

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE  
HELD ON WEDNESDAY, 27 APRIL 2016**

**COUNCILLORS**

**PRESENT** (Chair) Chris Bond, Derek Levy and Dogan Delman

**ABSENT**

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

**Also Attending:** Mr Ali Serbet (Premises Licence Holder & Designated Premises Supervisor)  
Solicitor and 1 further representative on behalf of Euro Express

**551**

**WELCOME AND APOLOGIES FOR ABSENCE**

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

**552**

**DECLARATION OF INTERESTS**

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

**553**

**EURO EXPRESS, 212-214 CHASE SIDE, ENFIELD EN2 0QX (REPORT NO. 233)**

RECEIVED the application made by the Licensing Authority for a review of the Premises Licence held by Mr Ali Serbet at the premises known as and situated at Euro Express, 212-214 Chase Side, Enfield, EN2 0QX.

NOTED

1. The introductory statement of Ellie Green, Principal Licensing Officer, including:
  - a. This was an application to review a premises licence, brought by the Licensing Authority.
  - b. This premises licence had been in force since 2005. Mr Ali Serbet had been the premises licence holder (PLH) since August 2015 following a transfer application.

## LICENSING SUB-COMMITTEE - 27.4.2016

- c. The business was licensed as a 24 hour operation, with sale of alcohol permitted from 08:00 to 23:00 Monday to Saturday and 10:00 to 22:30 Sunday.
  - d. On 18/3/16 the Licensing Authority made the application for review of the licence. The authority was seeking revocation of the licence based on the prevention of crime and disorder licensing objective.
  - e. A history of the premises was set out in Annex 3, which included details in respect of non duty paid products, selling after hours, breaches of conditions, and trading without an accurate plan.
  - f. Mr Serbet was notified of the review on 18/3/16: a copy of the notification letter was sent to his home address and a copy was hand delivered to the shop.
  - g. On 11/4/16 the agent was provided with a copy of the Licensing Authority information and the Police representation, and was notified of the hearing date. On 18/4/16 a copy of the hearing agenda was provided.
  - h. Since 19/4/16, officers had been dealing with a solicitor and a barrister acting on behalf of the PLH. Today, Mr Serbet was being represented by a third solicitor: Ms Victoria Ibe. It was understood that she would like to make an application for an adjournment of the hearing.
2. The statement of Ms Victoria Ibe of Adel Jibs & Co Solicitors, representing the PLH, including:
- a. She was instructed by Mr Serbet, the PLH.
  - b. She was instructed yesterday and felt it would be in the interest of just and fair play to have time to look at all the paperwork and points raised by officers. She appealed for more time to get to know the case and to speak to her client and to advise him what was in his best interest in respect of the allegations.
  - c. In response to queries raised by the Chair that as the third representative instructed by the applicant and the possibility this was a delaying tactic, Ms Ibe acknowledged the concern but stressed that she needed to receive full instructions and give advice accordingly.
  - d. In response to concerns raised by Councillor Levy that a delay could lead to more breaches of conditions happening and whether the possibility of surrendering the licence had been considered, it was confirmed that her client had been asked to give consideration to surrendering the licence, but it was not believed that was in his best interest. She acknowledged the need to protect public interest, and that the PLH has considered surrender or transfer of the licence to someone else.
3. RESOLVED 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.

## LICENSING SUB-COMMITTEE - 27.4.2016

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

The Chair confirmed that the Panel had discussed the request to adjourn this hearing, but did not believe that a delay would be in the public interest.

The Licensing Sub Committee resolved that the hearing would proceed.

