

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 20 APRIL 2016**

COUNCILLORS

PRESENT (Chair) Chris Bond, George Savva MBE and Jim Steven

ABSENT

OFFICERS: Ellie Green (Principal Licensing Officer), Charlotte Palmer (Licensing Enforcement Officer), PC Martyn Fisher (Metropolitan Police Licensing Officer), Antonia Mankanjuola (Legal Services Representative), Jane Creer (Democratic Services)

Also Attending: Barrister for Metropolitan Police Service
Mrs Ebru Govtepe (Director of Enfield Food Store Limited)
Barrister and Licensing Agent and 2 further representatives on behalf of Enfield Food Store Limited

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WELCOME AND APOLOGIES FOR ABSENCE

Councillor Bond as Chair welcomed all those present and explained the order of the meeting.

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DECLARATION OF INTERESTS

NOTED that there were no declarations of interest in respect of items on the agenda.

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**NEW HERTFORD FOOD STORE LIMITED, 236 HERTFORD ROAD,
ENFIELD EN3 5BL (REPORT NO. 220)**

RECEIVED the application made by Enfield Food Store Limited for the premises now known as and situated at Hertford Food Store Limited, 236 Hertford Road, Enfield, EN3 5BL for a transfer of Premises Licence LN/201500517.

NOTED

1. The introductory statement of Ellie Green, Principal Licensing Officer, including:
 - a. This hearing was to deal with two applications in relation to the premises: a transfer and a review application. It was proposed to discuss

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- both applications at the same time then for the sub-committee to make a decision on each application after hearing all the submissions.
- b. The shop had been known as various names, but all the paperwork referred to the same premises of 236 Hertford Road and the same licence number LN/201500517.
 - c. The current licence permitted sale of alcohol from 08:00 to 00:00 and opening hours to 01:00 daily.
 - d. The licence was granted in August 2015, with Mr Deniz Altun named as both the Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS).
 - e. The transfer application to be determined was submitted on the afternoon of 24 February 2016 by Enfield Food Store Limited. This transfer application was received a couple of hours after a transfer application was withdrawn during the Licensing Sub-Committee hearing on the morning of 24 February 2016.
 - f. Mrs Govtepe was the Director of Enfield Food Store Limited.
 - g. Also on 24 February 2016 a vary DPS application was submitted by Enfield Food Store Limited naming Mr Necip Karagoz as the DPS. This application was not subject to any representations.
 - h. The Police had submitted an objection to the transfer application, as set out on page 48/9 of the agenda pack.
 - i. The Police objection was supported by the Licensing Authority.
 - j. The review application was submitted by the Licensing Authority and related to the prevention of crime and disorder licensing objective. The authority considers that it is now appropriate, for the promotion of the licensing objectives, to revoke the Premises Licence. A large quantity of non-duty paid alcohol and tobacco were found in connection with the premises on three separate occasions. Breaches of the premises licence were also established.
 - k. The Licensing Authority review application was supported by the Police.
 - l. The transfer had immediate effect. However, there were links in the evidence which showed that the review related to Mr Altun or Enfield Food Store Limited.
 - m. Supporting evidence from Mr Govtepe, Mrs Govtepe and Mr Altun was provided in the supplementary Part 2 agenda.
2. The statement of Charlotte Palmer, Licensing Enforcement Officer, including the following points:
- a. The review application seeking revocation of the licence arose following the discovery of non-duty paid alcohol and tobacco and breaches of conditions.
 - b. Licensing Enforcement officers also supported the Police's objection to the transfer application.
 - c. A new premises licence was issued to Mr Deniz Altun on 18/09/15. Within three months, non-duty paid products were found in connection with the premises on three separate occasions.
 - d. An inspection in October 2015 found non-duty paid rolling tobacco and cigarettes hidden in a drawer under the butchers chopping table, and a

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number of breaches of conditions. A warning letter was sent to Mr Altun on 20/10/15. A voluntary declaration form was provided to confirm that the whole of the premises had been checked to ensure that there were no further non-duty paid products there: this declaration was signed by Mr Altun and dated 26/10/15. Yet further non-duty paid products were found in November and December 2015.

