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1. REVIEW APPLICATION

On the 30th April 2020, an application for a review of a premises licence under section 51 of the Licensing Act 2003 was served by Police Constable, Kris Cardwell, on the Licensing Authority. The review application is in respect of the premises known as AB Wines, 218 Uxbridge Road, London, W12 7JD. At the time the application was received, Lexcom Management Services Ltd was the licence holder.

The application for a review of the premises licence was made on the grounds of the prevention of crime and disorder and the prevention of public nuisance. PC Cardwell called the premises licence into review because he is of the opinion that conditions 10 and 11 of the premises licence do not sufficiently promote the licensing objectives.

Conditions 10: No single cans of beer or cider over 5.5% ABV shall be sold unless it is a brand agreed in writing with the police.

Condition 11: No single cans of beer or cider shall be sold unless they are marked with the name of the premises.

The police believe the licensed premises are not operating in a sufficient manner to promote the licensing objectives. The premises are located close to the Shepherd's Green area which has a high rate of anti-social behaviour by street drinkers. The behaviour of the street drinkers has a detrimental effect on residents and commuters and can be intimidating.

PC Cardwell also states that the sale of alcohol to a drunk customer at the premises was witnessed by PC Warrilow in July 2019. Subsequent visits to the premises by PC Cardwell and PC Stewart established that there were breaches to some of the conditions on the premises licence, including conditions 10 and 11. PC Cardwell expresses that the Premises Licence holder states that addition of conditions to their premises licence will not stop the problem of street drinking. To this PC Cardwell disagrees and is recommending that conditions 10 and 11 be removed and be replaced with the following conditions:

1. Strong beer, lager, cider and Stout above 5.5% ABV will not be sold.
2. Alcohol shall not be sold or supplied unless it is paid for before or at the time when it is sold or supplied.

A copy of the review application and supporting documentation can be seen on pages 10-73 of this report.

2. CURRENT LICENCE

The premises currently operate under a premises licence which permits the following licensable activities:

Sale of alcohol – Off the premises

Monday	08:00 -23:00
Tuesday	08:00 -23:00
Wednesday	08:00 -23:00
Thursday	08:00 -23:00
Friday	08:00 -23:00
Saturday	08:00 -23:00
Sunday	10:00 -22:30

Non-Standard Timings and Seasonal Variations:

Alcohol shall not be sold or supplied except during the following permitted hours

- (a) Weekdays, other than Christmas Day and Good Friday, 8am to 11pm
- (b) Sundays, other than Christmas Day, 10am to 10:30pm
- (c) Christmas Day, 12 noon to 3pm and 7pm to 10:30pm
- (d) Good Friday, 8am to 10:30pm

Subject to the following exceptions no persons shall, except during the permitted hours listed above, sell or supply alcohol or take alcohol from the premises, the exceptions are:

- i. During the first 20 minutes after the above hours the taking of alcohol from the premises, provided it is not taken in an open container.
- ii. The ordering of alcohol to be consumed off the premises, or the dispatch by the vendor of the alcohol so ordered;
- iii. The sale of alcohol to a trader or club for the purposes of the trade or club;
- iv. The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of her Majesty's naval, military or air forces.

A copy of the current premises licence can be seen on pages 74-79 of this report.

3. BACKGROUND

Records show that the initial premises licence was granted in respect of the premises on the 19th August 2005. At the time, the premises licence holders were Mr Dilip Khatri & Jagjivan Master.

On the 8th January 2009, Rajesh Shah acting on behalf of Lexcom Management Services Ltd submitted an application to transfer the premises licence from Mr Dilip Khatri & Jagjivan Master to Lexcom Management Services Ltd and submitted an application to vary the Designated Premises Supervisor (DPS) to Rajesh Shah.

On the 6th December 2011 an application was submitted to vary the DPS from Rajesh Shah to Nadeem Sultan.

On the 30th October 2014, PC Stuart Ratcliff called the Licence for review on the grounds of the prevention of crime and disorder, the protection of children from harm, promotion of public safety and the prevention of public nuisance. PC Stuart Ratcliff requested that the hours the premises are open to the public be changed and that 15 conditions be added to the licence. The Committee added 11 conditions to the Licence. A copy of the Police review and subsequent Committee decision can be seen on pages 92-103 of the report.

The premises are located on Uxbridge Road and operates as a convenience store. A plan of the premises can be seen on page 79 of this report.

The main access to the premises is located on Uxbridge Road. There is a mixture of both residential and commercial premises within the area. A map showing the location of the premises and neighbouring licensed premises can be seen on pages 80-81 of this report.

There are several options for transport away from the area including buses and taxis which run from in and around the Uxbridge Road area. Shepherds Bush Market tube station is one-minute walk away from the premises and White City tube station is five minutes walk away.

