

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 22 FEBRUARY 2023**

COUNCILLORS

PRESENT Doug Taylor (Chair) Jim Steven and Sinan Boztas

ABSENT Esin Gunes

OFFICERS: Ellie Green (Principal Licensing Officer), Tayo Hassan (Legal Adviser), Amanda Butler (Senior Fair-Trading Officer) and Metin Halil (Democratic Services)

Also Attending:

1

WELCOME AND APOLOGIES FOR ABSENCE

Councillor Taylor as Vice 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

MINUTES OF PREVIOUS MEETING

AGREED the minutes of the meetings held on Wednesday 14th December 2022 and Wednesday 4 January 2023 as a correct record.

4

SKEWD KITCHEN, 113-115 COCKFOSTERS, ROAD, BARNET, EN4 0DA

Due to the Chair (Councillor Esin Gunes), who was unable to attend the hearing, it was not possible to consider this review application. Ellie Green (Principal Licensing Officer) apologised and explained that the hearing could not take place with only 2 Members of the Licensing Sub-Committee. Ellie Green thanked all parties for giving up their time this morning and that the review hearing would be adjourned and that a new date for the Skewd Kitchen review hearing would be arranged.

5

LATE NIGHT FOOD OFF LICENCE, 87 SILVER STREET, LONDON, N18 1RP

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RECEIVED the application made by Licensing Authority for a review of the Premises Licence (LN/201500538) held by Mr Shadov Zomorodian at the premises known as and situated at Late Night Food off Licence, 87 Silver Street, Edmonton, N18 1RP.

NOTED

1. The introduction by Ellie Green, Principal Licensing Officer, including:
 - a. The application was for a review of the premises licence for premises known as Late Night Food off Licence, 87 Silver Street, Edmonton, N18 1RP.
 - b. The Premises Licence Holder for this premises is Mr Shadov Zomorodian officially since 6 May 2020. Mr Erhan Sabri was still the Designated Premises Supervisor (DPS) since 10 April 2017.
 - c. The review application for Late Night Food off Licence has been submitted as the Licensing Authority believes that Mr Shadov Zomorodian is not promoting the prevention of crime and disorder licensing objectives. A wide range of unlawful activity has taken place whilst Mr Zomorodian 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 found on the premises on three occasions.
 - breaches of licence conditions.
 - d. The review application and supporting documents can be found from page 189 of the agenda. No other representations were made.
 - e. The review application seeks to revoke the premises licence in its entirety. Should the Licensing Committee decide not to revoke the licence in its entirety, the Licensing Authority has proposed one additional condition be added to the premises licence, as detailed at Annex 4 (Page 263) of the agenda pack.
2. The statement on behalf of Charlotte Palmer (Senior Licensing Enforcement Officer) by Amanda Butler (Senior Fair-Trading Officer).
 - a. This review application is to revoke the premises licence of Mr Shadov Zomorodian, Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) of Late-Night Food Off Licence, 87 Silver Street, London, N18 1RP.
 - b. The Licensing Review is based on the prevention of crime and disorder licence objective and is the result of non-duty paid tobacco being found at the retail premises on 4 October 2022, 24 November 2022 and an alleged sale of illegal cigarettes purchased from the retail premises on 13 October 2022. The PLH has also failed to demonstrate compliance with many of the licence conditions.
 - c. The premises licence fee had not been paid for 3 years and the named DPS no longer worked there. These matters had since been rectified.