4. The introductory statement of Charlotte Palmer, Licensing Enforcement Officer, on behalf of the Licensing Authority, including:
  - a. This application was for revocation of the premises licence.
  - b. The review application was primarily based on the prevention of crime and disorder licensing objective.
  - c. Officers started investigating the premises following complaints received from local residents, and Annex 3 set out information regarding officer visits and observations made in July, August and September 2015 and February 2016.
  - d. During test purchase visits, officers witnessed a number of people attempting to purchase alcohol at the premises after hours and expressing surprise when they were told that staff could not sell alcohol after 23:00. The PLH and DPS were invited in for formal interview.
  - e. Copies of advisory letters sent for the attention of the owner and DPS were included in the agenda pack in respect of underage alcohol sales, and sale of single cigarettes to persons under eighteen.
  - f. In August 2015 PC Fisher reported five conditions being breached. In February 2016 the same five conditions were found to be breached.
  - g. The premises plan on the licence was not accurate. This was first raised in September 2015, but an up-to-date plan had still not been submitted. As the plan formed part of the licence it must legally be accurate.
  - h. On 19/2/16 a seizure was made of 192 packets of cigarettes, 89 packets of rolling tobacco, and nine bottles of vodka with foreign labelling, all non duty paid. Secretary of State advice was that where reviews arose in respect of such criminal activities, it was expected that revocation of the licence – even in the first instance – should be seriously considered.
  - i. At no point during investigations, had officers seen the PLH or DPS at the premises and there was a lack of confidence about the control over activities taking place.
  - j. Due to the number of difficulties at this premises, officers considered it would be appropriate to revoke the licence.
5. Charlotte Palmer responded to questions as follows:
  - a. In response to Councillor Levy's query whether officers had seen or asked for copies of receipts for goods, it was advised that it was not a condition on the licence that invoices should be made available so they were not checked. She did not recall that receipts were voluntarily offered at any point to authenticate the sources of goods.

## LICENSING SUB-COMMITTEE - 27.4.2016

- b. In response to queries regarding underage sales, it was confirmed that officers had attempted test purchases but alcohol had not been sold. At least two complaints had been received about the issue, but the premises had not sold to the authority's underage volunteers.
  - c. In response to queries about explanations given at the time about non duty paid goods, Charlotte Palmer confirmed that when she noticed the non duty paid cigarettes at the counter on 19/2/16 the manager claimed that they were his, but behind the counter she had then found piles of cigarettes piled up by brand on shelves under the counter as if ready to sell.
  - d. In response to further queries it was confirmed that the Licensing Authority had not tried test purchases, but she had happened to go behind the counter, been conscious the manager covered something with a bag and found that was cigarettes, and then discovered the other tobacco products behind the counter. It became clear all those products were not his personal supply. There were also non duty paid bottles of vodka under the counter.
  - e. In response to Members' queries about the building of an extension to the premises, Licensing officers had been given no information from the premises in respect to updating the licence. It was understood that a single storey extension and a condenser unit on the roof to the rear of the premises had been carried out without planning permission and that the PLH lost an appeal against an enforcement notice issued by Enfield Council. The plan on the premises licence was inaccurate as a door had been moved, the counter was in a different place, and the shop had a different layout. It was confirmed that there had been no communication with the Licensing Team by the PLH regarding the matter. This issue had led to a further lack of confidence in those running the premises. It was also confirmed that as the plan on the licence was inaccurate, the licence was illegal.
  - f. In response to the Chair's queries regarding the cigarettes discovered on the counter and indications that they were being sold singly, it was advised that officers normally gave shop staff the benefit of the doubt if told cigarettes were for their personal use, but given the intelligence received regarding this premises, these cigarettes were seized.
6. The statement of Ms Victoria Ibe, Adel Jibs & Co Solicitors, representing the PLH, including:
- a. She was the second party to represent the PLH. The first representative was a licensing agent.
  - b. Architects were working with the local authority on the building matter. There was planning permission for an extension, but there was another part added to the back that was contentious.
  - c. Her client had instructed her to let the panel know that he had received all notification about issues raised. He accepted that he could have supervised more and been at the premises more often, but he has a back injury and went to Turkey for treatment. He was angry about what had happened while he was away. He had not been aware of the cigarettes

## LICENSING SUB-COMMITTEE - 27.4.2016

and vodka being sold. When he came to know, he suspended the manager. Mr Serbet as PLH accepted he had ultimate responsibility. He was here today to assure the sub-committee that he was taking steps to be compliant and that it would not happen again. He had not been aware of or been a participant to what occurred when officers visited the shop.

d. The staff member who was involved with the cigarettes and vodka had been trusted by Mr Serbet and they had worked with him for five years, so this had been a breach of trust. To hold Mr Serbet responsible for the actions of others who were trying to rip off his business was unfair.

e. Mr Serbet was prepared to transfer the licence to someone else. It was not his intention to commit breaches. He was not aware, but he took responsibility for not supervising.

f. Mr Serbet had frequent training for staff. Systems had been put in place for regular training and keeping of records of training, and keeping of records of any attempted under age purchase. He had tried to introduce an IT system to control the till that had a time alert, but that did not work. The programme for a system that would cut off sale of alcohol at 23:00 was unfortunately unable to be installed, but an alternative programme was installed (EPO).

g. Mr Serbet had also been asked to do something about language barriers, which had contributed to problems.

h. It was understood that the DPS has to be on the premises when alcohol was being sold.

i. Mr Serbet was willing to work with the Licensing Authority to ensure that breaches did not happen again.

j. Mr Serbet would be willing to surrender or transfer the licence rather than lose his business and he asked the panel to give consideration to that.

