

**LONDON BOROUGH OF TOWER HAMLETS**  
**MINUTES OF THE LICENSING SUB COMMITTEE**  
**HELD AT 6.30 P.M. ON TUESDAY, 13 JULY 2010**

**M71, 7TH FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE CRESCENT,  
LONDON, E14 2BG**

**Members Present:**

Councillor Kabir Ahmed (Chair)

Councillor Zara Davis  
Councillor Harun Miah

**Officers Present:**

Kathy Driver – (Acting Principal Licensing Officer)  
Paul Greeno – (Senior Advocate)  
Kerry Mure – (Senior Lawyer)  
Simmi Yesmin – (Senior Committee Officer)

**Applicants In Attendance:**

Ian Moseley - (Trading Standards)  
Matthew Butt - (Royal Duke Superstore)  
David Davies - (Royal Duke Superstore)  
Abbas Naqui - (Royal Duke Superstore)  
Michael King - (Royal Duke Superstore)  
Ronald Parish - (Royal Duke Superstore)  
Rashmi Patel - (Royal Duke Superstore)  
Howard Timms - (Royal Duke Superstore)

**Objectors In Attendance:**

Mashood Alom - (Poplar Convenience Store)  
Alan Cruickshank - (Metropolitan Police)  
Thomas Doyle - (Planning Enforcement)  
Linda Hutchins - (Metropolitan Police)

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 on behalf of Cllr Peter Golds for whom Cllr Zara Davis substituted for and Cllr Ohid Ahmed for whom Cllr Harun Miah substituted for.

## 2. DECLARATIONS OF INTEREST

Councillor Harun Miah, declared a personal interest in agenda item 4.2, Application for a new premises licence for Royal Duke Superstore, 474 Commercial Road, London E1 0JN on the basis that the premises was in his ward.

## 3. RULES OF PROCEDURE

The Rules of Procedures were noted.

## 4. ITEMS FOR CONSIDERATION

### 4.1 Application to Review the Premises Licence for Poplar Convenience Store, 225 East India Dock Road, London E14 0EG (LSC 11/011)

At the request of the Chair, Ms Kathy Driver, Acting Principal Licensing Officer, introduced the report which detailed the review application for Poplar Convenience Store, 225 East India Dock Road, London E14 0EG. It was noted that the review had been triggered by Trading Standards.

At the request of the Chair Mr Ian Moseley, Trading Standards, explained that the premises was situated adjacent to an area identified as being at a higher risk of alcohol linked anti-social behaviour. He then explained the incidents which had led to the review, In April 2009, information was received from the Police stating that a 10 and 14 year old was found in possession of cigarettes believed to have been brought from the premises.

It was noted that on 26<sup>th</sup> August 2009 a person under the age of 18 was sold a pack of 4 cans of Kronebourg 1664 lager by a member of staff who received a £80 penalty charge notice and a written warning had been sent to Mr Mashood Alom the Premises Licence Holder. On 4<sup>th</sup> November 2009, a volunteer under the age of 18 was sold a can of Fosters lager by another member of staff. It was noted that in neither case did anyone on the premises identify themselves as a personal licence holder as it was a condition of the premises licence that all sales must be made or authorised by a person who holds a personal licence.

Also on 22<sup>nd</sup> March 2010 during a joint visit between Trading Standards, Police and HMRC, two bottles of Glen's Vodka and 95 bottles of wine on which duty had not been paid were found on the premises and then seized by Customs and Excise officers. Mr Moseley concluded that in view of the nature

of the offences and the apparent lack of day to day control at the premises the Trading Standards Service urged the Licensing Sub Committee to exercise its powers under section 52 of the Licensing Act 2003 and revoke the license or alternatively suggested conditions which could be imposed which was referred to in his statement on page 29 of the agenda.

At the request of the Chair Mr Mashood Alom explained that on both incidents where underage sales were conducted, he himself was not present at the premises and that he had told members of staff not to sell alcohol while he was away. However his instructions were ignored and therefore sales to underage children were made, he also stated that as a result of this he had dismissed the member of staff involved in the transactions. Mr Alom concluded by explaining that he was trying to do his best to train staff on the responsible sale of alcohol and was also sending staff on training to become personal licence holders.