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- When the current PLH (Shadov Zomorodian) took over the premises (since 6 May 2020), it already had premises licence conditions attached to it to prevent the sale of non-duty paid tobacco, as detailed at pages 183-184 (points 14-18) of the agenda.
- d. An enquiry was received by the Council's Trading Standards Department (TSD) in September 2021 regarding the alleged sale of cigarettes and vapes to underaged persons. A similar enquiry was made in August 2022 alleging that the premises were selling foreign cigarettes for £6 a packet. Trading Standards had sent an advisory letter to the premises in September 2022, outlining the legislation regarding the sale of e-cigarettes/Vapes, underage sales and the sale of illegal tobacco, as detailed from page 199 of the review bundle.
 - e. On the 4 October 2022, TSD officers conducted a Vapes compliance inspection at the premises and found 208 non-compliant Vapes and 25 packets of Shisha displayed for sale. The PLH was requested to remove these goods from sale and instructed to return the non-compliant Vapes and Shisha products to the suppliers as they were alleged to breach tobacco legislation. However, 16 packets of 20 non-duty paid/illegal cigarettes were seized during the inspection as they were alleged to breach tobacco legislation, conditions 14-18. The PLH was issued Tobacco advisory leaflets and Vapes warning letter.
 - f. On the 13th October 2022, a test purchase volunteer entered the premises and was sold a packet of non-duty paid/illegal cigarettes for £7.00 with the usual price around £12/13. This was a further alleged breach of premises licence conditions 14-18.
 - g. On 23 November 2022, Enfield Council's Licensing Department conducted a full license inspection. The Licensing enforcement Officer spoke to the PLH on the phone as staff were unfamiliar with the licence conditions. The PLH and staff were unable to demonstrate compliance with 10 out of the 18 premises licence conditions. This failure to comply is an alleged criminal offence that carries an unlimited maximum fine and or 6 months imprisonment.
 - h. During the inspection a male and female came in together and wanted 2 packets of cigarettes. However, due to the fact that the Licensing Enforcement Officer was present in the shop, the male and female changed their minds saying they would come back later because 'that lady was in there'. The Enforcement Officer got the impression that the customers had been expecting to buy 'cheap' cigarettes. Staff denied this and were told by the officer that that selling illegal tobacco and/or alcohol could result in the licence being taken away.
 - i. On the 24th November 2022, TS conducted an inspection to the premises and seized 48 packets of 20 non-duty paid cigarettes and 1 pouch of hand-rolling tobacco. A further breach of premises conditions 14-18.
 - j. On 16th December 2022, a warning letter and forfeiture notice was sent to the premises regarding the seizure of illegal tobacco, which is yet to be signed by the PLH.
 - k. On 19th December 2022, a Licensing Enforcement Officer, conducted an inspection of the premises to check compliance with the outstanding

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- premises licence conditions. The working staff member still could not demonstrate compliance with 6 of the premises licence conditions. During the inspection several people entered the premises and left empty handed.
- l. Home Office guidance states that there are certain criminal activities that should be treated particularly seriously and includes the sale or storage of smuggled tobacco and alcohol. The guidance also states that revocation of the licence, even in the first instance, should be seriously considered.
 - m. The sale of or seizure of illegal tobacco has occurred on three separate occasions in less than 2 months despite there already being conditions attached to the premise licence, designed to prevent the sale of illegal goods and the fact that Trading Standards having sent an advisory letter regarding this. The Licensing Authority has no confidence in the PLH's ability or willingness to trade legally.
Licensing Enforcement inspections have shown a failure to comply with premises licence conditions and staff working at the premises appear to be unfamiliar with the premises licensing conditions and show a lack of training. The Licensing Authority recommends that this licence be revoked in its entirety.
 - n. If the Licensing Committee is not minded revoking the licence in its entirety then the Licensing Authority would recommend that the Sub-Committee consider suspending the premises licence until such time as full compliance with the licence conditions has been demonstrated by the PLH and that the following condition be added to the premises licence:
 - A personal licence holder shall be on duty and supervise all sales throughout the permitted sale of alcohol hours.

3. In response, the following comments and questions were received:

- a. Councillor Boztas was advised of all the dates of inspection by the Licensing Enforcement team including the date of the advisory letter sent to the PLH in September 2022.
- b. Councillor Steven sought information regarding the premises refusals book and the dates of entry within the book for recent refusals including any invoices that had been provided. Amanda Butler (Senior Fair-Trading Officer) clarified that no invoices had been provided during the inspection by the PLH when requested by the Trading Standards Officer, but some records had been provided and can be found in the bundle.
- c. Councillor Steven sought clarity regarding the premises previous reviews of its licence. Amanda Butler advised that there had not been any previous licence reviews for the current PLH and DPS. This was the first licence review since Mr Zomorodian had been the PLH. Mr Zomorodian had been the PLH since 6 May 2020 so the LSC have to treat this as a new licence review of the premises unless there was a connection with the former PLH and DPS. The premises had the same problems but under different people.

