

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 27 APRIL 2022**

COUNCILLORS

PRESENT (Chair) Doug Taylor, Christine Hamilton (Deputy Mayor) and Derek Levy

ABSENT

OFFICERS: Ellie Green (Principal Licensing Officer), Amanda Butler (Senior Fair Trading Officer), Catriona McFarlane (Legal Services), Jane Creer and Suzanne Connolly (Democratic Services)

Also Attending: Mr Aydin Salman (Premises Licence Holder & Designated Premises Supervisor), Mrs Sultan Salman, Koray Salih (Interpreter)

1

WELCOME AND APOLOGIES FOR ABSENCE

NOTED

1. Councillor Taylor as Chair welcomed all attendees to the meeting, and explained the order of the meeting. Apologies were extended to all for the delayed start time which was due to transport issues.

2

DECLARATION OF INTERESTS

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

3

MINUTES OF PREVIOUS MEETINGS

Approval of the minutes of the meetings held on Wednesday 6 October 2021 and Wednesday 20 October 2021 to be adjourned until the next Licensing Sub-Committee meeting.

4

ENFIELD FOOD & WINE, 37-43 KEMPE ROAD, ENFIELD EN1 4QT

RECEIVED the application made by Licensing Authority for a review of the Premises Licence (LN/200800580) held by Mr Aydin Salman at the premises

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known as and situated at Enfield Food & Wine, 37-43 Kempe Road, Enfield, EN1 4QT.

NOTED

1. The introduction by Ellie Green, Principal Licensing Officer, including:
 - a. Having met with the License Holder previously, where they conversed in English, Ellie checked if everything said during this hearing required translating. The License Holder responded via the Interpreter “yes please”.
 - b. The application was to consider a review application relating to the premises known as Enfield Food & Wine, 37 – 43 Kempe Road, Enfield, EN1 4QT.
 - c. This premises licence had a history of note; as set out on page 23 of the agenda pack, Mr Baris Salman was the premises licence holder (PLH) from 9 October 2008 until 29 December 2008, when it was transferred to the current PLH, Mr Aydin Salman.
 - d. However, Mr Baris Salman was also the Designated Premises Supervisor (DPS), from 9 October 2008 and was still the DPS even when Mr Aydin Salman became premises licence holder and remained as DPS until 10 October 2011. Then Mr Aydin Salman became the DPS.
 - e. Since the report was published, it had become apparent that Mr Baris Salman had been the joint premises licence holder with Mr Korkmaz, and was also DPS of another premises, namely Ordnance Supermarket, 115 Ordnance Road, Enfield.
 - f. In October 2011, a minor variation of the Ordnance Supermarket licence was granted adding on conditions at the request of the Council following the seizure of illicit alcohol found at Ordnance Supermarket.
 - g. Three years later, more counterfeit alcohol was seized from Ordnance Supermarket, and the Licensing Authority submitted a review application. At the hearing on 21 January 2015, the licence was revoked, but the decision was subsequently appealed. It did not go to court as a consent order was agreed, suspending the licence for 3 months instead.
 - h. In January 2016, the premises licence was transferred to Mr Mehmet KOLO, who also varied the licence to be the named DPS from 13 January 2016. It is still worth noting the activity at this premises since that transfer and vary DPS application.
 - i. In December 2016, a minor variation was granted to add on conditions, namely, to prevent the supply of illicit goods, at the request of the Licensing Authority.
 - j. In January 2017 an application was made by the Licensing Authority for the review of Ordnance Supermarket as the premises have been found again to be supplying illicit goods. At the hearing on 8 March 2017, the licensing sub-committee determined that the

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licence be revoked. This decision was also appealed but subsequently withdrawn as the licence was transferred to Mr Serdar Tas, who remains the PLH at Ordnance Supermarket. Mr Tas submitted a minor variation at the request of the Licensing Authority to add the following condition to the licence:

‘Neither Baris Salman nor Ibrahim Korkmaz shall be involved in any way in the operation and/or management of the business. They shall not be permitted to work in the business in any capacity, paid or unpaid.’