In response to a question Mr Alom explained that he was unable to tell the difference between counterfeit vodka and the original, he explained it was his first shop, and it had only been opened since 2008. It was noted that the non duty paid alcohol was brought from someone who came to the shop, who appeared to be a trader, and that it was sold to Mr Alom without an invoice but was told that he would return with the invoice the next day however he did not come back.

In response to another question it was noted that since the incidents, Mr Alom had introduced the Challenge 21 policy and had signs up on the premises informing customers that they would require ID for the sale of alcohol/tobacco. He explained that on both occasions he had told staff not to serve customers alcohol while he was away from the premises. It was also noted that Mr Alom had arranged for members of staff to attend a training session on 10<sup>th</sup> August 2010.

Mr Paul Greeno, Senior Advocate advised Members that the Designated Premises Supervisor (DPS), did not always have to be present in the shop when there is a sale of alcohol, however staff needed to be trained on the responsible sale of alcohol.

The Chair advised that the Sub Committee would at 6.47pm adjourn to consider the evidence presented. Members reconvened at 7.05pm. The Chair reported that;

Having heard from both the applicant, Mr Ian Moseley, Trading Standards and Mr Mashood Alom, Premise License Holder, Members considered their various options. Due to the nature of the issues, the sale of alcohol to minors and the possession of a large amount of smuggled/counterfeit alcohol, it is not considered appropriate to take no action.

Due to the nature of failures, Members did not consider it appropriate to impose additional conditions. Members were satisfied that the problems at the premises were down to poor management and conditions would not address this.

Further, as the issue was down to poor management, it was not considered that the removal of the DPS would assist. That left suspension or revocation of the licence. Members noted the DCMS guidance at paragraphs 11.23 to 11.27, and were satisfied that the prevention of crime and disorder objective had been undermined. Members therefore considered that the Licence should be revoked.

### **RESOLVED**

That the review application for Poplar Convenience Store, 225 East India Dock Road, London E14 0EG be **GRANTED**, with the revocation of the licence.

#### **4.2 Application for a New Premises Licence for Royal Duke Superstore, 474 Commercial Road, E1 0JN (LSC 12/011)**

At the request of the Chair, Ms Kathy Driver, introduced the report which detailed the new application for Royal Duke Superstore, 474 Commercial Road, London E1 0JN. It was noted that objections had been received from the Metropolitan Police, Environmental Health and Planning Enforcement.

Mr Greeno explained that the Licensing Sub Committee on 9<sup>th</sup> February 2010 had revoked the premises license following a review triggered by the Metropolitan Police and supported by a large number of local residents. It was further noted that the revocation was yet to be determined by an appeal process currently being determined. It was noted that the supporting documents received from the applicants were quite clearly from the evidence for the appeal. It was highlighted that this was a new application and should be determined on its new submission and not on what previously occurred.

At the request of the Chair, Mr Matthew Butt, Counsel for the applicant stated that there had been a significant improvement in Ms Patel the premise license holder and the premises since the revocation. He explained that he would address the issues of crime and disorder and public nuisance separately.

The concerns of crime and disorder were due to the underage sale and the purchase of non duty paid alcohol. He explained that since November 2009 there have been obvious problems with the premises. He briefly highlighted the previous incidents which had occurred and as result of a successful test purchase and the purchase of non duty paid alcohol, the member of staff involved in both transactions was dismissed. He explained that it was an isolated incident and highlighted that during both incidents, of the underage sale and the purchase of non duty paid wine the licensee, Ms Patel was not present. Therefore he asked Members to consider this application on compassionate grounds and as isolated incidents, it was also noted that since the incidents there had been two further test purchases, which were unsuccessful.

Mr Butt explained that since the revocation of the licence, Ms Patel had sought advice and guidance from Mr David Davies, Licensing Consultant to help her become a responsible Premise License Holder, to train staff, introduce practices, procedures, measures and control in the work place.

Mr Butt referred Members to Section O of the supporting documents submitted on behalf of the applicant and explained that there was no evidence that the alcohol was non duty paid and that the condoms were counterfeit. He referred to invoices/receipts for vodka and durex condoms which were believed to have been counterfeit goods by Customs & Excise Officers, however there had been no evidence from Customs Officers to confirm this. He explained that Ms Patel only brought stock from the same supplier and produced letters from the supplier together with invoices and accountants records, proving not to be a fraudulent business and just a victim of an isolated incident.

