

## LICENSING SUB-COMMITTEE No. 1

Thursday 14<sup>th</sup> May 2015

Membership: Councillor Tim Mitchell (Chairman), Councillor Melvyn Caplan and Councillor Louise Hyams

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officers: Jonathan Deacon

Relevant Representations: Licensing Inspectorate (Applicant) and Environmental Health.

Present: Mr Gareth Cleary (City Inspector, on behalf of the Licensing Inspectorate), Mr Anil Drayan (Environmental Health) and Mr Shusilkumar Bhavsar (owner of Norris News)

### **Norris News, 115 Lupus Street, SW1 15/01135/LIREVP**

An application submitted by the Licensing Inspectorate for a review of the premises licence for Norris News in Lupus Street was received on 17 February 2015 on the grounds of the prevention of crime and disorder and the protection of children from harm.

Guidance issued under section 182 of the Licensing Act 2003 (para 11.2) states that at any stage following the grant of a premises licence, a responsible authority, such as the Police or the Environmental Health Service, or any other person who can seek a review, may ask the Licensing Authority to review the premises licence because of a matter arising at the premises in connection with any of the four licensing objectives.

As such, in accordance with section 52(2) of the above-mentioned Act, the Licensing Authority must hold a hearing to consider the application and any relevant representations.

The premises currently benefits from a premises licence (13/05276/LIPVM) that permits:

#### **Sale by retail of alcohol (off sales)**

Monday to Saturday: 08:00 to 23:00

Sunday: 10:00 to 22:30

A history of visits, observations and complaints has been provided by the applicant. On 13 November 2014, Customs and Excise seized 886.56 litres of beer and 36 litres of wine from the premises on the basis that no excise duty had been paid on the goods. This is an offence under s170 Customs and Excise Management Act 1979 and s144 Licensing Act 2003.

This incident, in conjunction with other recent historical breaches, leads the applicant to believe that the premises are unable to promote the licensing objectives. The named owner of the business at the time of the visit by Customs and Excise on 13 November 2014 was Mr Shusilkumar Bhavsar. However, the holder of the Premises Licence and Designated Premises Supervisor is Mr Prashant Patel. On 8 December 2014, a letter from Mr Gareth Cleary of the Licensing Inspectorate was sent to Mr Shusilkumar Bhavsar regarding the Customs and Excise visit and inviting Mr Bhavsar to an interview under caution or to submit a response in writing. On 20 January 2015, similar letters were sent to Mr Prashant Patel. In subsequent emails dated 2 January 2015 and 5 February 2015, Mr Bhavsar accepts liability for the incident. No response has been provided to the letters of Mr Cleary from Mr Patel.

The Environmental Health Service, as a responsible authority, supports the review application on the grounds of the prevention of crime and disorder and the protection of children from harm.

The Sub-Committee initially heard from Mr Cleary who briefly referred to the reasons for the review being submitted, notably that Customs and Excise had visited the premises and had seized the alcohol on the basis that they believed on the balance of probabilities that no excise duty had been paid on the goods. The business owner, Mr Bhavsar, had not produced the invoices to demonstrate that the excise duty had been paid when requested by HMRC. Not paying excise duty was an offence under Section 144 of the Licensing Act 2003. Mr Drayan confirmed that Environmental Health supported the review application.

The Sub-Committee asked Mr Bhavsar to explain how the business operates. Mr Bhavsar replied that he had previously been a travel agent and had bought the business from Mr Patel in February 2014. He had received the stock valuation from Mr Patel but had not received the invoices for the goods. The alcohol that had been confiscated by HMRC in November 2014 had been purchased prior to February 2014 and had a one year expiry period. Mr Bhavsar added that he had not been advised by Mr Patel of unpaid duty. Mr Patel was still the Licence Holder and also the Designated Premises Supervisor for Norris News. He was described by Mr Bhavsar as being at the premises occasionally.

The Sub-Committee asked Mr Cleary about the history of the premises. Mr Cleary stated that there was no history of violence or disorder. The papers did include a test purchase when alcohol had been sold to two fifteen year old Police Cadets in November 2012. Mr Cleary advised Members that there had been discussions between Mr Patel and the Licensing Service regarding Mr Patel standing down as DPS. Mr Bhavsar had removed all the alcohol from the shop. Mr Patel did not run any other premises in Westminster but did operate one in Stamford Hill, Hackney.

Mr Bhavsar confirmed in response to questions from the Sub-Committee that he had not been selling alcohol at the premises since March 2015, he had now obtained his personal licence and that he was the only owner of Norris News. He had expected Mr Patel as a friend to be amenable to the premises licence being transferred to Mr Bhavsar. It was intended that Mr Patel would remain as DPS until the business

arrangement was concluded including any transfer of the premises licence. Mr Bhavsar indicated to the Sub-Committee at the hearing that Mr Patel had delayed discussions on a potential transfer of the licence and that he wished this had been done at an earlier stage. It was explained to Mr Bhavsar that it was up to him to submit the transfer application and he was asked whether he had looked to do so and if not, why not. Mr Bhavsar stated that he had been advised in a telephone call with a Council member of staff to wait until after the review application. It was confirmed that no application had been received to date for a transfer of the premises licence.

Members of the Sub-Committee considered that they had heard no evidence from the current owner to refute what had been stated by HMRC or the Licensing Inspectorate in terms of excise duty not being paid on the goods that had been seized. He appeared to be somewhat naïve in terms of his business relationship with Mr Patel. In any event, however, Mr Patel was the holder of the premises licence and he had made no attempt to respond to or address any of the concerns raised as part of the review application. The Sub-Committee therefore decided to revoke the premises licence.