- k. It has been confirmed on behalf of Mr Aydin Salman that Mr Baris Salman and he are brothers. Therefore this history of illicit goods at another premises and the licence holders are linked, is relevant to this hearing.
 - l. This review application for Enfield Food and Wine has been submitted by the Council’s Trading Standards Team and seeks to revoke the premises licence in full held by Mr Aydin Salman. The review supports the prevention of crime and disorder licensing objective.
 - m. The review is made on the grounds that the premises has history of selling illicit tobacco from the premises. Furthermore, breaches of licence conditions are alleged during inspections, in particular those conditions applied to prevent the sale of illicit tobacco.
 - n. The full review, additional information and supporting evidence is set out from page 27 of the agenda pack.
 - o. The current licence conditions are set out in the premises licence, found on page 174 of the agenda pack.
The premises licence permits the sale of alcohol off sales between 9am and 11pm daily, and to be open from 8am to 11pm daily.
 - p. Mr Aydin Salman is the current PLH and DPS.
 - q. Mr Aydin Salman has not provided any written response to the review application.
 - r. If the Licensing Sub-Committee is minded not to revoke the licence, Trading Standards have not requested any additional conditions (this was corrected later in the meeting during Amanda Butler’s statement).
2. In response to Cllr Levy’s query about the link with Ordnance Supermarket, the Legal Representative advised it was for Councillors to make a judgement on this and assess the weighting, but the information was relevant.
 3. Ellie Green introduced all that were in attendance and highlighted that due to the seriousness of the application Mr Salman had been advised to have legal representation however he had chosen not to. Mr Salman stated he was unable to afford this.
 4. The statement of Amanda Butler, Senior Fair Trading Officer, representing Trading Standards:

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- a. This review was in regard to illegal tobacco found at Enfield Food & Wine, 37 – 43 Kempe Road, Enfield, EN1 4QT, in accordance with the licensing objective of prevention of crime and disorder, as well as to disrupt the illegal trade of tobacco within the borough.
- b. Amanda referred to the history of the licence set out on page 30 onwards as follows:

Premises history:

- 9th October 2008.-The Premises Licence LN/200800580 was issued to Enfield Food & Wine-41-43 Kempe Rd, Enfield EN1 4QT on 09/10/2008. The aforementioned premises licence holder was Ibrahim KORKMAZ of 41A Ordnance Road Enfield EN3 6UT and Designated Premises Supervisor Baris SALMAN of 41A Ordnance Road Enfield EN3 6UT.
- 15th January 2009-The Premises Licence LN/200800580 was transferred to Aydin SALMAN of 41A Ordnance Road, Enfield EN3 6UT on 15/01/2009 pertaining to Enfield Food & Wine-41-43 Kempe Rd, Enfield EN1 4QT.
- 4th October 2011- Enfield Council's Licensing Team received a minor variation application from Aydin SALMAN regarding the amendment of licensing condition of premises Licence LN/200800580. The amended premises licence no:LN/200800580 was issued to Aydin SALMAN on 19/10/2011.
- 5th October 2011- Enfield Council's Licensing Team received a request to transfer Designated Premises Supervisor (DPS) to Aydin SALMAN regarding premises Licence LN/200800580. The afore-mentioned amended premises licence was issued to Aydin SALMAN on 10/10/2011.
- 24th November 2016- As a result of a seizure of non-duty paid tobacco and alcohol from 41-43 Kempe Rd EN1 4QT and the storage utilised from the adjacent unlicensed retail premises situated at 45 Kempe Rd EN1 4QT on 23/09/2016 (paragraph 3.2), Enfield Council's Licensing Team received a minor variation application from Aydin SALMAN that amended the licensing conditions of premises licence LN/200800580. The amended licensing conditions pertaining to premises licence LN/200800580 was issued to Aydin SALMAN on 13/12/2016.
- 25th February 2022- As a result of an inspection from Enfield Council's Licensing Enforcement Team on 23/02/2022, an updated premises licence LN/200800580 pertaining to Aydin SALMAN's change of address to 82 Holmesdale, Waltham Cross, EN8 8RA was issued to Aydin SALMAN on 25/02/2022. Appendix 1.
- 28th February 2022-Enfield Council's Licensing Team received a Minor Variation application pertaining to Premises License LN/200800580 and the requisite documentation pertaining to alcohol stockroom layout and fire exit of the said retail premises Appendix 2.