4. CONSULTATION

A public notice was displayed by the Council near the premises. A further public notice was displayed by the Council at Hammersmith Town Hall. Details of the application were also published on the Council's Web Site and also sent to the local Ward Councillors and the Resident Involvement Team.

A notice of review was served on the premises licence holder and all the statutory responsible authorities as required by regulation.

4.1 Relevant Representations

The licensing section received a representation in support of the review application from Mr Doug Love, Senior Trading Standard Officer. A copy of this representation can be seen on pages 82-86 of this report.

The licensing section received 5 representations from local residents in support of the review. A copy of these representations can be seen on pages 87-90 of this report.

The licensing section received 2 representations from local residents against the review of the premises. A copy of these representations can be seen on page 91 of this report.

5. OTHER INFORMATION

5.1 Enforcement History

On the 07 February 2020, Mr Rajesh Shah attended a formal interview in accordance with PACE (the Police and Criminal Evidence Act) at the Council Offices. The interview was pursued following the seizure of non-duty paid alcohol from the premises on the 07 November 2019 and in relation to an alleged alcohol sale to a drunk male on the 12 November 2019. Mr Shah denied the alleged offence concerning the sale of alcohol to a person who is drunk. As the premises internal CCTV did not coincide with the Body Worn Video captured, the Local Authority were unable to establish the potential drunk sale and no further action was undertaken.

5.2 Temporary Event Notices ("TENs")

No TENs have been submitted in respect of this premises in the past twelve months.

6. POLICY CONSIDERATIONS

- 6.1 It is the Council's duty under the Licensing Act 2003 to determine the review with a view to promoting the four licensing objectives; Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and the Protection of Children from Harm.
- 6.2 In reaching a decision, the Council must have regard to the Council's adopted Statement of Licensing Policy ("SLP") and the guidance issued by the Secretary of State under section 182 Licensing Act 2003.
- 6.3 The revised guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 ("the Guidance") contains advice in paragraphs 11.16 to 11.28 in relation to the review of a premises licence. Paragraphs 11.16 to 11.28 of the revised Guidance can be seen on pages 62 of this report.
- 6.4 The Council's own SLP gives guidance concerning the review of a premises licence.

- 6.6 Section 21.1 page 36 of the SLP states that the Act describes two “groups” that may make representations to applications and may apply for an existing premises licence or club premises certificate to be reviewed by the Licensing Authority. These groups are Responsible Authorities and “Other Persons”.
- 6.7 Section 21.2 page 36 of the SLP states that “Other Persons” means any individual, body or business who is affected by the operation of a licensed premises regardless of their geographical location. Although they may be in any geographical position, any representation they make must be relevant to one or more of the licensing objectives, and must not be considered to be frivolous or vexatious in nature. Additionally, any application to review a premises licence must not be repetitious.
- 6.8 Section 21.3 page 37 of the SLP states that the Licensing Authority will, however, look at the geographical location of the author of any representation or review application received. Where the author lives or works a significant distance from the premises subject of an application or review, this Authority will examine the content of the representation particularly closely to ensure that it is valid and complies with the requirement of the Act.
- 6.9 Section 21.5 page 37 of the SLP states that at any stage, following the grant of a premises licence, a Responsible Authority, such as the police or the fire authority, or other persons, may apply for a licence to be reviewed because of a matter arising at the premises in connection with any of the four Licensing Objectives.
- 6.10 Section 21.6 page 37 of the SLP states that a licence may be reviewed where it is alleged that the Licensing Objectives are not being promoted and there is evidence to show this. The Licensing Authority will regard applications for the review of any premises licence particularly seriously where they involve evidence of:
- Incidents of disorder;
 - Instances of public nuisance where warnings have been disregarded;
 - Serious risks to public safety which the management is unable or unwilling to correct; and
 - Frequently operating outside permitted hours.

7. THE REVIEW HEARING

In determining this application, the Committee must have regard to the representations and take such of the following steps as it considers necessary for the promotion of the licensing objectives. The steps are:

- (a) Take no further action.
- (b) Modify the conditions of the licence.
- (c) Exclude a licensable activity from the scope of the licence.
- (d) Remove the Designated Premises Supervisor.
- (e) Suspend the licence for a period not exceeding three months.
- (f) Revoke the licence.

Where the Committee takes a step mentioned in (b) or (c) above, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

In making its decision, the Committee must act with a view to promoting the licensing objectives:

- the prevention of crime and disorder
- the prevention of public nuisance
- public safety
- protection of children from harm

It must also have regard to its own SLP and the Guidance.

If the Committee is minded to amend the licence, conditions may be attached to the licence to alleviate the concerns raised through representations; nevertheless, this is a matter for the Committee to determine in light of the above matters, and any others it considers material.