

MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE C

TUESDAY 26TH JANUARY 2021

Councillors Present: Councillor James Peters in the Chair

Councillor Penny Wrout

Officers in Attendance: Karishma Mahomed, trainee solicitor, Legal Services

Amanda Nauth, Legal Officer

Suba Sriramana, Principal Licensing Officer

Gareth Sykes, Governance Services Officer

David Tuitt, Business Regulation Team Leader
Licensing

Shan Uthayasangar, Licensing Officer

Also in Attendance

Item 5 Topaloglu Food and Wine

Applicant:

Police Constable Neal Hunwick, Central East Licensing Unit, Metropolitan Police Service

Licensee:

David Dadds, Solicitor (representative for the Licensee)

Responsible Authorities:

David Tuitt, Business Regulation Team Leader
Licensing

1 Election of Chair

1.1 Councillor James Peters was appointed as the Chair of the sub-committee.

2 Apologies for Absence

2.1 Apologies for absence was received from Councillor Brian Bell.

3 Declarations of Interest - Members to declare as appropriate / Minutes

- 3.1 There were no declarations of interest.
- 3.2 There were no minutes of a previous Licensing Sub-Committee meeting for consideration.

4 Licensing Sub-Committee Hearing Procedure

- 4.1 The Chair outlined the hearing procedures, type C, to be followed by all parties present, as published and circulated.

5 Application for Review of Premises Licence: Topaloglu Food and Wine, 478 Kingsland Road, E8 4AE

- 5.1 The Principal Licensing Officer introduced the review of the premises licence as set out in the published report. The Metropolitan Police Service had brought the review on the grounds of the prevention of crime and disorder, public safety and allegation that alcohol had been sold during the licence suspension period. Representation had also been received from the Licensing Authority on the grounds of prevention of public nuisance. There had been supplementary papers provided from the Metropolitan Police Service and the representative for the licensee: the former detailing the decision from the previous Licensing Sub-Committee meeting in July 2020 and the latter a position statement agreed by the Metropolitan Police Service, the legal representative for the licensee and the Licensing Authority.
- 5.2 A representative for the Metropolitan Police Service explained that they had applied for a review of the Premises Licence following the previous review at a Licensing Sub-Committee in July of last year. The Metropolitan Police Service had been satisfied with the committee's response with a suspension of the licence for three months, the replacement of the Designated Premises Supervisor (DPS) and the implementation of training for staff. The three month suspension expired on the 9th of October 2020, however during that period there was a series of failed test purchases, carried out by the Metropolitan Police Service, on the following dates: 24.07.20, 01.08.20, 07.08.20, 04.09.20, 11.09.20, 19.09.20, and 25.09.20. The representative for the Metropolitan Police Service brought to the attention of the committee the Position Statement paper, which had been agreed by them, the legal representative for the licensee and the Licensing Authority. These three parties, through the statement, had agreed to a number of conditions.
- 5.3 In response to a question from the Chair of the sub-committee, the Licensing Authority confirmed that the four proposed conditions would result in Mr Sajjad Popal holding no shares in the company.
- 5.4 The Chair of the sub-committee queried conditions three and four in the position statement. He was of the view that because of the severity of the

original incident, as discussed at the July 2020 Licensing Sub-Committee, he queried whether a four-week suspension of the Premises Licence for a period of one month was enough of an appropriate response.

5.5. In response to a query from Councillor Wrout, the Metropolitan Police Service confirmed that Closed Circuit Television (CCTV) had been installed as part of the original conditions imposed on the premises in July 2020. It was noted that the Police had made a request for CCTV footage from the licensee.

5.6 The legal representative for the licensee spoke to the sub-committee raising a number of points including:

- He recommended that the sub-committee was careful in discussing the incident as reported at the July 2020 Licensing Sub-Committee meeting as this was an ongoing criminal investigation
- It was recognised that it was up to the sub-committee to decide on whether to accept the four conditions under the submitted position statement
- It was felt that the position statement, in particular conditions three and four, were reflective of the work that had already been done by the licensee to address some of the issues raised at the previous July sub-committee meeting
- Concerns were raised over the wording of the decision at the July sub-committee, in particular the wording of condition 3, 'The current Designated Premises Supervisor (DPS) is to be removed...'. It was felt that this wording was poor and was not reflective of what was said at the meeting. It should have stated that the DPS should be removed. It was felt that because of this ambiguity in the wording, the DPS had not understood what was required and believed that their license had not been suspended following the July meeting
- It was highlighted that the DPS had sought clarification on the wording of the decision but the relevant Licensing Officer had subsequently left the Council's employment and was unavailable
- The premises licence holder was a company, Sajjid Popall was no longer director of said company

