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LICENSING SUB-COMMITTEE - 4.1.2023

MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE HELD ON WEDNESDAY, 4 JANUARY 2023

COUNCILLORS

PRESENT Esin Gunes (Chair), Michael Rye OBE and Doug Taylor

ABSENT None

OFFICERS: Esther Hughes (Head of Service for Consumer Protection & Waste Protection), Catriona McFarlane (Legal Adviser), Tayo Hassan (Corporate Lawyer), Amanda Butler (Senior Fair-Trading Officer) Stacey Gilmour (Governance Officer)

Also Attending: Mrs Aylin Yengin - Premises Licence Holder/Designated Premises Supervisor (with regards to Licence when review was submitted)
Kemal Altun - Company Director/Owner of Maxi Food & Wine
Mrs Nuray Ozdemir – Transfer of Premises Licence Holder applicant
Mr Robert Sutherland, RDS Law Ltd – Representing the Premises Licence Holder, Mrs Aylin Yengin
Mr Hass Caliskan, Atlas Licensing Consultants - Representing Mrs Aylin Yengin
PC Justyna Golota – Police Licensing
Simon Allin, Local Press Officer

1

WELCOME AND APOLOGIES FOR ABSENCE

Councillor Gunes as Chair welcomed all attendees to the meeting and explained the order of the meeting.

2

DECLARATION OF INTERESTS

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

3

MAXI FOOD & WINE, 38 CHASE SIDE, SOUTHGATE, N14 5PA

RECEIVED the application made by Licensing Authority for a review of the Premises Licence (LN/200600265) held by Mrs Aylin Yengin at the premises known as and situated at Maxi Food & Wine, 38 Chase Side, Southgate, N14 5PA.

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NOTED

1. The introduction by Esther Hughes, Head of Service for Consumer Protection & Waste Enforcement, including:
 - a. The application was for a review of the premises licence for premises known as Maxi Food & Wine, 38 Chase Side, Southgate, N14 PA.
 - b. The premises have held various premises licences over the years and has had a history of note as detailed from page 1 of the report.
 - c. The Premises Licence Holder for this premises is Mrs Aylin Yengin officially since 7 June 2022 but has been reported to be active as the owner of the premises prior to that date. Mrs Aylin Yengin is also the Designated Premises Supervisor (DPS) since the same date as the transfer application.
 - d. The review application for Maxi Food & Wine has been submitted by the Council's Trading Standards Team and seeks to revoke the premises licence as it is believed that Mrs Aylin Yengin is not promoting the prevention of crime and disorder licensing objectives. A wide range of unlawful activity has taken place whilst Mrs Aylin Yengin has been the premises licence holder, despite advice to prevent such activity having been provided by the Council previously. The unlawful activity includes:
 - illicit tobacco has been seized from the premises;
 - breaches of licence conditions;
 - selling non-compliant vapes and e-cigarettes;
 - selling Viagra and Sildenafil without a medical registration from MHRA;
 - selling drug paraphernalia;
 - selling nitrous oxide (known as NOx)
 - e. The review application and supporting documents can be found in Annex A, page 12 of the report.
 - f. Furthermore, Mrs Aylin Yengin's husband is now known to be Mr Kemal Altun who has a history of selling illicit tobacco and has been linked to premises where illicit tobacco has been seized. Trading Standards have produced more information relating to this in agenda item 4, page 1 of the report.
 - g. The review received two supporting representations from the Police and the local Ward Councillors which can be found in Annexes D and E from page 234 of the report.
 - h. On Monday 12 December 2022, a transfer and vary DPS application has been received in relation to this premises licence naming Ms Nuray Ozdemir as both the new PLH and DPS.
 - i. At the preliminaries for the last hearing of this review we heard that Ms Ozdemir was the sister of Mr Kemal Altun. As the Police did not object to either of these transfer applications the licence will be issued to Ms Ozdemir. The Licensing Officer dealing with these applications has not done this yet.
 - j. The review is still deemed relevant despite the newly named PLH in light of the history of the premises, Mr Kemal Altun's history and his family link to Ms Ozdemir.