Recent Inspection History:

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- 21/09/2016- Enfield Council's Licensing Team conducted a test purchase of nonduty paid Marlboro cigarettes from 41-43 Kempe Rd EN1 4QT.
- 23/09/2016- Enfield Council's Licensing Team seized 134 bottles of non-duty paid alcohol, 16 packets of non-duty paid cigarettes and 500g of Hand-rolling tobacco from 41-43 Kempe Rd EN1 4QT and from the storage at the adjacent retail premises situated at 45 Kempe Rd EN1 4QT.
- 14/10/2016- Enfield Council's Licensing Team issued an advisory/warning letter pertaining to the non-duty paid alcohol and tobacco that was seized on 23/09/2016 to Aydin Salman. Appendix 2a
- 02/12/2016: Enfield Council Trading Standards Team conducted test-purchase of cigarettes from Enfield Food & Wine 41-43 Kempe Road, Enfield EN1 4QT.
Result: Compliant. There was no sale of non-compliant cigarettes on 2/12/2016
- 06/12/2016: Enfield Council Trading Standards Team conducted an inspection to Enfield Food & Wine 41-43 Kempe Road, Enfield EN1 4QT with the aim of ascertaining whether the retail premises were selling illegal tobacco.
Result: Compliant. There was no illegal tobacco found on 06/12/2016.
- 28/06/2017: Enfield Council's Trading Standards issued advisory/warning letter on 28th June 2017 to Enfield Food & Wine 41-43 Kempe Road, Enfield EN1 4QT regarding an enquiry received pertaining to the alleged sale of single cigarettes to under aged persons. Appendix AB3
- 16/04/2019- Enfield Council's Trading Standards issued an advisory /warning letter on 16th April 2019 to Enfield Food & Wine 41-43 Kempe Road, Enfield EN1 4QT pertaining to an enquiry received regarding the sale of alcohol to under aged persons. Appendix AB4
- 26/11/2020- Enfield Council's Trading Standards issued an advisory/warning letter on 26/11/2020 to Enfield Food & Wine, 41-43 Kempe Road, Enfield EN1 4QT pertaining to an enquiry received regarding the alleged sale of illegal tobacco. Appendix AB5
- 22/11/2021- A test-purchaser from Red Snapper Group conducted a test purchase of cigarettes from Enfield Food & Wine- 37-39 Kempe Rd Enfield EN1 4QT (now known as 41-43 Kempe Rd, Enfield EN1 4QT and purchased two packets of Marlboro Gold cigarettes for £17.00. The afore-mentioned cigarettes are alleged to breach the Standardised Packaging of Tobacco Regulations 2015 and The Tobacco Related Products Regulations 2016 and Section 136 & 144 of the Licensing Act 2003. Appendix AB6

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- 17/2/2022 - Enfield Council's Trading Standard Team, a dog handler and specialist sniffer dogs from Wagtail UK Ltd conducted unannounced inspections to retailers in the borough of Enfield aiming to crackdown the sale/possession of illegal tobacco as part of Op Cece.

At approximately, 12:44HRS, the afore-mentioned conducted an inspection to Enfield Food & Wine now known as 37-43 Kempe Rd Enfield. Officers showed credentials and explained the nature of the inspection to a female of Mediterranean appearance whom identified herself as Mrs Sultan SALMAN Owner of Enfield Food & Wine. Mrs SALMAN first language was not English and therefore, her son whom was seated behind the shop counter (Diyar SALMAN) translated during the inspection. Midway through the inspection, a male of Mediterranean appearance whom identified himself as Aydin SALMAN arrived at Enfield Food & Wine, 37-43 Kempe Rd Enfield EN1 4QT. Officers showed their credentials and explained the nature of the inspection to Aydin SALMAN whom stated he was the Designated Premises Supervisor.

