

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON THURSDAY, 30 SEPTEMBER 2010

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

Members Present:

Councillor Peter Golds (Chair)

Councillor Shafiqul Haque
Councillor Amy Whitelock

Officers Present:

Mohshin Ali – (Acting Senior Licensing Officer)
Paul Greeno – (Senior Advocate)
Simmi Yesmin – (Senior Committee Officer)

Applicants In Attendance:

Mr Baylis - (Strada)
Mr Toreas - (Strada)
Andy Jackson - (Metropolitan Police)

Objectors In Attendance:

Riffat Malik - (Fairprice Cash & Carry)
Safdar Hussain - (Fairprice Cash & Carry)
Ian Stewart - (Resident Representative)
Enzo Testa - (Resident Representative)
Victoria Norval - (Resident Representative)

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

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. RULES OF PROCEDURE

The Rules of Procedures were noted.

4. UNRESTRICTED MINUTES

The unrestricted minutes of the Licensing Sub Committee meetings held on 19th August were agreed as a correct record of proceedings.

5. ITEMS FOR CONSIDERATION

The order of the business was varied in order to accommodate the late arrival of an applicant, however the minutes are in the same order as the agenda for ease of reference.

5.1 Application to Review the Premises Licence for Fairprice Cash & Carry, 524 Roman Road, E3 5ES (LSC 32/011)

At the request of the Chair, Mr Mohshin Ali, Acting Senior Licensing Officer introduced the report which detailed the application for a review of the premises license for Fairprice Cash & Carry, 524 Roman Road, London E3 5ES. 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 46.2 litres of mixed spirits were found, which displayed counterfeit duty stamps. Further examination of the wine on sale had also revealed that there were 30 bottles (22.5 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 £527.68.

Mr Jackson then referred to the supporting documents submitted by the Mr Safdar Hussain, Premises Licence Holder consisting of receipts and invoices from cash and carries dating a few months prior to the visit at the premises. Mr Jackson explained that whilst it did not prove that the alcohol was purchased from wholesalers it did confirm that Mr Hussain did purchase alcohol from wholesalers on a regular basis.

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 small amount of goods found, compared to other premises that had been reviewed, Mr Jackson suggested that in this instance a series of conditions be imposed.

At the request of the Chair, Ms Riffat Malik, Legal Representative for the Premise License Holder, explained that they were happy for the suggested conditions to be imposed and that Mr Hussain was happy to cooperate with the police. She explained that Mr Hussain had purchased the alcohol as a mistake and was unaware of the fact that they were counterfeit goods. She explained that Mr Hussain had always purchased from reliable cash and carries and referred to the supporting documents (receipts from the wholesalers). She then addressed the issues raised by trading standards in relation to underage sale and confirmed that the following training programmes were already in place to prevent this from happening again, such as staff training to discourage underage sale of alcohol and tobacco, knowledge of licensing law, awareness of licensing policies and procedures, guidance on how to assess age and advice on handling refusals.

In response to a question Mr Hussain stated that he would comply with all rules and regulations, taking extra precautions when purchasing alcohol and would adhere to the new conditions that had been suggested by the Police.

The Chair advised that the Sub Committee would at 7.40pm adjourn to consider the evidence presented. Members reconvened at 7.50pm. The Chair reported that;

Having heard representations from the Metropolitan Police and from 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).

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 licence holder in this case had not been guilty of any intentional wrong doing and would introduce measures to promote the licensing objectives. They had regard to the fact that the responsible authority was 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 Fairprice Cash & Carry, 524 Roman Road, London E3 5ES, 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 they are from a bona fide company.
- 2) The premises licence holder shall ensure that all receipts for goods bought include the following details:
 - i) Seller's name and address
 - ii) Seller's company details, if applicable
 - iii) Seller's VAT details, if applicable
 - iv) Seller's vehicle details, if applicable
- 3) Copies of the documents referred to in 2) shall be retained on the premises and made available to officers on request within 1 week of the request.
- 4) An ultra violet light will be used at the store to check the authenticity of all stock purchased which bears a customs stamp.
- 5) The premises licence holder shall inform the Police and LBTH Trading Standards if any counterfeit goods are found.

5.2 Application for a New Premises Licence for Strada, Unit E1, 12 Hertsmere Road, West India Quay, London E14 4AF (LSC 33/011)

At the request of the Chair, Mr Mohshin Ali, Acting Senior Licensing Officer, introduced the report which detailed the application for a new premises license for Strada, Unit E1, 12 Hertsmere Road, West India Quay, London E14 4AF. It was noted that objections had been received by local residents. It was also noted that Planning Enforcement had withdrawn their objection due to the amended application submitted by the applicant with the reduction in hours.

At the request of the Chair, Mr Baylis, Legal Representative for the applicant referred Members to page 117 of the agenda which had amendments to the license application which included a reduction in hours and the removal of background music. He explained that alcohol would be served at tables with food, that it would primarily be a restaurant was a small bar area, with customers spending £30 on average.

The Chair then invited residents who wished to address the Committee, Ian Stewart, Enzo Testa and Victoria Norval, were among the resident representatives who spoke in objection to the application, each addressing similar concerns in relation to noise nuisance, public disorder, anti-social behaviour, and crime and disorder.

In response to questions it was noted that Wednesday to Friday was the best nights for restaurant trade and therefore the applicant was applying for later hours on those days, that the age and fabric of the building meant that noise did travel up to flats above the restaurants with noise permeating throughout the building, as well as noise from customers congregating outside the premises. It was further noted that the residents were not objecting to Strada as a whole but were objecting to the hours applied for as they wanted to get the right balance for residents and local businesses. It was also noted that the applicant was happy for a condition to be imposed to restrict customers from vertical drinking.

The Chair advised that the Sub Committee would at 7.05pm adjourn to consider the evidence presented. Members reconvened at 7.25pm. The Chair reported that;

Having heard representations from all interested parties, members decided to GRANT the application in part and imposed a condition in order to promote the licensing objective of preventing crime and disorder and preventing public nuisance.

Members had regard to the concerns of residents, but they had to base their decision on evidence presented before them and not speculation. Members noted the concerns raised by those making representations regarding crime and disorder and public nuisance but it was considered, however, that these were very much future concerns regarding what could happen if more late night premises were to open in the local area. Members had considered the application based on the current position. Members had taken note however of the evidence given by residents as to the disturbance caused to the residents from noise being caused within venues already operating and therefore that the application could be granted but on reduced hours and with an additional condition.

RESOLVED

That the new application for Strada, Unit E1, 12 Hertsmere Road, West India Quay, London E14 4AF, be **GRANTED in part** with the following hours and condition;

Sale of Alcohol

Saturday to Thursday from 09:00 hours to 23:00 hours
Friday from 09:00 hours to 00:00 hours (midnight)

Late Night Refreshments

Saturday to Thursday from 23:00 hours to 23:30 hours
Friday from 23:00 hours to 00:30 hours

Hours Premises are Open to the Public

Saturday to Thursday from 07:00 hours to 23:30 hours

Friday from 07:00 hours to 00:30 hours

Condition

1) All drinks to be taken to tables by waiting staff, with no vertical drinking permitted.

6. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT

There was no other business considered urgent by the Chair.

The meeting ended at 8.00 p.m.

Chair, Councillor Peter Golds
Licensing Sub Committee