### 7. Ms Ibes and Mr Serbet responded to questions as follows:

a. With reference to the five licence breaches found in August 2015 and the same breaches in February 2016, and that Mr Serbet was unaware, the Chair asked if greater assurance could be provided. Ms Ibes advised that it had not been implied that Mr Serbet did not know about the breaches in February. Due to his poor health Mr Serbet had not been at the premises as often as he might.

b. In response to the Chair's further queries that if Mr Serbet knew he would be unable to work at the shop for a long period he should have made proper provision, it was advised that there had been two people with personal licences who helped him run the business. The person found selling alcohol after hours had been sacked and the other suspended, so all those who committed the licence breaches were no longer there. He would invite officers to make another visit.

c. Councillor Levy asked why the plan, which had been advised as inaccurate seven months ago, had still not been correctly submitted to the Licensing Authority. It was advised that once the matters were brought to the PLH's attention they started working with the local authority to rectify

#### LICENSING SUB-COMMITTEE - 27.4.2016

them, but that was still ongoing. It was acknowledged that the plan on the licence was currently inaccurate.

d. Councillor Levy asked about the staff member who followed the officer out of the shop on 12/9/15 to sell alcohol after hours. It was advised that person was not a member of staff, but was someone who visits regularly and has friends there. The actual staff member had to go off quickly on a personal matter and had asked that person to 'hold the fort' while he rushed off.

e. In response to further queries, it was advised that the PLH attends the premises three or four times a week. Unfortunately he was not there at the times of incidents recorded, but there were other employees with a personal licence.

f. Councillor Levy asked for an explanation of the customers' expectation that alcohol could be sold after hours. It was advised that it would be unfair to blame a shop for that, and people could ask. The PLH's representative felt it was unfortunate to draw a conclusion that customers' expectation could only come about if the premises was consistently selling after hours. It was acknowledged that there had been four after hours sales, as detailed by officers. Awareness of Home Office guidance was also understood. The employees involved in the four after hours sales had been sacked and suspended, and training had been given to workers. In respect of a history of underage sales, this PLH did not own the shop six years ago and was not responsible, and refuted allegations on underage selling.

g. In response to the Chair's queries about the planning application, Ms Ibes advised that she did not have a copy of the application and hence her reason for asking for an adjournment so that she could look at all issues and advise appropriately, but she had only been confirmed as the PLH's representative at 4pm yesterday.

h. Charlotte Palmer referred to mention made that Mr Serbet attended the premises three to four times a week, and asked at what hours he attends. It was advised that he 'comes and goes'. Mr Serbet stated that he attended first thing in the morning or sometimes in the afternoon: it would vary as he needed to check all stocks and deliveries – that was the main reason he would come and go – he could not give definite times.

i. In response to Charlotte Palmer's further queries why it would not be considered more appropriate for the PLH and DPS to be at the premises at closing time, given the concerns relating after hours sales, to ensure staff did not sell alcohol after 23:00, Mr Serbet stated that he did keep telling all staff they should not be selling alcohol after 23:00, but he could not control all staff: this was the reason he put the EPO system in, to avoid future complications.

j. In response to further queries regarding awareness of guidance that the DPS should have day to day control over sale of alcohol, Mr Serbet advised that it was because people had worked for him for four or five years he gave them permission to take control on his behalf. He did get training from ADA group every three months. He did not know how after

LICENSING SUB-COMMITTEE - 27.4.2016

hours sales happened as he trusted the person who managed on his behalf.

k. Charlotte Palmer asked whether Mr Serbet owned any other business of a similar nature. Mr Serbet stated that he owned one other business, in Bush Hill Park, Enfield. That business was on sale at the moment and its sale was almost complete. He should not be working at all due to his health condition.

l. When asked, Mr Serbet provided the names of the other licence holders employed. It was confirmed that Umit Goven was there when officers seized non duty paid goods. He ran the premises in Mr Serbet's absence. He was one of the people who had sold after hours and he was suspended in the first place and was not employed any more. There were two personal licence holders working there now, who were needed as someone had to be there to sell the tobacco and alcohol.

m. Councillor Delman queried when Mr Serbet had seen the notices of alleged offences. It was confirmed that he got the notice when he came back from Turkey after going there for treatment for his back, and took action to remedy issues at the shop. Ms Ibes stated that her client was the victim. Ultimately, Mr Serbet had responsibility but it was not his intention to commit any breaches and he was not part of it – he would not take such risks.