Approx.150 cigarettes, 44 Hand Rolling Tobacco were seized because they were suspected of being counterfeit. 72 cigarettes & 1 Hand-rolling tobacco were seized because they were found to breach The Standardised Packaging of Tobacco Regulations 2015, The Tobacco Related Products Regulations 2016, Section 136 and Section 144 of the Licensing Act 2003

Appendix- AB7 Notice of Seizure and Notice of Powers

Appendix AB8- Photos of the Non-compliant seized tobacco

For the purposes of this hearing, the focus should be on the 72 packets of non-duty paid cigarettes and 44 pouches of hand rolling tobacco, which were seized to gain authenticity.

- Mrs Sultan SALMAN and Aydin SALMAN attended a formal PACE interview under the provision of the Police and Criminal Evidence Act in regards to the following alleged offences: -

Section 136 of the Licensing Act 2003 alleged breach of the following premises licence conditions: -

Condition 16. Alcohol and tobacco stock shall only be purchased from Registered wholesalers.

It is alleged that the 72 cigarettes and 1 Hand-rolling tobacco breached the Standardised Packaging of Tobacco Regulations 2015 and The Tobacco Related Products Regulations 2016 because the packaging was not in the requisite Pantone colour i.e. Pantone 448c, not in English and/or Non-duty paid. Thus, the alleged breaches indicate that the non-compliant tobacco was not purchased from a registered wholesaler.

Condition 17. All tobacco products which are not on the tobacco display shall be stored in a container clearly marked

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'Tobacco Stock'. This container shall be kept within the store room or behind the sales counter.

During the inspection on 17/2/2022, Officers found the non-compliant tobacco behind the shop counter of Enfield Food & Wine. There was no container that stated 'Tobacco Stock'.

Condition 18. Tobacco products shall only be taken from the tobacco display behind the sales counter in order to make a sale.

During the inspection on 17/2/2022, Officers found the non-compliant tobacco behind the shop counter of Enfield Food & Wine. The alleged non-compliant tobacco was not found in the Tobacco gantry.

Section 144 Licensing Act 2003.

It is alleged that Enfield Food & Wine was in possession of imported tobacco without payment of duty or which have otherwise been unlawfully imported.

During the interview Mrs Salman accepted she purchased from an itinerant trader which she explained was for personal use only and was stored behind the shop counter.

- Regulation 7(1) of the Standardised Packaging of Tobacco Products Regulations 2015

On 17th February 2022, Officers seized tobacco products alleged to breach Regulation 7(1) of the Standardised Packaging of Tobacco Products Regulations 2015, in that the exterior of the packaging did not have the permitted colour, that being Pantone 448c applied to it and /or did not have the requisite number of cigarettes within the packaging i.e. 10 cigarettes instead of the requisite 20 cigarettes

- Contrary to Regulation 15(1) of the Standardised Packaging of Tobacco Products Regulations 2015

On 17th February 2022, Officers seized tobacco products alleged to breach Regulation 7 and 11 of the Tobacco & Related Products Regulations 2016 because the labelling was not in English i.e. did not comply with the General warnings and information messages on tobacco products for smoking and/or General conditions applicable to all health warnings on tobacco products. Contrary to Regulation 48 of the Tobacco & Related Products Regulations 2016.

- 23/2/2022- Enfield Council's Licensing Enforcement Team conducted an inspection to Enfield Food & Wine to ascertain the change of address from 41-43 Kempe Rd Enfield to 37-43 Kempe Rd, Enfield and change of Aydin SALMAN's home address to

. Appendix AB9 Diyar SALMAN (son of Aydin SALMAN) was advised to submit a minor variation application to Enfield Council's Licensing Team. Appendix AB10