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- k. The licence conditions arising from this application are set out in Annex F found from page 238 of the report.
 - l. I understand that Trading Standards would like to revise proposed condition 20 from that set out in Annex F to read 'no nitrous oxide (laughing gas) to be stored or sold on the premises.' Trading Standards confirmed this amendment.
 - m. On behalf of Mrs Aylin Yengin a document bundle has been provided and circulated in the supplementary report referred to as Annex G. In these documents a birth certificate has been provided and it is noted that Mrs Aylin Yengin is officially known as Mrs Aylin Altun but this was not the name applied for on the new premises licence application. Furthermore, some of the documents provided in this bundle are in Turkish and are without a translation or covering note. The Premises Licence Holder has been asked for such translations and may be able to advise further on these documents later.
2. The statement on behalf of the Trading Standards Authority by Amanda Butler (Senior Fair-Trading Officer).
- a. At the time of submitting the Licensing Application in regard to Maxi Food & Wine, 38 Chase Side, Southgate, N14 5PA, Mrs Aylin Yengin was the DPS and PLH. However, as my colleague and manager has outlined, there has been an application for transfer of the licence by a Ms Nuray Ozdemir on 12 December 2022. However, this review application has been submitted to seek revocation of the premises alcohol licence in its entirety.
 - b. If the Licensing Sub-Committee are not minded to revoke the premises licence, then the Trading Standards Authority request that the licence be suspended until the actions outlined within 5.2 of the licensing application have been demonstrated.
 - c. The grounds for seeking a review of the said premises licence are based on several enquiries received from members of the public pertaining to illegal tobacco being stored and sold, nitrous oxide being sold to underage persons and to persons that may misuse the laughing gas, allegedly causing anti-social behaviour, and also illegal medicines and drug paraphernalia being displayed for sale at Maxi Food & Wine. All of this we say undermines the licensing objectives.
 - d. On 31 March 2 packets of illegal cigarettes (i.e. Marlboro Gold) were test purchased from Maxi Food & Wine. This led to a tobacco enforcement session being conducted by Enfield Council on 4 August 2022 whereby 50 packets of cigarettes (i.e. 1,000 cigarette sticks) were seized from Maxi Food & Wine, illegal Viagra medicines were also seized as were 27 non-complaint vapes. On 24 March 2022 343 non-compliant vapes were also seized from Maxi Food & Wine.
 - e. Subsequent to this there has been licensing enforcement inspections conducted on 22 January 2022, 30 September 2022 and 22 November 2022 and all of these inspections highlighted breaches of the premises licence conditions.