He explained that staff had wrongly accepted the underage sale and the purchase/delivery of the non duty paid alcohol and that if Ms Patel was present both would have been refused. Mr Butt stated that allegations in regards to CCTV cameras was incorrect and said that that the footage requested by the Police had been handed into Limehouse police station the next day after the incident and that all staff assisted the police and therefore had not breached any licence conditions.

He then addressed the concerns of public nuisance, it was noted that this was mainly the concern of local residents, however there had been no objections made by residents. Members were referred to Section E of the supporting documents which were letters and a petition in support of the applicant. The proposed draft conditions were also noted which included a condition that an hourly patrol around the premises would be undertaken each day by a trained member of staff. Mr Butt highlighted a supporting letter from a local resident which said that Royal Duke Superstore would provide extra surveillance for residents with the introduction of hourly patrols.

Mr Butt stated that the allegations that customers of Royal Duke Superstore congregated outside the premises in the local area causing anti-social behaviour was only hearsay and also explained that the planning permission aspect was irrelevant and not supported.

Mr Butt then called his witnesses and asked questions of them, in Ms Petal's submission it was noted that she had been a licensee for 6 years, in November a staff had failed the test purchase, and also accepted delivery of the non duty paid alcohol, and as a result of this, was no longer working in the premises. It was noted that all staff now received training and that the Challenge 21 policy, the logging of all incidents and refusals on the occurrence book and the hourly patrols around the local area had been introduced. Ms Patel stated that if she was unable to sell alcohol then she could not keep the premises open.

Mr Butt also questioned Mr Abbas Naqui, Night Manager, who confirmed his experience of CCTV cameras and confirmed that the CCTV cameras had

always been in operation except for the one time in May 2009 for two days and stated that he and staff of Royal Duke Superstore would always be happy to help the Police and have done so in the past and will continue to do so in the future.

Mr Ronald Parish and Michael King also spoke in support of the premises as local residents and local businessman.

He then called upon Mr David Davies, Licensing Consultant, who gave a brief history of his achievements, and his experience of working with the applicant who had been willing to take on board all the suggestions he had made. He commended Ms Patel's willingness and determination to become a responsible licensee. He explained that he was confident with Ms Patel's progress and stated that during his visits he had witnessed both Ms Patel and her staff working hard and ensuring that good practices were in place.

Mr Butt confirmed that if the licence was to be granted then the applicant would agree to the conditions referred to in a document tabled by Trading Standards which detailed the Bottle Watch Scheme.

The Chair reported that apologies for absence had been received on behalf of Mr Ian Wareing, Environmental Health, and asked for his statement on page 113 of the agenda to be noted and considered.

At the request of the Chair, PC Alan Cruickshank on behalf of the Metropolitan Police referred to his submission on page 117 of the agenda and explained the incidents which had led to the revocation as well as a number of occasions when the CCTV cameras were believed not to be working, with staff appearing to be obstructive when asked to see CCTV camera footage.

He explained that an application requesting a 24 hour license to sell alcohol seemed inconsistent with the licensing objectives of preventing crime and disorder and public nuisance. He explained that the applicants were aware of the concerns of local residents and the safer neighbourhood team. He stated that to ask for another 24 hour license whilst their original license was revoked indicated that the applicant has not listened to any of the complaints raised at the previous sub committee. Mr Cruickshank concluded that the hours were too excessive and cannot see anti-social behaviour decreasing if such a license was to be granted. He also suggested reduced hours and conditions if Members were minded to grant the application.

At the request of the Chair, Thomas Doyle presented his submission by referring to his statement on page 135, he explained that planning did not support the application by the applicant to extend their hours to be permitted to sell alcohol, as this would cause a serious public nuisance to surrounding residential occupiers far later into the evening and morning than what currently occurs. He stated that the extension of the premises license hours is unreasonable and would not maintain a balance between commercial activities and residential amenities in an area where this was clearly required.

In response to questions from Members the following was noted;

That there had been two further incidents where CCTV cameras were not working, on 21<sup>st</sup> January and 28<sup>th</sup> January 2010 and 1<sup>st</sup> February 2010 there was trouble downloading the CCTV images, however officers seized the USB stick. Mr Naqui explained that the CCTV cameras had always been in operation and that the only one time it wasn't working was for two days during May 2009.