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d. Tayo Hassan (Legal Representative) asked if the current PLH had any relevant previous convictions that the LSC need to be aware of and which may assist the committee. Amanda Butler advised, not that she was aware of.

e. Councillor Taylor referred to the Licensing Authorities conclusion of the review application at page 196 of the agenda, 5th paragraph which clearly recommends revocation of the Licence. However, how could the LSC judge whether full compliance had been established as regarding revocation of the licence. Amanda Butler advised that that was a matter for the LSC. The Committee should have regard to the number of inspections that had been conducted and the number of seizures of illegal tobacco that were seized despite advisory letters sent to Mr Zomorodian. Ellie Green further advised that there were certain conditions on the license that could be adhered to (training records/refusals book) with regards to tobacco sales, even if the premises are not allowed to sell alcohol. The new condition can be assessed once the activity has taken place.

f. Councillor Taylor further sought if the Licensing team are proposing to revoke the alcohol license too. Amanda Butler advised that it was, in its entirety and that is what is being proposed to the LSC. However, if the LSC are not minded doing that, to consider an additional condition to be placed on the Premises License.

g. Councillor Boztas asked if history issues of the premises (from page 175) should be considered by the committee. Tayo Hassan (Legal Representative) clarified that it is relevant for when the LSC panel are making a decision to determine whether to revoke a licence or to suspend the licence. If minded suspending the licence, the LSC can only suspend for a 6-month period if there are previous convictions. Otherwise no more than 3 months suspension of the licence.

h. Amanda Butler clarified that page 175 was regarding the Premises Licence application relating to the previous owner and should be taken into account, however, the panel should be minded that Mr Zomorodian had only been the PLH since 6 May 2020. Checks had been undertaken for any links between the proposed new licence holder and the former licence holder to check that it had been a lawful transfer and not a front in name only.

i. Councillor Boztas referred to item 1.6 on page 175 of the agenda and asked officers what they would say about this statement. Ellie Green advised that there had been a high volume of transfers in a short time for the premises. The legal representative asked if officers were able to address whether there are any connections with the current PLH and the previous DPS to their knowledge. Amada Butler was not aware of any connection to her knowledge, but that Members could ask Mr Zomorodian about this when he makes his representation.

j. Mr Zomorodian asked for clarity regarding the number of Trading Standards inspections of his premises. It was advised that

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there had been 2 inspections, a test purchase of cigarettes and a License condition check. On the 24 November 2022, tobacco was seized and the PLH had a warning letter sent to him. In December 2022 a warning letter and forfeiture notice was sent to the PLH which as yet has still not been signed by the PLH.

k. Councillor Boztas was advised the premises licence fee had now been paid.

4. The statement by Mr Shadov Zomorodian, the Premises Licence Holder.

a. He introduced himself as a law-abiding citizen.

b. He had no knowledge of the illegal activity within his premises.

c. He had only taken over the shop 2 years ago and was his only source of income.

d. He had now installed CCTV and had organised a refusals book to log these. There would always be 2 members of staff available. This had all been done to meet the Licensing Officer's requirements.

e. At no point, when the Licensing team had come to inspect the premises, were the cigarettes concealed. His staff had told him that the cigarettes were for personal use. He had stressed to his staff that; illegal cigarettes should not be in his premises.

f. He was new to this business and would now be educating himself as to trading standards requirements.

g. Referring to the Trading Standards cigarettes test purchase, there had not been any instruction by him to sell illegal tobacco. The member of staff concerned had now been dismissed and their actions were for her personal financial gain.

h. He would be a model PLH and DPS.

i. He was not making excuses but after his grandmother had passed away, he had been diagnosed with a brain tumour and was not in a good place health wise. However, he would now ensure that everything is ok now regarding the premises. He advised the Licensing Department to please come and check that all was now ok.

j. He was now training staff to do the right things. There were no issues with alcohol sales and asked the LSC to show kindness and understanding as regards his license. This was his first mistake.

5. In response, the following comments and questions were received:

a. The Vice Chair (Cllr Doug Taylor) asked if the PLH had any experience in retail when he took over the premises in 2020. The PLH advised that he had very little experience and the goal was to own a business.

b. Councillor Taylor stated that when the trading standards investigation had taken place 2 years after the PLH had taken over the premises, Mr Zomorodian should have ensured what his legal obligations were and what was required for the staff to understand, so why didn't that happen? Mr Zomorodian explained that he was a rookie and had made a mistake which he has now learnt from and not to

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entrust other people with his responsibilities to run the business. I will not be delegating any more responsibilities to other people again.