n. PC Fisher asked if Mr Serbet felt he was managing the business and the licence effectively since he had held it. Mr Serbet stated that due to his health condition he had to attend hospital so he was not managing regularly, but it was not his fault: he had put people in place and he was a victim of their actions.

o. In response to PC Fisher's further queries, Mr Serbet advised that he knew his health was not good and he had plans to sell the business on in the future. At the moment he was more concerned with his health than the business. Ms Ibes confirmed that Mr Serbet would be happy to transfer the licence to someone else because as had been said, he should not have held the licence if he was not able to be there, and he should transfer the management to someone better.

p. On his behalf, Ms Ibes advised that Mr Serbet wished to reply further on previous comments about people's expectations of late alcohol sales: this premises was on a high street on a prominent corner and people came in and asked for items like we all do, who were passers by. In response to Councillor Levy's query with reference to the evidence of active expectations of customers, it was stated that it was unfair to hold the shop responsible for public expectations.

q. Ms Ibes wished to add that Mr Serbet was also happy to close the shop for all business at 23:00 every day until the Licensing Authority was satisfied that all breaches had been rectified and they were complying with all conditions on the licence.

8. The summary statement of Ellie Green, Principal Licensing Officer, including:

#### LICENSING SUB-COMMITTEE - 27.4.2016

- a. She clarified that there had been no variation application received by the Licensing Authority in respect of the plan. Officers' advice had been to make a variation to amend the plan to reflect the layout, then make a further variation when the works were done. There were two processes which were separate. Licensing officers had no sight of anything received by Planning.
  - b. It was for Licensing Sub-Committee to consider the application and take such steps as it considers appropriate for the promotion of the licensing objectives.
  - c. Relevant policies and guidance were listed in paragraph 5 of the report, and those particularly related to reviewing a licence were highlighted.
9. The closing statement of Charlotte Palmer, Licensing Enforcement Officer, to confirm the significant history of illegal activities at the premises, including licensing breaches, non duty paid products, and an inaccurate plan, which all undermined confidence in the business. Reducing the shop hours would not deal with the non duty paid goods or other licence breaches. There had been nothing to stop the PLH from closing the premises at 23:00 voluntarily. The Licensing Authority had no choice but to continue to recommend revocation of the licence.
10. The closing statement of PC Martyn Fisher, Metropolitan Police Service, to confirm that Police were aware of a number of after hours sales and non duty paid goods found, as well as a number of breaches of conditions, and despite the interventions of himself and licensing enforcement officers these had continued. It was apparent that the PLH and DPS was incapable or unwilling to operate the licence as it stands; and he supported revocation.
11. The closing statement of Ms Victoria Ibe, Adel Jibs & Co Solicitors, representing the PLH, including:
- a. She would appeal to the panel to consider not revoking the licence because it would interfere with Mr Serbet's business and livelihood. He had suspended and sacked employees who had acted wrongly. He was working to put systems in place to rectify breaches.
  - b. Mr Serbet was willing to transfer the licence to someone else.
  - c. Mr Serbet was happy for modifications to be made to the licence and for him to be removed as DPS.
  - d. Mr Serbet would comply with a temporary suspension of the licence until the Licensing Authority was satisfied that the premises was being run by someone capable.
  - e. To revoke the licence would be disproportionate to the situation. Mr Serbet was a victim, although ultimately responsible for the licence, and asked for leniency. He was willing to work with the Licensing Authority on any conditions. He takes responsibility that he should have been at the premises more. He was doing all he could now to ensure compliance with the licence, and would be happy for officers to visit and note the systems in place.



## LICENSING SUB-COMMITTEE - 27.4.2016

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:

“The panel has listened to all parties concerned and the views expressed.

We resolve to revoke the licence to safeguard the residents of Enfield in line with the aims and objectives of Enfield’s Licensing Policy in particular the prevention of crime and disorder.

In their own admission the present licence holder is incapable of operating the licence effectively. The breaches that have occurred have contravened national guidance and in particular paragraphs 11.27 and 11.28 of Statutory guidance March 2015.”

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

### 554

#### MINUTES OF PREVIOUS MEETINGS

RECEIVED the minutes of the meetings held on Wednesday 16 March 2016 and Wednesday 6 April 2016.

**AGREED** that the minutes of the meetings held on Wednesday 16 March 2016 and Wednesday 6 April 2016 be confirmed and signed as a correct record.