

Appendix 3 - Cases of interest

BOROUGH WIDE

Agora adult gaming centres – Transfer of licence

All of the Agora gaming centres across the country were sold to new owners in December 2010. The gambling premises licences for all of these sites were subsequently transferred into the name of Minmar Ltd to reflect the new ownership.

Whilst being named as the licence holder for individual premises Minmar Ltd were also required to obtain an operators licence from the Gambling Commission. On the 1st March 2011 the Gambling Commission, as part of a review procedure, suspended Minmar's operating licence. This meant that gambling facilities could no longer be offered at any of their stores until their operating licence was reinstated or the licences were transferred to a company who did have a valid operating licence.

Transfer applications were submitted to this authority and other authorities across the country asking for the licence for each store to be changed into the name of Cashino.

Consent was received from Minmar, for all of these transfers, on the 17th March 2011. This consent came from administrators acting on their behalf and allowed the transfer of all of the premises licences at the ex Agora venues into the name of Cashino Gaming Ltd, however this consent was under dispute.

Other London local authorities with Agora premises advised that they were not accepting the consent until the solicitors for the new and existing owners agreed that it was valid.

On the 8th April a new consent form from one of the directors of Minmar was provided, the transfers were processed and new licences issued in the name of Cashino Ltd for all Agora premises in the borough.

FULHAM

Mandaloun Restaurant, 496 Fulham Road, Fulham, SW6 – Prosecution case

A case against the licensing holders for contraventions under the Licensing Act 2003 was heard by District Judge Jones on the 12th October 2010. The licence holders failed to attend Court, therefore the case was proved against both Mr William Barakat and Mr Barakat Barakat Diab in their absence.

The Judge was satisfied that all 6 identical offences against both Mr William Barakat and Mr Barakat Barakat Diab were duly proved. The Judge, in fining the Defendants, stated that these were serious offences. The Judge concluded that the defendants had been warned before but this was ignored by them and they behaved in an intentional matter. The Judge noted the harm that can be caused as a result of abuse of alcohol by members of the public late at night.

For the 5 offences under Section 136, Mr William Barakat and Mr Barakat Barakat Diab were fined £1,000.00 each. They were fined £250.00 for the Section 141 offence and ordered to pay costs in the sum of £960.00. A £15.00 Victims Surcharge was also imposed. In total they were ordered to pay £6,225.00 each.

The Morrison, 648 King's Road, SW6 – Revocation of licence

In February/March 2010 the premises had 4 substantiated noise complaints made against them. In addition, the premises were witnessed, trading after their permitted hours, by the Police and officers from the Licensing Team. Further inspections revealed that several conditions attached to their licence were continuously being breached. These conditions related to door staff, noise and the dispensing of alcohol directly into customers' mouths (mandatory condition). As a result of these breaches a Section 19 closure order was issued by the Licensing Team.

Upon speaking with the licensee (Greene King) officers were informed that they had sold the premises and signed a transfer consent form. However no transfer application had been received by the Licensing Authority and the Designated Premises Supervisor (DPS) could not be contacted. On the basis of these serious breaches, no confidence in management and the potential for disorder at the Chelsea v Manchester United football match, on the 6th April 2011, the Police issued a closure order under Section 161 of the Licensing Act. As required by a Section 161 closure order, the Police and an officer from the Licensing Team attended the Magistrates Court on 7th April 2011. Judge Williams ruled that the closure order was necessary and that the premises should remain closed until the Licensing Authority could review the premises licence. Reviews under Section 161 are not subject to the normal 28 day consultation period and must be heard within 10 working days.

The Licensing Sub-Committee heard the review on 14th April 2011 and unanimously decided to revoke the licence based on the evidence submitted by the Licensing Team, the Police and officers from the Environmental Protection team.

HAMMERSMITH

The Raven, 375 Goldhawk Road, W6 – Review of premises licence

In August 2010, following a large number of complaints received by the Environmental Protection team and various breaches of the premises licence, the licence was called in for review. A wide range of representations were received from residents during the consultation period and the Licensing Sub-Committee heard the review application in October 2010. The sub-committee decided to reduce the hours for licensable activities and attach a number of conditions intended to reduce public nuisance. In January 2011 the DPS left the premises and was replaced.

