

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 30 JANUARY 2013**

COUNCILLORS

PRESENT Derek Levy (Chairman), Andreas Constantinides and Dogan Delman

OFFICERS: Mark Galvayne (Principal Licensing Officer), Catriona McFarlane (Legal Services Representative), Ellie Green (Principal Trading Standards Officer), PC Martyn Fisher (Police Licensing Officer) and Jacqui Hurst (Governance Team)

Also Attending: Applicant (Mr Huseyin Timur), Applicant's representative (Rachel Kapila), Ozlem Ustun, Filiz Carogar, Gul Timur

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WELCOME AND APOLOGIES

The Chairman 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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ENFIELD WINES, 223 FORE STREET, EDMONTON N18

RECEIVED an application made by the Licensing Authority for a review of the Premises Licence for the premises known as and situated at Enfield Wines, 223 Fore Street, Edmonton, N18.

NOTED

1. The introduction of Mark Galvayne, Principal Licensing Officer including:
 - a. An application had been made by the Licensing Authority for a review of the Premises Licence.
 - b. The review is made on the grounds of the prevention of crime and disorder licensing objective. The premises had been found to be selling

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counterfeit and non-duty-paid alcohol. The premises also had a history of offences breaching the Licensing Act 2003, namely non-compliance with the conditions of the Premises Licence.

- c. The authority considers that it is appropriate, for the promotion of the licensing objectives, to revoke the licence.
- d. Each of the Responsible Authorities had been consulted in respect of the application.
2. The opening statement of Ellie Green, Principal Trading Standards Officer, including the following points:
 - a. A summary of the main areas of concern as detailed in her application for a review of the premises licence, as circulated with the agenda papers. Mr Huseyin Timur had been the named Premises Licence Holder and Designated Premises Supervisor since 2005.
 - b. The history of the premises from July 2010 as detailed in the report, setting out the individual visits and the breaches which had taken place. The premises had been found to be selling counterfeit and non duty paid alcohol, and a number of non compliance instances with the conditions of the premises licence.
 - c. Advice had been given by officers to Mr Huseyin Timur and a warning letter had been issued, as circulated with the agenda papers (Appendix A). There had been a minor variation to the premises licence in the summer of 2012.
 - d. In relation to the alcohol seized by HMRC on 2 July 2010 and 31 August 2012, the total revenue due was £1,137.79. A statement from HMRC was included as Appendix B to the agenda papers.
 - e. The responsible authorities were seeking a revocation of the licence.
 - f. In response to a question from Councillor Levy, it was noted that the revenue due as calculated by the HMRC was only based on the two visits to the premises when they had been present. The actual figure for all breaches could be higher.
 - g. In response to a question from Councillor Constantinides, assurance was given that Mr Huseyin Timur had been warned about the potential consequences of his actions.
 - h. The applicant's representative, Rachel Kapila, asked Ms Green was she aware of recent test purchases made at the premises in December 2012, Ms Green advised she was not.

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3. The opening statement of Martyn Fisher, Police Licensing Officer, including the following points:
 - a. Mr Huseyin Timur as the premises licence holder had failed to demonstrate that he was suitable for the role in question. He had been seen to be irresponsible and untrustworthy and had not heeded the warnings provided. The Police would support the revocation of the licence.
4. The opening statement of Rachel Kapila, the applicant's representative, including the following points:
 - a. It was accepted that the breaches had taken place as outlined above. However, it was stated that the three seizures in 2012 had been from the same purchase of counterfeit/non-duty paid alcohol. On each occasion the alcohol had been taken from different areas of the shop, as outlined in the application (pages 11, 12 and 13 refer). Ms Kapila stated that the purchase had been made by Mr Ozcan Timur, the son of the licence holder.
 - b. It was stated that Mr Huseyin Timur's English was limited and that this had added to the difficulties experienced and the failures in meeting the licence conditions. It was accepted that there had been delays in meeting the additional licence conditions agreed in the summer of 2012 although they were now all in place.
 - c. Recent test purchases at the premises had been found to be compliant. Enfield Wines was a family business supporting Mr Huseyin Timur, his wife, his son and one of his daughters (not Gul Timur). Rachel Kapila asked that the Sub-Committee consider what would be proportionate action in the light of the breaches which had taken place.
 - d. Rachel Kapila outlined the changes that the family were willing to make in moving forward with the business. A change in premises licence holder was proposed with Gul Timur (Mr Huseyin Timur's daughter) becoming the Designated Premises Supervisor (DPS) as soon as possible. She had recently taken her personal licence examination. In the meantime, it was proposed that Filiz Carogor, the manager of "Enfield Mini Market" become the DPS until Gul Timur was qualified. Rachel Kapila also offered additional conditions that could be added to the premises licence in relation to reporting any counterfeit/non-duty-paid alcohol offered to the premises; providing access to the premises to officers from the Council, Police and HMRC; and, that only the DPS would make purchases of stock for alcohol and tobacco.
 - e. Whilst the seriousness of the breaches was acknowledged, Rachel Kapila highlighted the options open to the Sub-Committee other than revocation of the licence.