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- f. A warning letter was subsequently issued to Mr Kemal Altun on 30 November 2022 in regard to the criminal breaches that were alleged in regard to the illegal tobacco vapes that were seized on 4 August 2022. Since then, a voluntary surrender form has now been signed by Mr Kemal Altun and those illegal cigarettes and vapes will be destroyed and disposed of by Enfield Council. However, this is separate to this licensing application to revoke the licence at Maxi Food & Wine.
 - g. Mrs Aylin Yengin is the business rates payer at Maxi Wine Centre. This is a company namely Yengin Ltd T/A Maxi Wine Centre, situated at 495 Hertford Road Enfield. Illegal tobacco was seized from Maxi Wine Centre on 17 February 2022. Mr Kemal Altun, although a separate retail premises i.e. 495 Hertford Road Enfield T/A Maxi Wine Centre was prohibited from having anything to do with that business because of a history of illegal tobacco and alcohol being seized from Maxi Wine Centre. Therefore we, the Trading Standards Authority, say that there is a lack of confidence in the Premise Licence Holder and a lack of confidence in the management of Maxi Food & Wine and therefore we ask that the Licensing Sub-Committee consider this.
3. The statement of PC Justyna Golota, providing Police representations regarding Maxi Food & Wine, 38 Chase Side, Southgate, N14 5PA.
 - a. PC Justyna Golota provided a supporting representation for the above premises to review the premises licence on the following objectives:
 - Prevention of crime and disorder
 - Prevention of public nuisance.
 - b. From a police perspective there had been a number of complaints and incidents related to the above-named premises. The complaints vary in nature from nuisance to violent disorder.
 - c. Police database was checked for the period between December 2018 and December 2022. In this period of 4 year there was a total of 34 incidents related to the area of the Maxi Food & Wine, however only a small number was evidentially linked to Maxi Food & Wine premises.
 - d. In the last 2 years from 2021 to 2022, which is the period the police have been visiting the premises alongside the council, there was a total of 8 incidents which vary from suspicious circumstances to anti-social behaviour and violence against the person. CAD numbers and dates are detailed on page 235 of the report for the above mentioned 8 incidents.
 - e. There was one CRIS: 5224712/22 where the police were unable to obtain CCTV upon request which is a direct breach of the licence condition.
 - f. In summary the police do not believe that the premises and the current way in which it is operating is upholding licensing objectives.
 4. In response, the following comments and questions were received:
 - a. Councillor Rye asked whether the incidents referred to relating to anti-social behaviour and drugs took place inside the premises or just in the general proximity of the premises? PC Golota responded that most of the

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incidents were in the general proximity of the premises, but people had also been seen going in and out of the actual store, although she confirmed that none of the recorded incidents had taken place in the actual premises.

5. The statement by Mr Robert Sutherland of RDS Law Ltd on behalf of the applicant including:
 - a. It is very difficult to deal with this matter in a time limit of 5 minutes as a lot of the allegations made are wrong.
 - b. With regards to the police representation and the list of incidents detailed on page 235 of the agenda pack, all intelligence from the police is graded both to the source and the quality but none of this is detailed in their report therefore it appears that we have no idea as to who has provided this and whether it has come from somebody passing by or someone who has an axe to grind.
 - c. The licence has now been transferred, with no objection from the police therefore the current licence holder is Miss Ozdemir.
 - d. Everybody relating to this premises has been brought together today so that the Licensing Sub-Committee can see how they all fit together as a family business.
 - e. The circumstances are very much that over the past 12 months there has been a concentration of family attendance at several family matters. Documents provided include a birth certificate for Mrs Yengin's daughter who was born on 30 September 2022, therefore during the period we are dealing with as part of this licensing review, Mrs Yengin has been focusing on issues to do with her pregnancy and the subsequent birth of her daughter.
 - f. Prior to this date, other documentation provided includes a death certificate for an individual known as Mehmet Altun and that is Mr Kemal Altun's father who died in December 2021.
 - g. Other documents provided show a number of dates between December 2021 and January 2022 during which time Mrs Yengin was travelling regularly between Turkey and the UK.
 - h. It is not accepted that there has been breaches of the licence. It is not an offence to sell nitrous oxide. It is also not accepted that there is any drugs paraphernalia on the premises. The items referred to in the report are pipes which can be used for the smoking of any substance whether that be drugs or not. They are therefore not drugs paraphernalia.
 - i. With regards to the issue of illegal vapes, documents provided on pages 5 and 6 of the supplementary report show that that these were bought legitimately and in good faith via a wholesaler. However, regulations have since changed and unfortunately it would appear that these vapes are no longer legitimate.
 - j. In relation to the sale of illicit tobacco at the premises in August 2022 it is accepted that Mr Altun was in Turkey during this visit, and he responded to questions put to him at this time. It is believed that this incident related to a previous employee who has since been fired and new staff are now employed at the premises.

