

To: LBHF Licensing Team

Date: 29/05/20

Please ask for: Doug Love

LICENSING ACT 2003: REPRESENTATIONS BY RESPONSIBLE AUTHORITY

AB Wines, 218 Uxbridge Road, W12 7JD **Trading Standards representation to review application**

1. Following the application to review the licence made by the Metropolitan Police, I wish to make the following representation to outline Trading Standards' knowledge of the business and to request conditions to be added, if the Licensing Sub-Committee choose to vary the licence.
2. Before I detail Trading Standards' dealings with the business, I would like to offer the following comments on the documents supplied by PC Cardwell.
3. Mr Shah has corresponded with PC Cardwell, on behalf of the Premises Licensee, Lexcom Management Services Ltd and AB Wines Ltd, which owns the business trading as AB Wines. Mr Shah is a director of both companies. He refers to previous dealings with the Police which resulted in additional conditions and the business no longer selling very strong 'white' ciders. However, it is clear from the evidence provided by the applicant that the business still sells to problem drinkers, including those who are drunk at the time.
4. I have no doubt that successfully running an off-licence in the location that AB Wines trade from is a very hard task. I am disappointed, however, that Mr Shah appears more concerned with referring to the difficulties caused to his business and the area by external factors – competition, the nearby hostels, the fact that the Police have not identified those street drinkers they would like him to ban – than he is with offering proactive measures to reduce the problems raised by the Police, with the exception of rising the price of strong beers. The responsibility of promoting the licencing objectives applies to all licensees whether they are successful or struggling.

Statement of facts

5. Until November 2019, Trading Standards had no significant cause for concern with regard to the business. Three underage test purchases and one Challenge 25 test purchase had taken place between 2014 and 2018 and the purchaser was refused every time.
6. On 07/11/19, a check for illicit alcohol and tobacco was made. During this check, I identified several bottles of spirits which I believed to be illegal to sell as they appeared to bear fake back labels – a clear indication that they are non-UK duty paid. I seized these bottles, taking the following products:
 - **10 x 70cl Glens vodka** (one of which was returned after further examination)
 - **1 x 1l Glens vodka**
 - **6 x 70cl High Commissioner whisky**
 - **3 x 1l High Commissioner whisky**
 - **8 x 70cl Smirnoff vodka**

I have been a lead officer on illicit alcohol for 10 years, often working with HMRC enforcement officers on similar inspections, and I have gained a great deal of knowledge during this time. I am

certain that the 27 bottles that remain seized carry fake back labels and are illegal to sell. I do not believe that any of them are counterfeit products.

7. I also noticed several brands of wine and beer I believed may not have come from a registered wholesale – either they were on sale for less than I expected or they were unfamiliar brands. I did not seize these items, as I was not sufficiently confident that they were illegal, but I did ask for invoices to be produced for the following items:
 - Echo Falls – Soft Red Berries & Plums (2 cases of 6 bottles – the amount in the shop at the time of the visit); Fresh Strawberries & Cherries (2 cases) and Zesty Tropical Fruit Flavours (3 cases), all on sale at £3.99 / bottle
 - Karpackie (3 trays) on sale at £1.70 per can
 - Kestrel Super (4 trays) on sale at £1.90
 - Skol Super (5 trays) on sale at £1.90
 - Carlsberg Special Brew (3 trays) on sale at £1.90
 - Perla Mocna (7 trays) on sale at £1.50
 - Tennent's Super (2 trays) on sale at £2.00
 - Oranjeboom 8.5 (3 trays) on sale at £1.60
 - Kastelan (5 trays) – selling price not recorded
 - Namysrow (1 tray) – selling price not recorded
8. No illicit or suspect tobacco products were discovered during the visit.
9. An exchange of e-mails with invoices, attached – reproduced in the Appendix – followed. Mr Shah said the following about the spirits:
 - the 1 litre bottles may be very old and that it might take too long to find invoices for them;
 - an unknown person dropped a couple of 70cl boxes at the shop, said he would come back for payment and staff had started selling the bottles, as the boxes were damaged and one bottle had broken;
 - that he had been unaware of this until after they had been seized;
 - that the Echo Falls wine I had queried was on a couple of invoices already provided but that the wholesalers may have used different descriptions.
10. The only invoices for the Echo Falls wine that was produced was an invoice from Dhamecha, dated 20/09/19, where three cases of 'Echo Falls White' (confirmed to be alternate description for the product I had been asked about) were purchased for £17.49 + VAT per case / £3.50 per bottle – a promotional price reduced from the normal £18.99 +VAT (£3.80). Dhamecha have confirmed in an e-mail that no sales were made to AB Wines of Echo Falls Rosé (Fresh Strawberries & Cherries) and Echo Falls Red (Soft Red Berries & Plums) in the period between 01/05/19 and the day of the seizure.
11. Mr Shah was also referred to an invoice from Bestway, dated 07/11/19 – the day of the visit, where a case each of Echo Falls, described in the invoice as 'FRUITS ROSÉ', 'FRUITS STRW&LIME' and 'FRUITS ROSÉ&GIN' were purchased at £15.69 + VAT / £3.14. These have been confirmed to be as different products to those one enquired about. Bestway have confirmed that no sales of any of the varieties of Echo Falls seen in the store were made to AB Wines during the six months from the start of May 2019 to the day of the visit.
12. Invoices were produced for each of the types of beer, although the prices of the beers were often similar to the prices charged in the shop:
 - Karpackie and Oranjeboom 8.5 were being sold for the same price as they had been bought
 - There was a 10p per can mark-up on the Perla Mocna and the Kestrel Super and 15p on the Skol Super.
13. On 7th February 2020, I interviewed Mr Shah under caution, together with Cristina Perez-Trillo of the Licensing Team, who wished to ask him about other matters. The following is my summary of what was said in relation to the Trading Standards matters:

