

BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE C WEDNESDAY 4 MAY 2016

**MINUTES OF A MEETING OF LICENSING
SUB COMMITTEE A HELD ON WEDNESDAY
4 MAY 2016 AT 1000 HOURS IN
COMMITTEE ROOM 1, COUNCIL HOUSE,
BIRMINGHAM**

PRESENT: - Councillor Alex Buchanan in the Chair;

Councillor Mike Leddy.

ALSO PRESENT

Shaid Yasser - Licensing Section
Sanjeev Bhopal - Committee Lawyer
Gwin Pountney - Committee Manager

NOTICE OF RECORDING

1/040516

The Chair advised the meeting and it was noted that members of the press/public may record and take photographs except where there are confidential or exempt items.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

2/040516

There were apologies received from Councillor Neil Eustace but no nominee Member.

**LICENSING ACT – PREMISES LICENCE – REVIEW, POLISH SHOP
SPIZARNIA, 210 HIGH STREET, ERDINGTON, BIRMINGHAM, B23 6SH**

The following report of Director of Regulation and Enforcement was submitted:-

(See document No. 1)

The following persons attended the meeting:-

On behalf of Trading Standards:

Geary Warmington – BCC Trading Standards

On behalf of the Premises Licence Holder

There was no-one present on behalf of the premises licence holder.

Licensing Sub Committee C – 4 May 2016

The Sub-Committee were advised by the Committee Lawyer that whilst neither the premises licence holder or their legal representative nor those making representations against the premises were present, under Regulation 20 of the Hearing Regulations Act 2005 the hearing could take place in their absence.

The Chair took the decision that due to the seriousness of the case the hearing would proceed in the premise licence holder's absence.

Following introductions by the Chair, the main points of the report were outlined by Shaïd Yasser, Licensing Section.

Mr Warmington made the following points in respect of his application and in response to Members' questions:-

- a) Referred to his report, at Appendix 2 of the papers, highlighting the visit to the premises on 15 February 2016 by BCC Trading Standards and Police Officers following information that had been received that illicit alcohol and cigarettes were being sold from the Polish Shop Spizarnia.
- b) A search of the premises had revealed a large quantity of spirits on display on the shelves did not carry the UK fiscal mark, indicating that no duty had been paid on the items.
- c) This had been pointed out to the woman in charge of the shop, who had subsequently called the owner, Mr Awat Ardf. Mr Ardf upon arrival had stated that whilst he was connected to the premise he was not the premises licence holder – he had been asked to look after the premises whilst the premises licence holder was in prison.
- d) Mr Ardf had stated that all the stock on the premises had already been there upon his taking over the premises.
- e) Four photos were presented of the illicit alcohol – of which 102 bottles had been seized of Krupnik, Wyborowa, Extra Zytnia and Starogardzka.
- f) A Companies House search for Nelly (UK) Ltd on 1 March 2016 had shown the company as being active but without directors since on 1 October 2015.
- g) A subsequent request on 7 April 2016 had shown that Mr Azah Hussain Ahmed had been the director at the time of the visit but had resigned on 5 April 2016.
- h) Further enquiries had revealed that Mr Ahmed, the premises licence holder may be in prison. An internet search had revealed a newspaper article of a Mr Azah Ahmed; the premises licence holder (PLH) for another shop in Leicester who had been convicted for sale of tobacco to underage customers. This was believed to be the same person as the PLH for Spizarnia as the address was the same as that registered at Companies House for Spizarnia.
- i) That the shop was being run without a DPS or PLH.
- j) That the delay upon acting upon the information received had been due to waiting for a sniffer dog as this was a joint exercise with the Police.