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- k. It was felt that the focus and the main issue behind the application for the revocation of this licence is to do with the illicit tobacco and therefore in conclusion Mr Sutherland said that it is about ensuring that this does not happen again and that is what he would like to address the committee on.
6. In response the following questions and comments were received:
- a. In response to Councillor Taylor's question regarding the selling of Viagra Mr Sutherland accepted that this had been on offer for sale at the premises, it should not have been and has since been removed from the shop.
 - b. Although it was not accepted that it was illegal to sell nitrous oxide and pipes, in order to avoid any further confrontation and complications with Local Authority Officers these have also been removed from the premises at the beginning of December 2022.
 - c. Following a question regarding staff training it was confirmed that training had taken place for all staff at the premises in December 2022 and a record of all training is available on request.
 - d. Councillor Taylor said that although he recognised that it is not illegal to sell nitrous oxide it is however illegal to sell it to people under 18 years of age. He went on to ask what quantities of nitrous oxide were sold at the premises on a monthly basis. It was confirmed that approximately 10-15 large cannisters were sold each month.
 - e. Councillor Rye referred to the test purchase made at the premises in March 2022 which was clearly in breach of the licence and therefore asked if it was accepted that this is a statement of fact? Mr Sutherland agreed that this is one of the more important matters relating to the licence review application as clearly the test purchase did happen and should not have. However, he highlighted that the key issue in relation to this is that there is a period between September 2021 and March 2022 when Mrs Yengin did not hold the licence and during that period it has been highlighted already that the attention of the family was very much on personal matters. The business was operated during this time by Mr Dervis Altun (Mr Kemal Altun's brother-in-law) therefore the control Mrs Yengin had during this period was negligible.
 - f. Councillor Rye responded to the above point by saying that it has been confirmed that this is very much a family business therefore the family corporately have responsibility for the licensing conditions being adhered to and on this occasion clearly, they have not been. Mr Sutherland responded by saying that by bringing the family in front of the committee today demonstrates that they have accepted that they need to 'up their game' to ensure that these things do not happen again, and it is hope that this is what is coming across to the committee.
 - g. Councillor Gunes asked what improvements have been made in the shop since the council issued the warrant on 13 November 2022 to avoid this happening again? It was advised that Atlas Licensing have been engaged to assist with and resolve the compliance issues. A licensing manual has been produced by Atlas Licensing which contains material for training,

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- refusal records (which are being checked and maintained) as well as the training records for the individual members of staff. Therefore, the documentation side of things is vastly improved.
- h. Mr Sutherland commented that previously there was no requirement to have a training record. So, although this may be deemed as good practice by council officers it was not a condition of the licence. However, those records now exist, so it is therefore possible to keep track of what training is being provided. He also added that the staff that were present at the premises in August 2022 have now been removed and the current staff are in the process of obtaining their personal licence through getting their criminal record checks and submitting their applications, so all staff will have their own person licence.
 - i. In response to a question regarding the sale of illicit tobacco at the premises, the committee sought assurances that this would not happen again. They were advised that the new PLH and DPS, Ms Ozdemir, is present at the premises on 3 to 4 days per week and is always in contact with the other two staff members. This allows for a greater degree of control to ensure that illicit tobacco is not sold again.
 - j. In relation to other improvements that have been made at the premises, reference was made to pages 17-23 of the supplementary agenda pack which included photos of the point-of-sale reminder that is displayed on the cash register screens when items requiring proof of age are purchased. This is a new system which has recently been implemented. Challenge 25 signage is also now clearly displayed at the premises.
 - k. Councillor Gunes asked what, if any, improvements had been made in relation to the CCTV system at the premises. It was confirmed that this has now been updated to record for 31 days and all staff have been trained on how to use it and provide a copy if requested to do so by the Police or Local Authority. Mr Sutherland added that if it would assist the committee, they would be happy to accept an additional condition stating that there would always be a member of staff on the premises who knew how to operate the CCTV system.
 - l. Councillor Taylor asked if Mrs Ozdemir as the new Premises Licence Holder understood fully what the licensing objectives are? Mrs Ozdemir responded to this question in Turkish which was translated for the committee. She confirmed that she fully understood the licensing objectives and listed what she understood these to be.
 - m. Councillor Taylor referred to the training record in the supplementary agenda pack and asked whether Mrs Ozdemir had been through the necessary training process. It was advised that she had not yet undertaken the training. Councillor Taylor said that it would give the sub-committee greater confidence going forward if Mrs Ozdemir as the new PLH and DPS had already undertaken this training. This point was accepted, and Mr Caliskan of Atlas Licensing confirmed that this training would be arranged as soon as possible.
7. The summary statement from Esther Hughes, Head of Service for Consumer Protection & Waste Protection, that having heard from the