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- 28/2/2022-Enfield Council received a minor variation application from Aydin SALMAN of Enfield Food & Wine, 37-43 Kempe Rd, Enfield. Appendix AB11
 - The estimated excise duty and VAT evaded on the 1040 sticks of non-compliant cigarettes is £434 and 1 50g pouch of hand rolling tobacco seized is £181.40. **Correction to report: it was confirmed it was 1440 sticks of non-compliant cigarettes which equated to £601, and the hand rolling tobacco equated to £18 not £181.40.**
- c. At this point the Chair checked that the licensee understood the situation and the interpreter, to which he responded “yes”.
- d. In conclusion:
Enfield Council’s Trading Standards Authority is of the opinion that as a result of the seizure of 134 bottles of non-duty paid alcohol, 16 packets of non-duty paid cigarettes and 500g of Hand-rolling tobacco on 23/09/2016, in addition to a subsequent seizure of non-duty paid tobacco on 17/02/2022 namely 72 packets of non-duty paid cigarettes and 1 packet of non-duty paid hand-rolling tobacco, it is therefore appropriate to recommend that this licence be revoked, even in the first instance.
If the LSC was minded not to revoke the licence it is requested that amendments be made to the licencing conditions as such that non-duty paid tobacco and alcohol must not be stored or sold from the premises of from any motor-vehicle.

In response, the following comments and questions were received:

1. Cllr Taylor referred to the interview under caution and questioned if Mrs Salman bought the cigarettes and tobacco at the same time. Amanda stated that during the PACE interview Mrs Salman confirmed they were purchased from the trader.
2. Cllr Hamilton queried why the licence review was not made sooner. Amanda advised that Enfield Council had decided that a minor variation was sufficient at that time. Following the inspections and subsequent seizures of goods on 17th February 2022, Trading Standards deemed it appropriate to submit an application to revoke the licence.
3. Cllr Levy made reference to the PACE interview to seek clarification that the owner of the business purchased tobacco from an itinerant trader. Amanda confirmed this was correct and that there were no receipts for all items under contention. Mrs Salman produced invoices/receipts for some of the tobacco, 150 cigarettes and 44 hand-rolling tobacco but not for the non-duty paid cigarettes and tobacco.
Some of the 150 cigarettes and 44 hand-rolling tobacco had been returned to Enfield Food & Wine and since compiling this application it had been decided that the remainder will also be returned now they had been confirmed as genuine.

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4. Ellie asked if Mrs Salman is the owner of the shop and it was confirmed that it is a limited company and Mrs Salman is a Director as well as the owner. The licence is in Mr Aydin Salman's name.
Ellie also asked if the purchases she made were for personal use, to which Mrs Salman confirmed they were.

The statement from the Licence holders:

5. Mrs Salman stated that if she did any wrongdoing she apologises and regrets it.
6. Mr Salman felt that Ellie had approached him as if he was already guilty and judged him the same category as his brother's offence. He stated the Ordnance offence should be treated separately. He had not been part of those activities. During the meeting with Amanda he had said more attention would be made to running the business properly and more effort put in to not repeat the same mistakes.
7. Mrs Salman echoed these remarks stating she was now more cautious and responsible. She was making more effort to be in the shop alongside her son.

Mr & Mrs Salman responded to questions as follows:

8. Cllr Taylor sought some clarification around the purchase made by Mrs Salman. Mrs Salman confirmed the purchase was made on the day of the inspection, it was a family not an individual and she felt sorry for them. She cannot remember exactly how much she paid but was around £250 and she used cash from her purse to pay. She felt sorry for the family and purchased out of sympathy.
9. Cllr Levy acknowledged that Mr and Mrs Salman were trying to get things right however Mr Salman had been the DPS for more than ten years so how long do they need to get things right. Mr Salman responded saying that after the 2016 incident where goods were seized he tried to make improvements from then onwards. When asked why was there another issue in 2022, Mr Salman responded saying he was not present when the situation happened due to being at the cash & carry. Mr Salman advised he is in the shop about 5-6 hours per day.
Mr Salman was reminded that as the DPS he was responsible for the licence, even when at the cash & carry.
10. Cllr Levy asked Mr Salman if he disputes anything in the licence review application. Mr Salman responded saying no, stating that all products other than what Mrs Salman purchased have invoices.
11. Cllr Levy asked Mrs Salman what her role is in the shop. Mrs Salman stated she opens up, lays out newspapers, when her son comes in she does cleaning inside and outside and stocks shelves. She doesn't want to leave her son alone.
Cllr Levy continued by asking why she didn't use the stock in the shop instead of paying someone she doesn't know a lot of money. Mrs Salman said Cllr Levy has a point. First they came with rings and gold to sell, saying they were going back to their country to attend a funeral and needed to buy tickets.