5.7 A brief discussion ensued regarding the word of condition three of the July sub-committee decision. The Chair of the sub-committee, who also sat on the previous July meeting, was of the view that the wording was clear. The legal representative for the licensee replied that if that was the case then there would not have been a requirement to originally suspend the premises licence for three months. The legal representative reiterated that the wording of condition three was poor and had not been understood by the original DPS. The Chair of the sub-committee confirmed that the suspension in the original condition was meant to have started immediately after the publication of the original decision.

- 5.8 The sub-committee meeting next went into the discussion phase where a number of points were raised including the following:
- The legal representative for the licensee reiterated that attempts had been made to contact the licensing officer from the previous sub-committee meeting but he had left the Council. The legal representative for the licensee added that if the correct wording had been used then his client would have understood it. The Chair of the committee replied that in his view the wording from the original decision was clear
 - The legal representative confirmed that steps had already been taken to remove Sajjid Popall from his involvement with the business. The new director was the DPS. The new DPS was Babar Popall. It was understood that he was a man of good character and the legal representative for the licensee was satisfied with his abilities
 - It was stressed that Sajjid Popall had no controlling share in the business
 - It was noted that the proposed new one month suspension would run between the 1st and 28th of February 2021
 - The Metropolitan Police Service stated that there were a number of measures in place should the licensee be in breach of any of the four proposed conditions e.g. another review of the premises licence
 - Sub-committee members were concerned that adherence to the proposed four conditions would require a level of trust on their part. The sub-committee members highlighted that because of what had occurred after the July sub-committee meeting, there was some apprehension from them
 - To alleviate some of the concerns of the sub-committee members the legal representative for the licensee stated that the start and finish dates for the new suspension would be in the decision letter
- 5.9 There were no closing remarks from the Metropolitan Police Service, the legal representative for the licensee or the Licensing Authority except all three parties reiterated their agreement for the position statement.
- 5.10 Another brief discussion ensued between the sub-committee and the legal representative for the licensee over the wording of the original condition. The latter insisted that the wording had not been clearly written and that his client as a result had not understood what was involved hence the original three month suspension had not taken place.

The decision

The Licensing Sub-Committee, in considering this decision from the information presented to them within the report and at the hearing today and having regard to the promotion of the licensing objectives:

- The prevention of crime and disorder
- Public safety
- Prevention of public nuisance

- The protection of children from harm,

and in particular the prevention of crime and disorder and public safety, the sub-committee made the following decision:

1. **To suspend the premises licence for a period of 3 months** to take effect at the end of the 21 day period allowed for appealing this decision should no appeal be lodged. The 21 day appeal period shall commence one day after receipt of this written decision.
2. **Additional conditions to be applied to the licence:**
 - To permanently remove Sajjad Popal as Director of the Company Sherkhan Limited (11465714) and to permanently remove Sajjad Popal as a person with significant control or influence of the company Sherkhan Limited (11465714).
 - Sajjad Popal will not undertake any activities related to licensable activities or management of the business and shall be excluded from the premises Topologlu Food and Wine, 478 Kingsland Road, London, E8 4AE.
 - All alcohol shall be removed from display on the premises during the suspension period of 3 months.

The Reasons for the Decision:

The Licensing Sub-Committee felt, after carefully considering the application, and hearing from the Metropolitan Police Service and the Licensing Authority along with the representations from the licensee's representative, decided that the appropriate, and necessary course of action given the seriousness of the original incident was to remove Sajjad Popal from the operation, management and control of the Licensee's business and to suspend the premises licence for a period of 3 months to take effect at the end of the 21 day period allowed for appealing this decision should no appeal be lodged. The 21 day appeal period shall commence one day after receipt of this written decision.

The sub-committee, having considered the representations made to it, and continued to harbour grave concerns about the licensee's ability to undertake licensed activities at the premises without undermining the licensing objectives as long as Mr. Sajjad Popal remains involved in the licensee's business. Given (a) the seriousness of the original, violent incident that took place on 12 May 2020 (when Sajjad Popal was the Designated Premises Supervisor and in which he took an active part), which was unacceptable in itself, and gave rise to the original review of the premises licence on 17 June 2020, and (b) a series of failed test purchases of alcohol that took place during the suspension of the licence ordered, following the original review (during which suspension, Sajjad Popal was the Designated Premises Supervisor), the sub-committee considered that any continued involvement by Sajjad Popal in the business would carry an unacceptably high risk of undermining the licensing objectives.