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representatives of all the parties and received all the written evidence, it was for the sub-committee to determine the appropriate steps to take. The relevant guidance and polices were highlighted.

8. The summary statement from Amanda Butler, Senior Fair-Trading Officer that having heard the licence holder's representation the Trading Standards Authority submits to the Licensing Sub-Committee to consider total revocation of the premise licence as a result of illegal tobacco, vapes and medicines being seized from the premises on 4 August 2022. Although it is noted that Mrs Ozdemir is now the Premise Licence Holder the lack of confidence in the running of the family-owned business is to be questioned in regard to illegal tobacco being stored at the premises. However, it is noted that improvements have been made in regard to refusal registers and age restricted signage and it is for the sub-committee to consider that. If you are not minded to revoke the licence in its entirety please have regard to paragraph 5.2 in regards to demonstrating the licensing conditions.
9. The summary statement on behalf of the applicant that a lot of things have been said within the papers but probably the two most important issues are the test purchase in March 2022 and the items seized in August 2022. It is important to assure the committee that this will not happen again, and the approaches taken to demonstrate this have been to remove the staff responsible for the situation in August 2022, transferring the licence and putting Mrs Ozdemir in charge, improving signage around the premises as well as providing the appropriate training for all staff members. One of the factors to consider as a committee is suspending the licence and it is accepted that the committee can use a suspension as a deterrent. What we would ask the committee to look at is certainly imposing the conditions that are set out at Annex F with the suggestion of one additional condition of ensuring that there is a member of staff always present at the premises who is able to operate the CCTV system, which will deal with one of the issues raised by the police. The proposal to the committee is that these steps will address the failings and would ensure that the licensing objectives are promoted. If the committee is considering a suspension of the licence, then it is asked that as short of a suspension as possible be imposed if it is felt appropriate and proportionate. If the committee felt that further conditions were appropriate in relation to the storage and purchase of tobacco products, then again, these conditions could be looked at and added.

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.

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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:

“This Licensing Sub Committee (LSC) have read and considered all the information put before them and attentively listened to all the points made by each party.

Given the seriousness of the allegations the Committee were at first minded to consider revocation of the premises licence.

The LSC have been told this is a family run business and it is concerning that those who were previously involved in the failures outlined in the review are still involved.

However, their advocate (Mr Sutherland of RDS Law) has made it very clear that the families involved in the business acknowledge their previous failures. They want to do better in the future and have now employed consultants (Atlas Licensing Consultants), who have trained them and put in place a proper manual, a training system and will be undertaking test purchases in future to ensure staff are using their policies appropriately.

Nevertheless, the wrongdoing discovered was so serious that despite the acknowledged changes the LSC feel that anything short of a 3-month suspension would be inadequate.

The LSC anticipate that the Local Authority will be undertaking checks to ensure the business is now promoting the licensing objectives. The LSC will be very disappointed if this business should be back before them because further failures have been discovered.

3. The Licensing Sub-Committee resolved:

(a) that it considers the steps listed above to be appropriate for the promotion of the licensing objectives;

(b) to modify the conditions of the licence in accordance with Annex A attached to the Decision Notice;

AND

(c) to suspend the licence for a period of three months.

4

MINUTES OF PREVIOUS MEETING

AGREED the minutes of the meetings held on 3rd August 2022 as a correct record.

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