c. Councillor Taylor also questioned that Mr Zomorodian would have visited the premises and why he never noticed that Vapes were being sold to under age customers, non-compliant cigarettes and the lack of signage. The PLH advised that everything had been done minimally, he apologised that he was under mental & emotional pressure and guaranteed that it would not happen again.

d. Councillor Taylor asked if the PLH had any connection with the previous PLH. It was advised that that was not the case, the previous PLH had gone when Mr Zomorodian had arrived at the premises.

e. Councillor Stevens stated that according to the dates of inspection and forms signed by the PLH, illicit tobacco was found in the premises, as reported and present in the premises for at least 3 months. Mr Zomorodian explained that he was only present on one occasion in the premises for the first inspection only when 1 packet of illegal cigarettes were seized, personally belonging to a member of staff. On the 2nd inspection, where a larger quantity of illegal cigarettes was seized, they had not been concealed and were not for sale within the premises. They were seized from someone's personal backpack

f. Amanda Butler asked if cigarettes are sold at the premises. The PLH advised that they sold duty paid cigarettes at the premises. When asked where those cigarettes are purchased from, the PLH replied that they are purchased from the cash & carry. He has all the receipts and invoices for these.

g. Amanda Butler asked for confirmation that the illegal cigarettes seized from the backpack belonged to a member of staff. The PLH confirmed this to be true. Amanda Butler then questioned why would staff have non-duty paid cigarettes if the premises sold duty paid cigarettes. The non-duty paid cigarettes were therefore for supply to consumers. The PLH responded that this was a financial issue to his staff. The cigarettes were a legal gift from Poland as this is what the member of staff asks for as a gift. The illegal cigarettes were dropped off at the shop to the staff member who was going to take them home.

h. Amanda Butler further stated that the reason for this licence review application is because the alleged sale of illegal cigarettes was justified regarding a test purchase of cigarettes from the retail premises.

i. Amanda Butler also had some questions for Mr Zomorodian from the Licensing Enforcement Officer:

j. How many staff work at the Late Night Off License? The PLH advised that there were currently 4 but used to be 3.

k. Did Mr Zomorodian smoke and if so what brand? Mr Zomorodian did smoke Morlboro Touch cigarettes.

l. Amanda Butler (AB) stated that there were 6 different styles of cigarettes that were seized and so because of the variety of brands seized it is alleged that these were in the possession of the Late Night Off Licence to sell to consumers. In response, Mr Zomorodian said that

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the test purchase cigarettes that were sold did not match the illegal cigarette examples in the backpack. He did not know what cigarettes were in the backpack. AB responded that the similarities include; the packaging did not comply with tobacco regulations, they were non-duty paid tobacco and that this was confirmed via inspections and seizures from Enfield Council.

m. Mr Zomorodian insisted that the illegal tobacco did not belong to the premises or himself. It was the staff members personal belongings bought to him by his friends.

n. AB asked how often Mr Zomorodian worked at the premises. He advised that he currently worked 4 nights.

o. When the PLH was asked if he had day to day control of management of the retail business, Mr Zomorodian advised that for 2 months now he was in full control of managing the business.

p. AB suggested that if Mr Zomorodian was at the premises would he have seen what staff were doing and would he have opened the bag with the non-duty paid cigarettes? Mr Zomorodian clarified that he would not have opened any one's personal property. AB further suggested that if the backpack was open and it was apparent that non-duty paid cigarettes were behind his counter what would he have done? Mr Zomorodian explained that he would have told staff to take their personal belongings home immediately but would have explained the regulations to them first and ask them not to have non-duty paid cigarettes bought to the premises again.

q. AB asked what systems had been put in place to ensure that this did not occur again and that illegal goods are not sold from the Late Night Off Licence. In reply, Mr Zomorodian said that an extra 2 CCTV cameras have been added and he had extended the viewing hours to 4 months.

r. AB enquired about the member of staff who had the backpack containing illegal cigarettes and what had happened to them. Mr Zomorodian advised that he was still a staff member, but he had not called him back to work yet.

s. Ab asked how Mr Zomorodian recruited his staff. He replied that his manager recruited staff through his Church and locally.

t. Ellie Green asked Mr Zomorodian if any of his staff hold a personal licence. This was in connection with the additional condition should the LSC be minded not to revoke the licence whereby a PLH should be on duty to supervise all sales throughout the alcohol sales hours. Mr Zomorodian advised that his manager holds a personal licence and can supervise in his absence. His manger has been working for him for a year.

u. Councillor Taylor questioned therefore why the manager had not realised that contraventions were taking place and why he didn't take action to stop it. Mr Zomorodian advised that the manager's English was not as good as his. Their inexperience had led to these contraventions.