In this context, the sub-committee considered a position statement presented to the sub-committee by the licensee, as having been agreed with the Metropolitan Police Service and the Licensing Authority (the “**Position Statement**”).

The first two proposed conditions concerned the permanent removal of Sajjad Popal from any involvement in the management, operation or control (through ownership) of the licensee and its business. Those conditions also required Sajjad Popal to be completely excluded from the premises. In light of the concerns described above, those conditions were accepted by the sub-committee.

However, in the Position Statement, the licensee also proposed that the premises licence be suspended for one month. It was the sub-committee's view that such a four-week suspension would not be appropriate, and that the premises licence should be suspended for a period of 3 months to take effect at the end of the 21 day period allowed for appealing this decision should no appeal be lodged. The 21 day appeal period shall commence one day after receipt of this written decision.

The sub-committee took into consideration a series of failed test purchases, carried out by the Metropolitan Police Service on the following dates: 24.07.20, 01.08.20, 07.08.20, 04.09.20, 11.09.20, 19.09.20, and 25.09.20, during a period when it was clear that the premises licence was suspended, and alcohol should not have been on display or sold at the premises. So, it was clear to the sub-committee that the 3-month period of suspension ordered on 17 June 2020 had not been complied with. It would be inappropriate and incoherent to impose a shorter suspension for a failure to comply with a 3-month suspension.

Further, the sub-committee noted that, at the date of the review hearing, Sajjad Popal was shown on the Registrar of Companies' website as being a director, majority shareholder and “person with significant control” in relation to the licensee. A 3-month suspension would give the licensee and the Registrar of Companies sufficient time to remove Sajjad Popal from any involvement in the licensee's business and to be able to demonstrate compliance with the terms of this decision requiring that removal (by the relevant changes being shown on the Registrar of Companies' website).

The sub-committee noted, with regret, that since the last review on 17 June 2020 there was no apparent change in the conduct of the operation and management of the premises, under Sajjad Popal's direction. The sub-committee also noted that Sajjad Popal was the Designated Premises Supervisor throughout July, August and September 2020, when the licensee continued to sell alcoholic drinks despite its licence having been suspended.

The licensee, under Sajjad Popal's management, failed to recognise the importance of upholding the licensing objectives and of complying with the decision of the Licensing Sub-Committee dated 17 June 2020. In fact, under Sajjad Popal's direction, the licensee appeared to regard the suspension of its licence as optional and, as such, it continued to undermine the licensing objectives and the Licensing Authority's ability to promote them.

The Licensing Sub-Committee considered the Licensing Authority's representations confirmed that Sajjad Popal failed to engage with the Licensing Authority following a failed test purchase and the issue of a closure notice on the premises on 25 September 2020. The Licensing Authority had explained to staff the reason for which the closure notice was issued. It was also noted that on 26 September 2020 the Metropolitan Police Service attended the premises, and found that alcohol was still on display for sale following the issue of the closure notice and Sajjad Popal as the Designated Premises Supervisor made no attempt to contact the Licensing Authority.

The Sub-Committee was satisfied that Sajjad Popal's removal from the business would be marginally more likely than not to address its concerns about the licensee's operation of the premises for licensed activities undermining the licensing objectives.

The sub-committee also considered carefully whether the contempt shown by the licensee by continuing to sell alcoholic drinks during the period when its licence had been suspended (combined with the seriousness of the incident of 12 May 2020 at which offensive weapons were shown to have been stored on the premises and were taken from the premises to threaten and – it seems – attack a person) warranted a complete revocation of the licence. Ultimately, the sub-committee was satisfied that the removal of Sajjad Popal from the business and the premises and a reinstatement of the original 3-month suspension would protect the community by promoting the licensing objectives.

Should further public disturbance be caused by the Licensee's operation of the premises for licensed activity, the Licensing Authority should not hesitate to revoke the premises licence permanently.

6 Temporary Event Notices - Standing Item

6.1 There were no Temporary Event Notices (TENs) for consideration at the meeting.

Duration of the meeting: 19:00 – 20:35 hours

Signed

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Chair of Committee, Councillor James Peters

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