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- f. In response to the representations made by Rachel Kapila a number of issues were raised by Members and the officers present. Members questioned the source of the counterfeit/non-duty-paid alcohol, there was confusion over whether it had been purchased from a cash and carry or from someone coming to the premises. There was no evidence produced. It was also noted that the licence had been held for some time so there should be no ignorance on the terms of the licence. The question was raised as to why all of the alcohol concerned had not been removed from the premises by Mr Huseyin Timur following the first seizure.
 - g. Members clarified the proposed change in DPS at the premises as outlined above. Mr Huseyin Timur would surrender the DPS. It was also the intention to transfer the licence to Gul Timur (his daughter) as well as the DPS.
 - h. It was noted that whilst Gul Timur was the proposed new DPS, she would only be at the premises on a part-time basis as she also had another job. It was a family business and therefore other family members would still be at the premises.
 - i. Both Members and Officers raised the issue of illegal stock remaining on the premises following the first seizure. It was felt that the premises should have been thoroughly checked by Mr Timur. Martyn Fisher, Police representative, confirmed that the HMRC were very thorough on checking stock and would have ceased all illegal goods found. In his defence Mr Timur stated that he had assumed all illegal stock had been removed and he did not see it was his responsibility to check his stock.
5. The closing statement of Mark Galvayne, Principal Licensing Officer, including:
- a. Members' attention was drawn to sections 11.27 and 11.28 of the Guidance issued by the Secretary of State to the Home Office of October 2012, as shown on page 3 of the agenda papers.
 - b. Having heard all of the representations (from all parties) the Sub-Committee must take such steps as it considers appropriate for the promotion of the licensing objectives.
6. The closing statement of Ellie Green, Principal Trading Standards Officer, including the following points:
- a. The seriousness of the matter was highlighted. Additional conditions had been put in place but further breaches of the licence conditions had occurred. The offer of additional conditions by the applicant's

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representative was noted but it was felt that such conditions could be difficult to enforce.

7. Martyn Fisher, Police Licensing Officer, had no additional points to highlight.
8. The closing statement of Rachel Kapila, the applicant's representative, including:
 - a. That the HMRC had not removed all of the illegal alcohol from the premises on their first visit.
 - b. Sections 11.20 and 11.21 of the Guidance issued by the Secretary of State to the Home Office of October 2012 were highlighted. It was stated that the remedial action should be appropriate and proportionate to the breaches which had taken place.
 - c. Gul Timur (Mr Huseyin Timur's daughter) was articulate and capable and was the proposed future DPS for the premises. She had not previously been involved.
 - d. Attention was also drawn to the offer of additional conditions on the premises licence.

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 Licensing Sub-Committee (LSC) 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:

"On the basis of the written evidence previously provided and the oral submissions made at the Licensing Sub-Committee (LSC) on the day, it was deemed appropriate that the premises licence for Enfield Wines, 223 Fore Street, Edmonton N18, be revoked.

The LSC heard and considered the offered change of premises licence holder (PLH) and Designated Premises Supervisor (DPS), and the offered additional conditions. However, the LSC was not persuaded that this would be sufficient to address the harm that has resulted in today's review.

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The LSC was advised that the offered new PLH and prospective new DPS (Gul Timur) would only be working in the business part-time in the mornings whilst still maintaining her other job. However, Mr Huseyin Timur and Mr Ozcan Timur as far as the Sub-Committee is aware would still be working full time in the family business.

It was under their control that the business purchased and sold counterfeit and non-duty paid alcohol. When questioned about what steps Mr Huseyn Timur took to check his own stock, he asserted that he did not feel it was his responsibility to validate all stock after the visit of H M Revenues and Customs (HMRC) and Council officers.

Also there were inconsistencies in the explanation offered today for the presence of the illegal alcohol and what was offered to officers at the time of the investigations.

The PLH holder did offer up the possibility of an interim DPS in the person of Filiz Caragor, but too little information about her role and experience was given to persuade the LSC that this would be an appropriate step to take.

The LSC also considered the additional conditions offered but were again not sufficiently persuaded they would assist in addressing the harm which had taken place previously undermining the licensing objective of the prevention of crime and disorder. Also the LSC were mindful that the agreed conditions added in the summer of 2012 were themselves not complied with, and found to be in breach on two occasions.

The LSC considered what steps were appropriate to promote the licensing objectives. In this deliberation the LSC considered the statutory guidance at sections 11.20 and 11.21, to which attention was drawn by the PLH's representative; but it also considered the statutory guidance at sections 11.27 and 11.28.

On the weight of the evidence before it today, the Licensing Sub-Committee decided that the appropriate step to promote the Licensing objectives was to revoke the licence".

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MINUTES OF PREVIOUS MEETINGS HELD ON 10 OCTOBER AND 19 DECEMBER 2012

AGREED that the minutes of the previous meetings held on 10 October and 19 December 2012 be confirmed and signed as a correct record.