Mr Butt clarified that the Police report should be amended and should state that the person attacked was not a male as referred to in the statement but should be Ms Patel. It was also noted that the CCTV cameras were currently working and all staff had been trained how to use it.

It was noted that the CCTV footage for the incident on 21<sup>st</sup> January 2010 was handed in to Limehouse police station the very next day on 22<sup>nd</sup> January. It was further noted that CCTV footage for the assault on 28<sup>th</sup> January 2010 was not requested by the police.

In response to another questions, Ms Patel confirmed that the member of staff who was involved in the incidents on 4<sup>th</sup> November and 17<sup>th</sup> November had not received 'proper' training.

Mr Butt explained that Ms Patel had changed, was more aware and responsible and there were fewer problems in the area. Mr Cruickshank confirmed that there was no increase or decrease in anti-social behaviour in the local area.

In response to a further question Mr Butt confirmed that if the application was to be granted they would withdraw their appeal. Members asked questions regarding SIA door supervisors, types of customers who came to the shop, what their peak hours of trading were and where alcohol was displayed in the premises.

Despite, Mr Butt questioning the statements by Mr Cruickshank, Mr Cruickshank confirmed that he stood by the statements he had made. He also confirmed that he checked the crime incident reports on a regular basis to see if there were any amendments or updates, however had not done so over the last couple of weeks. It was noted that the police were currently not investigating the wholesale supplier, as this would be done by Customs and Excise.

In response to another question it was unclear whether any enquires were made to confirm if the condoms/alcohol were counterfeit. Mr. Greeno selling counterfeit goods did not always lead to prosecution as suppliers would have to be investigated.

Mr. Greeno advised that as it had not been clarified whether or not the goods were counterfeit then it would be for members to consider and decide on a balance of probabilities. Mr. Greeno also again confirmed that the application should be considered as a fresh new application and would not be determined by the previous decision.

The Chair advised that the Sub Committee would at 8.32pm adjourn to consider the evidence presented. Members reconvened at 9.20pm. Mr Greeno reported that Members wished to suspend standing orders and extend the meeting by a further 1 hour in accordance with the Council's Constitution;

The Chair advised that the Sub Committee would at 9.24pm adjourn to continue considering the evidence presented. Members reconvened at 10.05pm. The Chair reported that;

Members had listened carefully to all parties, although Members were aware that the previous licence was revoked and was subject to an appeal, Members had disregarded this and considered this as a fresh new application.

Members had separated the objections into two areas. Firstly, that of public nuisance. Aside from the statement attributed to PC Marshall, there was no other evidence of public nuisance. The applicant had called two local residents, as well as Mr Davies, who had stated that they did not suffer nuisance from the premises. On balance, Members were therefore satisfied that public nuisance is not attributable to the premises.

The second area was crime and disorder. This was of three issues. Firstly the sale of alcohol to minors; Members noted that the member of staff who had sold alcohol has been dismissed from work after the incidents. Members also noted that Ms Patel had accepted that training may not have been 'proper'. Mr Davies had said that training had improved. It is also noted that the two recent test purchases had been unsuccessful. Members were therefore satisfied that this has been addressed.

The remaining two issues were both disputed, namely counterfeit goods and the operation of CCTV cameras.

As to whether the goods were counterfeit, this had not been confirmed one way or the other, Members noted that Kevin Maple, Trading Standards, stated that the Vodka was believed to have been counterfeit and based on the batch numbers, the condoms were likely to have been counterfeit. Members were prepared to accept the evidence of the Trading Standards Officer, that the goods were counterfeit.

As to the CCTV cameras, Members accepted what the police stated and that staff were obstructive when asked to provide CCTV images.

Members did not therefore consider that the prevention of crime and disorder objective had been met and would be met. Members also did not consider that additional conditions could be imposed and were satisfied that they could not grant the application.

**RESOLVED**



That the new application for Royal Duke Superstore, 474 Commercial Road, London E1 0JN be **Refused**.

**5. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT**

There was no other business considered urgent by the Chair.

The meeting ended at 10.15 p.m.

Chair, Councillor Kabir Ahmed  
Licensing Sub Committee