In the period leading up to the review (July 2010 – October 2010) in excess of 30 complaints were received from local residents regarding the premises. Following the committee's decision to restrict the licence just 3 complaints have been received to date and no further breaches of licence conditions have been discovered. The premises also failed to a child volunteer during a Trading Standards underage test purchase operation.

Mix Food & Wine, 299 North End Road, W14 - Investigation

This premises has been subject to extensive joint enforcement action from the Licensing Team and Trading Standards. In under a year the premises has failed 3 after hours test purchases, 1 underage test purchase and has had large quantities of alcohol seized because they were counterfeit. The case is ongoing.

Butti Supermarket (Booty Wines), 67 Dalling Road, W6 - Revocation of licence

In 2010, two separate operations were carried out by HMRC and the Police. On both occasions the premises were found to be selling counterfeit alcohol and alcohol where UK duty had not been paid. Based on this, the police decided to call the premises in for review. After hearing the review in April 2011, the sub-committee decided to revoke the licence. The licensees have now appealed this decision in the Magistrates Court and a hearing date has been set for August 2011.

Supersave, 94 North End Road, W14 - Revocation of licence

The Premises recently failed 2 separate test purchases conducted by Police and Licensing for after hour's sales. In addition, conditions attached to the licence were breached and serious doubts were raised about the capabilities of the current licensee and DPS. Police decided to call the licence in for review requesting total revocation of the licence. The sub-committee heard the application in May 2011 and decided to revoke the premises licence. The licensees have now appealed this decision and a hearing date has been set for 27th July 2011.

SHEPHERD'S BUSH

Sainsbury's, 167-181 Askew Road - Appeal

An application was made on the 8th July 2010 to vary the hours for the sale of alcohol at this premises to allow early morning sales to start at 6am, as opposed to the 11am start already permitted by the licence. This application was objected to by the Police because of a history of street drinking problems in the area. At a hearing on the 3rd September 2010 a licensing sub committee refused the licence on the basis of the Police evidence. In light of this decision the applicant appealed the decision and a hearing date was set for the Magistrates Court on the 2nd February 2011. On the 13th January 2011, following further discussion between the Licensing Authority and the applicant it was agreed that alcohol sales could commence at 9am and a licence was granted with a number of conditions attached to restrict the sale of alcohol to street drinkers.

Tesco, 93 Askew Road, W12 - Temporary Event Notices (TENs)

The premises made a new application for the off sale of alcohol from 6am until 11pm every day of the week. In light of problems with street drinking in the area the application was objected to by the Police due to the early start time for the sale of alcohol. During enforcement visits in Askew Road whilst the application was out to consultation the premises was found not to be displaying it's application notice correctly. As a result the last day of objection was extended until the notice was satisfactorily displayed.

In the interim period before a new premises licence was granted several Temporary Event Notifications (TENs) were also received to licence the venue for the sale of alcohol. The Licensing Act stipulates that there must be a 24 hour gap between each TEN notification on a particular premise. After further discussions new TENs were resubmitted with the required 24 hour break. A hearing was set for this application on the 31st May 2011. Before the hearing took place Tesco agreed to amend the hours for the sale of alcohol to 9am until 11pm - Monday to Sunday to take into account the Police representation. In light of this amendment a licence was granted by the licensing sub committee.

Nisa Local, 88-90 Askew Road - Appeal

The premises applied to vary their licence on the 23rd November 2010 to allow the 24 hour sale of alcohol. Objections were received from 20 local residents, the Police and Environmental Protection. The application was subsequently refused by a licensing committee and then appealed by the applicant.

The appeal hearing took place at the Magistrates Court on the 25th May 2011 and a further day was required on the 10th June 2011. Evidence was given by Environmental Protection and Police Officers in relation to nuisance and street drinking problems in the area. The residents' statements were agreed by the appellant therefore there was no need for any residents to give evidence on the day. Before summing up and whilst questioning the appellant's barrister the judge made it clear that she would look to give weight to the Council's Statement of Licensing policy which specifically mentioned restricting hours for the sale of alcohol where there was evidence of street drinking. In summing up she advised that although it was clear that street drinking problems in and around the Askew Road had improved in recent years there was still an underlying problem. In light of the evidence from various responsible authorities and the local residents the appeal was dismissed.