- e. On 10/11/15 Trading Standards and HMRC officers seized non-duty paid bottles of bitter.
- f. On 21/12/15 over 4,500 packets of non-duty paid cigarettes were seized from a hidden place in the toilet area in the storage area used by the shop. The efforts taken to hide these products showed that it was known they were illegal. This was the biggest seizure of non-duty paid products made in Enfield. The disregard shown for the law undermined the prevention of crime and disorder licensing objective.
- g. Guidance from the Secretary of State was that there was certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These included the use of the premises for the sale or storage of smuggled tobacco and alcohol. Where reviews arose in respect of these criminal activities and the Sub-Committee determines that the crime prevention objective is being undermined it is expected that revocation of the licence – even in the first instance – should be seriously considered.
- h. Non-duty paid products had been found here on more than one occasion, and two previous premises licences had already been revoked for the same issues. The husband of the current applicant had held one of those licences and a business partner had held the other licence which was revoked.
- i. Illegal products had previously been discovered in a chest of drawers with a false bottom. The time put into making the drawers showed this was a large scale operation that was taken seriously. A total of £24,244.37 of tax was lost.
- j. Conditions were already attached to the licence to prevent this type of activity. Condition 24 also prevented Mr Govtepe or Mr Erdogan or their immediate family being involved in any way in the operation and / or management of the business or be permitted to work in the business in any capacity. This condition was offered by Mr Altun when making the new premises licence application. Officers would argue that “immediate family” would at the very least include spouse and children.
- k. The transfer application was made by a company, the Director of which was Mrs Govtepe.
- l. There had been no application to remove Condition 24 from the licence, and if there had been the Licensing Authority would have objected.
- m. Mrs Govtepe had stated that she was the only person who was responsible for day to day management of the business, but all invoices were noted to have Mr Govtepe’s name printed on them. This would breach Condition 13: Only the Premises Licence Holder or Designated Premises Supervisor shall purchase alcohol and cigarette stock.

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- n. Mr Govtepe stated that his son started work at the business on 26/11/15, and that his wife took over the business on 24/12/15. These were breaches of Condition 24. This did not fill the Licensing Authority with confidence.
- o. The behaviour of Mr Govtepe's son on 21/12/15 gave cause for concern. He obstructed officers during the attempts to access the storage facilities and forced his way through the door. Officers had to ask for Police assistance twice that day.
- p. This premises had the worst history in the borough in relation to non-duty paid alcohol and tobacco. A pattern had emerged, with the same individuals linked, involving repeated undermining of the prevention of crime and disorder licensing objective. Licensing Authority officers had no confidence in those running the business now and in the past; and recommended that the licence be revoked. It was also noted that a criminal investigation was underway.
3. Charlotte Palmer responded to questions as follows:
- a. In response to queries from the legal representative of the PLH regarding the inspections and the products found, it was advised that the 4,500 packets of cigarettes were found in the store room at the premises at a café next door. In October, non-duty paid tobacco products were found under the butcher's table at the back of the premises and non-duty paid alcohol was found in the premises.
- b. In response to queries that there was no evidence that Mr Govtepe or Mr Erdogan were involved in the operation of the premises since 24/12/15, it was advised that Mr Govtepe's name appeared on invoices for alcohol and tobacco and so it looked like he was making the purchases.
- c. In response to queries about the meaning of "immediate family", Charlotte Palmer's view was that various circumstances including co-habiting partners could be considered immediate family and each case may be considered on its merits, but discussion about this licence involved a husband and wife and son.
4. The statement on behalf of the Metropolitan Police Service, represented by Mr Asitha Ranatunga, Cornerstone Barristers, including:
- a. The primary reason for Police representation at this hearing was to object to the transfer application. The Police objection was set out on pages 48-49 of the agenda pack.
- b. The Police also endorsed and supported the review application brought by the Licensing Authority.
- c. The objection to the transfer application was made on the basis that the Police were satisfied that there were exceptional circumstances and granting this application would seriously undermine the prevention of crime and disorder licensing objective.
- d. He also highlighted the statements of Charlotte Palmer and Victor Ktorakis; the finding of 4,500 packets of non-duty paid cigarettes; and the two previous revocations of licences at the premises.

