MINUTES OF
LICENSING SUB-COMMITTEE

Monday, 27 November 2017
(7:00 - 8:00 pm)

Present: Cllr Kashif Haroon (Chair), Cllr Peter Chand and Cllr Chris Hughes

43. Declaration of Members' Interests

There were no declarations of interest.

44. Licensing Act 2003 Premises Licence Review: Variety Food & Wine, 53 Ripple Road, Barking, IG11 7NT

The Senior Licensing Officer, Richard Parkins, introduced an application from the Council’s Trading Standards Service, as a Responsible Authority under the Licensing Act 2003, for a review of the premises licence held by Mr Yilmaz Koca in respect of Variety Food and Wine, 53 Ripple Road, Barking, IG11 7NT. The review was sought in relation to the Licensing Objectives of ‘the prevention of crime and disorder’ and ‘the protection of children from harm’ in respect of the following incidents:

- On 12 July 2017, a large quantity of illicit tobacco products was found around the premises and seized under the Tobacco Related Products Regulations 2016; and
- On 7 August 2017 during the course of a follow-up visit, CCTV equipment at the premises was found to be inoperative and unable to provide any footage or images as required by officers, in breach of the conditions of the premises operating licence.

Mr Robert Andrews, Trading Standards Enforcement Officer, was invited to present his case for the review. Mr Andrews advised that the premises was visited by Trading Standards Officers, accompanied by an experienced dog handler and a sniffer dog trained to detect tobacco and related products, on 12 July 2017 as part of a Borough-wide project on tobacco control. During the course of the visit, a significant quantity of illicit cigarettes and some rolling tobacco was found in a vehicle registered to the premises that was parked at the rear and packaging linked to the illicit cigarette cartons was found inside the shop. The rear door of the premises was observed to be open throughout the visit.

Mr Andrews stated that on 4 August 2017, he had attended the premises to pass on an invite to Mr Yilmaz Koca, the premises licence holder and Designated Premises Supervisor (DPS), to attend a meeting the following week at the Council’s offices regarding the events of 12 July. While queueing to speak to Mr Koca, Mr Andrews observed the two customers in front of him being given illicit tobacco products by a third party from behind the counter at the same time that Mr Koca was selling them alcohol. Trading Standards Officers revisited the premises later that day to conduct a general inspection and request the CCTV footage of the earlier incident. No illicit products were found at the premises although small bags used for the purposes of selling / transporting cannabis and other drugs were on sale. Mr Koca advised that the CCTV system was not working.
At an informal interview under caution held on 9 August 2017, Mr Yilmaz Koca and the owner of the business, Mr Haydar Koca, advised that they felt unsafe and intimidated by some individuals who were dealing drugs in the area and stealing from the shop. In respect of the rear door of the premises being left open, Mr Haydar Koca had stated that he was concerned about the possible ramifications from the individuals who had been used to coming in and out of the premises via the rear door if it was locked or closed.

In response to questions from the Sub-Committee, Mr Andrews and Cenred Elworthy, Principle Trading Standards Officer, confirmed that:

- CCTV footage had not been requested by Trading Standards in relation to the visit on 12 July 2017;
- The illicit tobacco seized on 12 July was of a significant quantity and had all been found in the company van, with only the carton packaging found inside the premises;
- Trading Standards officers were preparing a case with a view to pursuing a prosecution in relation to the seizure;
- Mr Yilmaz Koca had confirmed to officers that, on occasions, drugs had been hidden by local dealers amongst the goods in the shop;
- Mr Yilmaz Koca had signed up to the Borough Responsible Retailer Project as a way of tackling the drug dealing issues associated with individuals using the premises;
- There had been no incidents at the premises since Mr Yilmaz Koca had taken over as licence holder and DPS on 24 April 2017, although investigations had revealed that Mr Koca had been the licence holder and DPS at premises in Islington in March 2012 when the licence was suspended for a period of 28 days following illicit alcohol and tobacco being found at the premises.

Mr Yilmaz Koca was invited to respond to the review application and made the following observations:

- The cigarettes that were found in the company van were owned by an employee who had driven the van that day;
- The employee was sacked after the incident;
- Only the empty illicit cigarette carton was found inside the premises during the visit on 12 July 2017;
- He was aware that Mr Andrews was in the queue on 4 August when the third party came in via the open rear door and passed illicit cigarettes to the individuals that were known to the third party;
- He had not moved from the counter nor taken any money for the cigarettes, which Mr Andrews confirmed;
- The rear doors had been left open due to the hot weather;
- The CCTV system was not working when he took over the premises and he had contacted the original engineer to arrange for it to be fixed, but the engineer did not attend due to holidays and did not send a member of his staff;
- The CCTV system had now been fixed and the number of cameras doubled from 8 to 16 to cover all areas of the shop, the stock room and the rear and front of the premises as a way of dealing with problem customers and discouraging the drug dealing;
- The incident at the Islington premises related to alcohol that he had purchased
to give away as Christmas gifts to regular customers and was not intended for sale at the premises.

In response to questions from the Sub-Committee, Mr Koca acknowledged that had the CCTV been working and the rear door to the shop been kept locked many of the problems would have been avoided. He also accepted that as the DPS he was responsible for the premises. With regard to the small drugs bags that were on sale, Mr Koca advised that they were part of the stock that transferred from the previous owner of the premises. Mr Koca also clarified that drugs had not been sold in the premises and only money exchanges had taken place.

Summing up on behalf of Trading Standards, Mr Elworthy commented that the evidence showed that despite Mr Koca’s experience as a DPS he had shown insufficient respect for his responsibilities and a three-week suspension had been suggested to provide sufficient time for a CCTV system to be installed and operational, in accordance with the conditions of the licence, and for the owner of the business to appoint a new DPS.

Mr Koca concluded by saying that both he and Mr Haydar Koca had not anticipated the problems that they would face when they moved to the Borough and he apologised for the mistakes that had been made. Mr Koca reassured the Sub-Committee that all conditions of the licence were now being fulfilled, including a fully-operational CCTV system, and the premises were properly secured to prevent third parties from accessing unauthorised areas and vehicles.

The Sub-Committee retired for deliberations at 7.39pm and the meeting resumed at 7.58pm.

**DECISION**

The Sub-Committee **resolved**, having considered all the evidence submitted and the representations made and having regard to the Licensing Act 2003 and its regulations, the national guidance and the Council’s licensing policy, to:

(i) Remove the Designated Premises Supervisor; and

(ii) Suspend the premises licence for a period of 14 days.

In reaching its decision, the Sub-Committee were of the view that, as an experience DPS, Mr Koca should have been in a position to ensure effective running of the premises yet the conditions which gave rise to the review were caused by his poor management of the premises. The Sub-Committee was of the view that a period of suspension of the licence would enable a new DPS to be appointed and for proper systems of management to be put in place to ensure that illicit tobacco and other products did not come near or in the premises in the future and that usage of the company van was properly monitored and managed to ensure that it was not used for the sale, transport or storage of illicit products. The suspension would also provide enough time for measures to be put into place to discourage drug dealing in or around the premises, specifically the removal for sale of bags utilised in the supply of illegal drugs.

The Sub-Committee took into account that a fully-operational CCTV system had
subsequently been installed at the premises and felt that a 14-day suspension was adequate to enable Council officers to inspect the system and for any further steps to be taken as may be required to ensure compliance with current licensing conditions and to meet the licensing objectives of ‘the prevention of crime and disorder’ and ‘the protection of children from harm’.