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12. Cllr Hamilton said the conditions set from the inspections were not met, to which Mrs Salman responded saying it was due to lack of knowledge and she has learnt more now.
13. Cllr Taylor said it was strange for a business that sells cigarettes to buy cigarettes for £250 given that the excise and VAT should be over £600 so would be a loss to the seller. Mrs Salman said it was the way they came to us, they seemed stranded.
14. Ellie asked Mrs Salman which brand of cigarettes she smokes and if she has any on her today. Mrs Salman said it varies and she did not have any as last time she came to the Civic Centre it was non-smoking so left them in the car.

The summary statement of Ellie Green, Principal Licensing Officer:

15. Having heard these representations from both parties, it is now for the LSC to consider whether the review application is appropriate and in support of the licensing objectives.
16. The licensing sub-committee must decide whether to:
 - to modify the conditions of the licence;
 - to exclude a licensable activity from the scope of the licence;
 - to remove the designated premises supervisor
 - to suspend the licence for a period not exceeding three months;
 - to revoke the licence [Act s.52]
 - or, to make no changes.
17. Page 25 onwards of the report states the relevant policy and guidance sections relating to the review, but to re-iterate the Guidance states that there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These include the use of the premises for the sale or storage of smuggled tobacco and alcohol. Where reviews arise 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.

The summary statement of Amanda Butler, Senior Fair Trading Officer:

18. On two occasions illegal tobacco was found and seized from Enfield Food & Wine. As PLH and DPS, Mr Salman is responsible for ensuring the licensing conditions are adhered to. A warning letter was sent in 2020 outlining the seriousness of illegal tobacco on the premises. Mr Salman stated he did not receive this letter. It was noted a copy was included in the pack.
19. Enfield Council consider the illegal tobacco trade as a strategy to feed into the public health agenda and tobacco control strategy, to prevent deaths as a result from smoking illnesses. Illegal tobacco and cigarettes are known to be smuggled into the UK to be sold for high profit margins with blatant disregard to compliance with product safety legislation. It is Enfield Council's Trading Standards stance to request revocation of the premises licence even in the first instance; if the LSC was not minded to revoke the

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licence to refer to page 34 paragraph 5.1-5.2, which requests that the licence be suspended until the following actions have been completed:

- Full compliance with the licence conditions has been demonstrated.

Trading Standards make the following recommendations regarding amendments to the licence conditions:

- Non-duty paid tobacco or alcohol must not be stored or sold from the premises or from any motor-vehicle.

20. This licencing review application is in accordance with the licensing objective to prevent crime and disorder.
21. The PLH in summary said they leave the panel to their verdict and they are sorry.

The panel retired to consider the application.

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 Chair made the following statement:

“Having heard all of the evidence provided by Trading Standards, the Licensing Sub-Committee (LSC) are persuaded that the promotion of the licensing objective – prevention of crime and disorder – requires them to revoke this licence.

The licence holder has been in place for 13 years and has been the Designated Premises Supervisor (DPS) for 11 years. He should now fully know how to operate his licence within the law and promoting the licensing objectives.

The owner and licence holder have not challenged any of the evidence, except that they state that the warning letter sent 26/11/2020 was not received.

The LSC appreciate that the owner and licence holder have apologised for the most recent purchase of non-duty paid goods in 2022 and the sale of non-duty paid products in 2021.

The LSC have not considered any of the evidence relating to Baris Salman (brother of Aydin Salman) in deciding this review application.”

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