Licensing Sub Committee C – 4 May 2016

- k) That legal action would be pursued against Mr Ahmed upon locating him.
- l) The seized alcohol was valued at between £11- £15 per bottle – it had not been priced up.
- m) That he was in agreement with the representations made by Councillors Beauchamp and Moore that the premises was engaged in serious criminal activity and should have its licence revoked.
- n) Concluded that these premises were clearly in breach of their licensing conditions, out of control without a DPS or Premises Licence Holder without directors or leadership and Mr Ardf was not a personal licence holder and therefore had no experience of the licensing objectives, therefore the premises licence should be revoked.

At 1038 hours, the Sub-Committee adjourned and the Chair requested that all present, with the exception of Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1042 hours, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

3/040516

RESOLVED:-

That having reviewed the premises licence held under the Licensing Act 2003 by Nelly UK Limited in respect of Polish Shop Spizarnia, 210 High Street, Erdington, Birmingham, B23 6SJ, following an application for a review made on behalf of the Chief Inspector of Weights and Measures, this Sub-Committee hereby determines

- 1) **TO REVOKE THE PREMISES LICENCE, and;**
- 2) **REMOVE AZGHAR HUSSEIN AHMED AS DESIGNATED PREMISES SUPERVISOR**

in order to promote the prevention of crime and disorder and public safety from harm objectives in the Act.

The Sub-Committee's reasons for revoking the licence and removing the Designated Premises Supervisor are due to concerns by the Chief Inspector of Weights and Measures in relation to the seizure of 102 bottles of illicit alcohol/spirits that were for sale at the Premises on the 15th February 2016. The items did not display the UK Duty Paid marks, but were nevertheless openly displayed on the shelves. These brands included Krupnik, Wyborowa, Extra Zytnia and Starogardzka.

The Sub-Committee carefully consider the guidance under Section 182 of the Licensing Act 2003 by the Secretary of State, particularly Reviews in connections with Crime. Given the circumstances set out above, the Sub-Committee felt that the Premises Licence Holder and DPS were undermining the Prevention of Crime and Disorder objective within the Act (given the seizure of such a large quantity of illicit alcohol).

In accordance with paragraphs 11.27 and 11.28 of Guidance issued by

Licensing Sub Committee C – 4 May 2016

the Home Office under S182, the sale of smuggled alcohol should be treated as particularly serious (11.27). In addition to this, the Sub-Committee were satisfied that the Premises Licence Holder and DPS were undermining the Prevention of Crime and Disorder objective within the Act to further crimes it was therefore appropriate to consider and indeed revoke the Licence, as there were no compelling reasons to depart from the Guidance.

The Sub-Committee had heard evidence from Chief Inspector of Weights and Measures, supporting the assertion made by other persons making representations, that where the premises are associated with serious criminal activity (as defined in paragraph 11.27 of the S182 Guidance) they are commonly associated with organised crime. Additionally, as a result of the enforcement visit, the Chief Inspector of Weights and Measures expressed grave concerns over the way the premises were managed. It also appeared that the Designated Premises Supervisor was responsible for significant management failures and had no control of the premises which in turn, called into question his competency to continue in the role. It was noted that the illicit alcohol was openly on sale on the shelves within the premises. No representations were received from either the Premises Licence Holder or the DPS to provide any explanation for the matters set out above, neither of whom attended the meeting. Such scant disregard for the seriousness of the matters before the Sub-Committee further demonstrated a fundamental failure on the part of both the Licence Holder and DPS.

The Sub-Committee gave consideration as to whether it could modify the conditions of the licence and suspend the licence for a specified period of not more than 3 months, but was not satisfied given the evidence submitted, that the licensing objectives would be properly promoted following any such determination. Revocation and removal of the DPS, were the only measures the Licensing Sub-Committee considered to be appropriate, reasonable and proportionate in order to properly promote the Licensing Objectives, particularly the prevention of crime and disorder and the promotion of public safety.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the written representations made by other persons, and the submissions made at the hearing by the officer from the Chief Inspector of Weights and Measures.

OTHER URGENT BUSINESS

4/040516 There was no urgent business.

The meeting ended at 1135 hours

.....
CHAIRPERSON