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- e. In respect of Condition 24, granting the transfer application would be a breach of that condition. It was right to note that this condition was put forward by the premises in support of a new licence for the premises using their own wording. There might be room for legal discussions about who constituted “immediate family” but it was known in this case that Mrs Govtepe was the wife of Mr Govtepe, and taking a common sense approach such a relationship would come within the meaning of immediate family, and it was noted this was a licensing issue and not subject to the strict definitions set out in other legislation.
- f. The statement from Mrs Govtepe in the supplementary pack confirmed that she was the wife of Mr Govtepe, and she should be considered immediate family.
- g. The applicant for the transfer was a company, of which Mrs Govtepe is a Director.
- h. He highlighted, as detailed in the Police representation on page 49 of the agenda pack, that Police visited the business on 18/01/16 and issued a Closure Notice, serving upon Mr Govtepe, who was at the shop, having been contacted by a member of staff.
- i. The Police asserted that the common denominator was Mr Govtepe, the lease holder throughout. Police believed that he had been in control at all times, and that was a further concern.
- j. The four main points were highlighted as:
- The application for transfer was to a company, of which Mrs Govtepe was the Director. To grant the transfer would mean an automatic breach of Condition 24. There was no power to amend that condition on a transfer, and no amendment had been put forward by the applicant.
 - The concerns regarding the history of the premises, which included two revocations and five occasions when non-duty paid goods were found. Mr Govtepe held the lease, and was the PLH on an occasion the licence was revoked, followed by the process whereby he and his family were removed from operating the business by condition.
 - The surrounding facts included using the licensing system to circumvent reviews, and a previous transfer application was withdrawn to circumvent proper scrutiny.
 - The type of offence and the nature of it was important. Even in the first instance of finding non-duty paid goods, a licensing sub-committee should be considering revocation of the licence. In this case, the amounts found, the number of times goods were found, and the ways they were hidden were relevant facts and the circumstances were sinister.
- k. All the points raised supported this Police objection in the exceptional circumstances in this case.
- l. PC Fisher stated in evidence of the exceptional circumstances, that this was the only objection by the Police to a licence transfer application that he could recall in his seven years’ experience.
- m. PC Fisher confirmed that Condition 24 came to be on the licence because it was offered as a condition by the applicant at the time. There were very few licences in the borough with conditions that referred to

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particular named individuals. The wording including “immediate family” was offered by the applicant and accepted in good faith.

5. Mr Ranatunga responded to questions as follows:
 - a. In response to queries from the legal representative of the PLH, Police confirmed that as far as they were aware, Mrs Govtepe was of good character and had not received any cautions. Police were not aware of any issues with counterfeit goods at the shop since 24/12/15, but there had been no inspections since then. It was confirmed that in respect of matters before that, there was no evidence to link Mrs Govtepe directly. There was no evidence of Mr Govtepe being at the shop since 24/12/15. From officers’ personal experience there was no evidence of Mr Erdogan being at the shop since 24/12/15.
 - b. In response to the Chair’s request for clarification, it was confirmed that as reported in PC Marsh’s statement on page 49, PC Marsh visited the shop on 18/01/16 and Mr Govtepe was on scene at the shop on that day.
6. The statement on behalf of New Hertford Food Store Limited, represented by Mr Duncan Craig, Citadel Chambers, including:
 - a. As referred to in the supplementary agenda, there was evidence that Mrs Ebru Govtepe was out of the country at the time when counterfeit goods were found on the premises.
 - b. Mrs Govtepe’s witness statement was made and signed by her on 25/03/16 and she confirmed she had no involvement in the shop prior to 24/12/15. She was now the only person who was responsible for day to day management of the business, and had been operating the store independently from her husband Mr Sefer Govtepe since 24/12/15.
 - c. Photos had been provided to illustrate the operation by Mrs Govtepe of the stock control system, and copies of invoices provided. Efforts had been made with the cash and carry to change the name appearing on invoices to Mrs Govtepe, but the amendment had not been made yet. Mrs Govtepe operated a business account with Santander. There was clear evidence that she was present and operating the business and not just superficially. This demonstrated the commitment that Mrs Govtepe had to operating the business.
 - d. Further photos were provided to show that the premises licence and notices were displayed as required.
 - e. A photo of the toilet area showed that the metal partition behind which cigarettes were found, had been removed.
 - f. He disagreed with points made in respect of Condition 24. It was not Mrs Govtepe who proposed the condition and wording, but Mr Altun. The term ‘immediate family’ was ambiguous. There was nothing to have prevented the Licensing Authority including the word ‘spouse’ in a condition. A ‘wife’ could also have various meanings, and relationships within the Islamic faith may not be recognised under English law. It was questionable whether co-habiting or separated partnerships would be covered by such a term.