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v. Ellie Green further clarified that page 214, of the agenda, details the inspection reports. The name of the manager is Ali Ghani who was present at the premises when the illegal tobacco/non-duty paid cigarettes in the backpack were seized on the 4 October 2022.

6. The summary statement from Ellie Green, Principal Licensing Officer, that having heard from the representatives of all the parties and received all the written evidence, it was for the sub-committee to determine the appropriate steps to take. Page 177 of the report onwards directs you to the relevant guidance and policies section relating to this review.

The Licensing Sub-Committee could be minded:

- 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

7. The summary statement from Amanda Butler, Senior Fair-Trading Officer, that smuggled goods is alleged and have been found at Late Night Food Off Licence on two occasions and on one occasion a test purchase of illegal cigarettes was conducted from the retail premises.

This supports the enquiry received from members of the public. The behaviour of customers and the number of people who have left the premises empty handed during Licensing Enforcement inspections is very unusual. The licence already has all the relevant conditions attached to it, with the aim of preventing the sale of smuggled goods.

The Premises Licence Holder is alleged and has failed to demonstrate compliance with the Premises Licence conditions and the Licensing Authority still recommends this licence to be revoked in the first instance.

8. The summary statement of the applicant that all of the licensing contraventions already mentioned have now all been corrected. The applicant invited relevant Council officers to inspect the licensed premises as all the points raised on the form had now been addressed.

As far as smuggled goods were concerned, these were not owned by the business.

The member of staff in question; this has been taken care of and Mr Zomorodian would ensure that these contraventions would never happen again, and staff would be trained to the required standard.

Mr Zomorodian guaranteed and assured the Licensing Sub Committee that the contraventions were not his intention and did not benefit the business in any way. He was happy to co-operate to the best of his abilities to assure the LSC that all the suggested changes have taken place and that the premises would be a model business.

The contraventions had occurred due to his lack of knowledge and retail inexperience. He welcomed any future inspections from the Licensing Enforcement team.

RESOLVED that

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Application was made by the **LICENSING AUTHORITY** for a review of the Premises Licence (LN/201500538) held by **MR SHADOV ZOMORODIAN** at the premises known as and situated at **LATE NIGHT FOOD OFF LICENCE, 87 SILVER STREET, LONDON, N18 1RP.**

The Licensing Sub-Committee **RESOLVED** that it considers the steps listed below to be appropriate for the promotion of the licensing objectives:

- 1. to modify the conditions of the licence; and**
- 2. to suspend the licence for a period not exceeding three months;**

Conditions (refer to Annex 4 of the LSC report)

3. All staff shall receive induction and refresher training (at least every three months) relating to the sale of alcohol, tobacco and vapes, the times and conditions of the premises licence. (Condition 2 on Annex 4)
4. All training relating to the sale of alcohol, tobacco and vapes and the times and conditions of the premises licence shall be documented, and records kept at the premises. (Condition 3 on Annex 4)
5. A personal licence holder shall be on duty and supervise all sales throughout the permitted sale of alcohol, tobacco and vapes hours. (Condition 19 on Annex 4)

Reasons:

The Chair made the following statement:

“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 suspend the premises licence. The suspension will have effect until such time that the Licensing Authority is satisfied that all conditions which can be checked are compliant, and no more than a 3-month suspension.

We are minded to impose the further condition as recommended by the Licensing Authority, plus two more amendments to existing conditions (as set out above).

The Licensing Sub-Committee were persuaded by the evidence of the Licensing Authority of the failure of the premises licence holder to give

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sufficient regard to the licensing objectives, in this matter, the prevention of crime and disorder.

The new and modified conditions form part of the Operating Schedule of your premises licence. You must ensure that the operation of the licensed premises complies with all the licence conditions.

Failure to comply with the premises licence can lead to prosecution and further review of the licence.

We would like to remind the premises licence holder that both he and anyone with a personal licence must be fully cognisant of the obligations under the law and that has not been the case to date.

We did consider revocation of the licence in its entirety and a result we would expect the Licensing Authority to be vigilant in monitoring the operations of this premises.”