occasion the Licence Holder received a warning letter. Ms Driver informed the Sub-Committee that Mr Mahmud had been written to at his home and business addresses but he had failed to communicate with the Responsible Authorities. Through further investigation of Council tax records it had come to light that the original address provided by Mr Mahmud no longer existed. Ms Driver said this was a further breach as the onus is on the Licence Holder to inform the Licensing Authority of any changes. Ms Driver said it was evident that Mr Mahmud was not managing his business adequately, nor was he upholding the licensing objectives. Therefore, she asked for the licence to be revoked.

PC Mark Perry of Tower Hamlets Police Licensing added that the Licence Holder, Mr Mahmud, had been given every opportunity to rectify the situation but he had chosen not to engage with the Authorities. PC Mark Perry said the raid on 23rd April 2019 clearly showed that the dispensers, canisters and balloons were for the inhalation of psychoactive substances. PC Perry said that there was no incident or refusal book. Furthermore, the photograph on page 43 showed small and large grinders. PC Perry said these were generally used for the grinding of cannabis and the Sub-Committee should question why these were being sold to the members of the public. PC Perry said the Manager, Mr Uddin Choudhury, was also given a community resolution as he was found in possession of cannabis. PC Perry urged the Sub-Committee to revoke the licence saying the licensing objectives of crime and disorder, preventing public nuisance and prevention of children from harm had all been brought into disrepute. He maintained that the imposition of additional conditions would not be effective as the premises' track record indicates that the Licence Holder will not abide by licence conditions.

Members then heard from the Licence Holders representatives: Mr Kashim Munem, brother of the Licence Holder, Mr Ashuk Uddin Choudhury, Manager and Personal Licence Holder, and Mr Mohammed Ali, a Manager at the Premises.

Mr Uddin Choudhury addressed the Sub-Committee and referred to the raid on the premises on 23rd April 2019. He stated that the stock behind the counter had been left there for re-stocking. Mr Uddin Choudhury said the nitrous oxide was for his own personal use and was locked away in a safe. Mr Uddin Choudhury said that no members of the public had access to this because he was the only key holder.

Mr Uddin Choudhury said the Off Licence and convenience store sold all types of items including household goods such as scissors and grinders but he did not question what customers used them for. Mr Uddin Choudhury accepted that the Premises had sold canisters to members of the public but noted that they had no control on how items sold in his premises are used. Mr Uddin Choudhury said that following the raid he and his colleagues had made a decision not to sell grinders.

Mr Uddin Choudhury stated that the premises is located on a busy road, with a bus stop directly outside the shop. Silver canisters were often disposed at the bus stop, however, there was no evidence that his premises had supplied these.

In response to questions raised by Members, the following was noted:

- The Police decided not lay charges in relation to the items located at the premises as it believed that the review and revocation of the Premises Licence was the more appropriate response. PC Perry said that whilst nitrous oxide was not illegal and was used in the catering industry, the drafting of the Psychoactive Substances Act 2016 had made charging offenders difficult. The police wanted to remove the

source of supply and had decided that recourse through the Sub-Committee was the most appropriate option.

- The selling of grinders per se is not illegal, however, knowing these are used to grind cannabis adds to the evidence against the premises.
- Mr Munem said that he was not aware of the previous breaches of the Premises Licence. He stated that they were all young and learning every day.
- Mr Munem said his brother had not received the letter, dated 7th January 2019, following the underage sale of tobacco. He added that if his brother had received such a letter he would have acted upon this and contacted the Licensing Authority. Mr Munem said that they have recently implemented measures to prevent underage sales.
- Mr Ashuk Uddin Choudhury said that he was now the Designated Premises Supervisor and had been in this role for approximately one year.

Members adjourned the meeting at 19:12 to deliberate and reconvened at 19:49.

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

Each application must be considered on its own merit. The Sub-Committee carefully considered all of the evidence before them including the application and written representations contained in the agenda pack and the oral representations at the meeting from the Premises Licence Holder's representatives and the officers representing the Licensing Authority, Metropolitan Police and Trading Standards.

The Sub-Committee noted that the Police and Trading Standards Officers had jointly executed a warrant on 23 April 2019 and seized nitrous oxide canisters, dispensers and balloons. The Responsible Authorities raised concerns about the Licence Holder's ability to effectively manage the premises and uphold the licensing objectives. The Sub-Committee noted that there had been a number of incidents at the Premises since 2014 including the sale of alcohol outside

the premises hours, the sale of tobacco to a fifteen year old test purchaser and possession of non-compliant alcohol and tobacco.

The Respondent accepted that it had sold nitrous oxide canisters and indicated that it cannot control what members of the public do with its products outside the premises. The Sub-Committee considered that the Respondent demonstrated a disregard for the safety of the public and the licensing objectives.

The Sub-Committee noted the Premises Licence Holder had been issued warnings for past incidents and following the underage tobacco sale been asked to make an application to add conditions to the licence. Despite the previous incidents and warnings, the Premises Licence Holder had not engaged with the Responsible Authorities or complied with the request.

The Sub-Committee reached a decision and the decision was unanimous. The Sub-Committee decided to revoke the premise licence as it was not satisfied that the licensing objectives would be promoted by the continued operation of the premises. The Sub-Committee considered whether additional licensing conditions would adequately address the concerns, however, it was not satisfied that the premises will abide by the existing licence conditions or any additional licence conditions. The Sub-Committee also considered whether to remove the designated premises supervisor or suspend the licence, however, the Sub-Committee concluded that these steps would not adequately address the issues at the premises.

Accordingly, the Sub-Committee unanimously:-

RESOLVED

That the application to review the Premises licence for 24/7 Off Licence, 141 Commercial Road, London E1 1PX be upheld and the Licence for the Premises be **REVOKED**.

3.2 Licensing Act 2003 Application for a Premises Licence for The Turks Head Cafe, 1 Green Bank, London, E1W 2PA

This application was withdrawn by the Applicant.

The meeting ended at 7.52 p.m.

Chair, Councillor Shah Ameen
Licensing Sub Committee