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- g. Statutory guidance s.182 dealt with the nature of licensing conditions. Wording should be precise and enforceable. Conditions must be unambiguous and clear about what they wished to achieve. The wording of Condition 24 was not clear and the condition was not capable of being met. This imprecisely worded condition should therefore carry little weight.
 - h. Evidence on page 2 of the report referred to Mrs Govtepe's various appointments and resignations as Director of Enfield Food Store Limited. The reason for these in short time was that her accountant had included the wrong date of birth on the forms and it had been necessary for Mrs Govtepe to resign and be re-appointed.
 - i. Mrs Govtepe had been operating the shop since 24/12/15, and there was no evidence of her husband having any involvement, or of any counterfeit goods being found since then.
 - j. Mrs Govtepe was a person of good character and there was no evidence linking her to misdemeanours which occurred previously.
 - k. He would submit that the transfer could be granted, and it followed that the sub-committee could quite properly not revoke the premises licence. He advised that Mrs Govtepe was well aware that she would be under significant scrutiny going forward. The licence transfer should be considered first by the panel, before the review.
 - l. He wished for Mrs Govtepe's gratitude to the Licensing Authority for granting of an adjournment of the hearing earlier this month to be recorded. The Chair added that he was sorry for Mrs Govtepe's loss.
7. Representatives of Enfield Food Store Limited responded to questions as follows:
- a. In response to the Chair's queries in respect of Condition 24 and the wording offered, Mr Craig clarified that he was not instructed at that time, and that the condition had been offered by Mr Deniz Altun.
 - b. In response to further queries from the Chair, it was advised that Mr Altun was not part of Mrs Govtepe's family and was nothing to do with her. That was a significant part of her submission. The way he behaved should not be linked to Mrs Govtepe in any way. It was at Mr Altun's behest that Condition 24 was put onto the licence. Mrs Govtepe had no part in that condition.
 - c. Councillor Savva asked Mr Craig what the wording in Condition 24 would mean to him. He stated that it would be insufficiently precise because it did not set out what "immediate family" was. That could be the subject of academic debate. It was incumbent on those devising conditions, and the Licensing Authority played a role in that, to ensure conditions were worded in a way that did not allow lawyers to argue over them.
 - d. In response to Councillor Savva's question about the involvement of Mr and Mrs Govtepe's son in the business, it was confirmed that their son Eren Govtepe had previously worked at the shop.
 - e. In response to Councillor Savva's queries regarding the Companies House check, it was confirmed that all matters of Mrs Govtepe's resignation and re-appointment as Director were due to errors by the

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accountant in respect of her date of birth, which had to be corrected that way. All corrections were completed within three days, between 29/02/16 and 02/03/16.

f. Charlotte Palmer highlighted the statement of Mr Sefer Govtepe on page 202/3 of the agenda, where his occupation was given as "Shop Keeper" and asked what shop was being referred to and why he would describe himself as such. Mr Govtepe was not present at the hearing. It was advised that Mr Govtepe did not operate any shop business. This was more of a statement of his previous occupation. There was no other shop.

g. Charlotte Palmer also quoted from the statement "I asked my son Eren Govtepe to be at the premise so he can learn about stocking and shelving until we take over. He began to work at the shop from the date we assigned the lease..." and questioned how Mr Govtepe could do this if he had no control over the operation. She also asked for Mrs Govtepe to provide answers directly if possible. It was confirmed that Mrs Govtepe spoke little English and a family friend assisted with translation. She advised that the reason her son Eren was there was because she was away on holiday and she had asked her son to keep an eye on the shop. Instructions were given by Mr Govtepe because Mrs Govtepe had not taken over by that point. She became responsible from 24/12/15.

h. In response to Charlotte Palmer's further queries, Mrs Govtepe stated that her husband was responsible for managing the business before 24/12/15. Before that time, Mr Altun was struggling financially and he tried to sell the business back again.

i. In response to Charlotte Palmer's further question of the date that Mr Sefer Govtepe took over control of the premises, Mrs Govtepe advised that it was not her husband, but Mr Altun was still running it.

j. Charlotte Palmer also quoted from Mrs Govtepe's statement in the supplementary agenda that "Sefer Govtepe is owner of the shop since we took the business back on 24/12/15.." and why that was said. Mrs Govtepe advised that she meant that the shop was officially in her husband's name. She had taken over operating the store.

k. Charlotte Palmer asked what if any family connection there was between Mrs Govtepe and Mr Altun. Mrs Govtepe stated that Mr Deniz Altun was her aunt's son, and confirmed that made him her cousin.

l. In response to Charlotte Palmer's question of who she would consider her immediate family, Mrs Govtepe listed brothers and sisters, mother and father, children, and husband.

m. Charlotte Palmer asked why the last transfer application was withdrawn during the hearing of 24/02/16. Mrs Govtepe advised that she was not sufficiently prepared at that time, and she wanted to prepare herself and gain more evidence.

n. Charlotte Palmer asked why the transfer application was made again around two hours after the hearing of 24/02/16. Mrs Govtepe advised that she was not ready at that hearing, but afterwards she was satisfied that a transfer application be submitted. In the meantime she knew the hearing date and that she had time to get prepared.

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- o. Councillor Savva queried further the interpretations of marriage and immediate family. Mr Craig agreed that there could be various definitions and interpretations, and that as licence conditions formed a contract they must be worded to avoid ambiguity.
8. The summary statement of Ellie Green, Principal Licensing Officer, including:
- a. Having heard the representations from all parties, it was for the Licensing Sub-Committee to consider whether the transfer and review applications were appropriate.
 - b. The steps which the sub-committee may take were set out.
 - c. Members' attention was directed to relevant guidance, particularly s.11.27.
 - d. In respect of the transfer application, the sub-committee must decide whether to grant or reject the application. Guidance 8.93 / 8.94 was highlighted in particular, and Policy 10.1 and 12.1.9.
9. The closing statement of Charlotte Palmer, Licensing Enforcement Officer, highlighting the significant history of wrong-doing at the premises, that sufficient conditions were already in place, but licence holders had shown total disregard for the law, and officers had no confidence in those who were running the premises.
10. The closing statement on behalf of the Police Service, highlighting the relevant legislation under which Police had raised objection, and that in this case there was clear evidence in respect of the crime prevention objective, linked to Mr Govtepe's involvement in this business. Giving consideration to what was appropriate for the prevention of crime and disorder, the Police considered it was appropriate to refuse the transfer application.
11. The closing statement on behalf of Enfield Food Store Limited, including the following points:
- a. Mr Govtepe's involvement with the lease had no bearing on the operation of the business, and there was no evidence to link him to the operation since 24/12/15.
 - b. Details regarding invoices had been covered, setting out the difficulty of getting suppliers to change the name on delivery notes and invoices.
 - c. Condition 24 was not sufficiently precise to make it enforceable and it should be given little or no weight.
 - d. Mrs Govtepe was a woman of good character, with no evidence to link her to the premises before 24/12/15. No counterfeit goods had been found since that time. The sub-committee could therefore grant the transfer and reject the revocation of the licence.
 - e. The licence was sufficiently conditioned.
 - f. In respect of Condition 24, the Police had made clear from the outset that they would object to any move to amend that condition so no

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application was therefore made. The Police representation could therefore be rejected on the terms sought.

RESOLVED that

1. In accordance with the principles of Section 100(a) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

The Panel retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

2. The Chairman made the following statement:

“Having listened to the evidence from all parties concerned and given them due attention and consideration we have resolved the following: To refuse the transfer of the licence giving due attention to the prevention of crime and disorder.

Granting this application would seriously undermine this licensing objective.

We have listened to Mrs Govtepe’s statements around running a business which would comply with licensing conditions. However, this panel is of the view that granting this application would be a breach of Condition 24 of the licence.

We note that Condition 13 on the current licence in our view is being breached now; proof being the name on the very recent invoices submitted, which have Mr Govtepe’s name on them.

Paragraph 1.1.6 of the Licensing Guidance is clear to this panel. Representations made on this point by the applicant were not persuasive on the meaning of “immediate family”.

3. The Licensing Sub-Committee resolved that the application be refused.

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NEW HERTFORD FOOD STORE LIMITED, 236 HERTFORD ROAD, ENFIELD EN3 5BL (REPORT NO. 221)

RECEIVED the application made by the Licensing Authority for a review of the Premises Licence held by Enfield Food Store Limited (previously Mr Deniz Altun) at the premises known as and situated at Hertford Food Centre, 236 Hertford Road, Enfield, EN3 5BL.

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NOTED that this application was discussed at the same time as the application to transfer a premises licence at the same premises (see Minute 528 above).

RESOLVED that

1. In accordance with the principles of Section 100(a) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

The Panel retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

2. The Chairman made the following statement:

“Having listened to the evidence from all parties concerned and giving due consideration we have resolved to revoke this licence.

The licensing history of these premises and the family involvement we believe breaches the prevention of crime and disorder licensing objective.

Conditions have been broken on several occasions, and the amounts and times contraband has been found on the premises shows a history of disregard of this licensing objective.”

3. The Licensing Sub-Committee resolved to revoke the licence.