- RS states that he owns the business through a company called AB Wines Ltd. and that the only employee is the DPS, Nadeem Sultan.
- RS states that he buys all spirits from cash and carry businesses, but that the seized bottles were accepted in to the shop by a member of staff, Ravi, while he was on holiday in August 2019. Ravi had taken a few – six or seven - cases from someone who called at the shop who he knew; no payment was made and no paperwork left. The alcohol remained in the shop for a while; then Nadeem made the decision to start selling it, even though RS had said he would check it first.
- A telephone number was provided for Ravi. No other details were provided. Apparently, he had been taken on as holiday cover and his employment terminated soon after RS returned from leave. He had not been trained and was not intended to go behind the counter, but no instruction was given to close the shop when Nadeem was on meal breaks (as he was when the caller brought the spirits to the shop) or needed a break. RS had not attempted to contact Ravi to find out more details of the supplier, even after the seizure.
- RS showed some familiarity with the Alcohol Wholesalers Registration Scheme – which makes it illegal for retailers to buy alcohol for resale from anyone other than a registered wholesaler.
- Regarding the wine, DL requested that RS look again for any invoices that may relate to the rosé and red wines he had asked about.
- He confirmed the prices for strong beer had gone up about four months earlier (late September), but later said that the prices for Karpackie and Oranjeboom 8.5 (the two strongest beers stocked) had not increased. He says that he may have to review these prices when DL observes he appears to be making zero profit on these lines. He suggests that the very low profit margin on strong beers is forced on him by competition and the need to keep customers coming to his shop.

14. I have tried on several occasions to contact 'Ravi' on the number provided, but the call never seems to ring.

Summary

15. There are several parts of the available evidence and of Mr Shah's explanation that cause me concern.
16. It is clear that the spirits that remain seized are not legal to sell, and this view is confirmed by the the Loch Lomond Group and Diageo, the manufacturers, who have viewed photographs of the back labels and/or a sample bottle. Mr Shah has provided an explanation of how the 70cl bottles (but not the 1 litre bottles) came to be in the shop and how much credence the Committee gives this is a matter for them. It seems unlikely to me that anyone leaving several cases of spirits with a retail value agreed by Mr Shah in the interview to be at least £400, would not bother to come back seeking payment.
17. If the version that Mr Shah offers in regard to the 70cl bottles is accepted, it is the case that the alcohol was accepted, without paperwork (in breach of condition 15), into the shop by a person who Mr Shah admits he did not train (in breach of condition 16) or for whom he did not have full details.
18. Further, Mr Shah could tell me of no measures to ensure that the shop was shut when Nadeem, his only other employee, was on a break. It was inevitable that 'Ravi' would have been left in sole charge of the shop on occasions and although I have not explicitly asked Mr Shah, it is unlikely that Ravi held a personal licence or had passed the BII Level 1 Award in Responsible Alcohol Retailing and that condition 9 was also breached.
19. I am also concerned that in his email of 17th November, Mr Shah says he was unaware of the origin of the seized bottles until after the seizure, whereas in the interview under caution he said he was aware of them before Nadeem, ignoring his instructions to leave them until he had checked them, put them on sale. Both of these cannot be true, as several of the bottles were seized from the display shelves.

20. If he did know of the origin of the bottles prior to the seizure, he should clearly have taken them out of the shop or effectively quarantined them, as he appeared to be aware of the legal requirement to only buy spirits from wholesalers registered under the Alcohol Wholesalers Registration Scheme.
21. Worse, by failing to prevent the sale of vodka that he must have suspected came from an unregistered source, he risked selling counterfeit vodka – it is extremely unlikely that he'd have been able to recognise the difference between counterfeit and genuine products. Given that consuming counterfeit vodka can sometimes have grave, or even fatal, consequences, the business may have been risking their customers' health.
22. No invoices that could possibly have related to the rosé or red Echo Falls wines have been supplied and the two cash and carry businesses mentioned by Mr Shah have both confirmed that they had not supplied the product to AB wines in the six months prior to the seizure. This, it is suggested, is a clear indication that these fast-selling wines were also purchased from an unauthorised source.
23. An explanation for the super strength beers apparently being sold with a zero or very small mark-up has been offered: that it necessary because of local competition. I believe the more likely reason is that illicit beer is purchased and mixed with legitimately bought stock, so that it could profitably be sold at a low price. I have no hard evidence of this, but when the business appears to sell a lot of super-strength beer with such a small mark-up, and many of the customers buying this type of beer can reasonably be assumed to buy few more profitable goods, it seems unlikely that the profit margin is as low as Mr Shah suggests.
24. Even if it is believed that all the beers in the shop are bought legitimately, the very low profit margin to attract customers and the amount of stock - there were, on the day I visited, 40 x 24 trays of beer in excess of 7.5% abv (960 cans) and more strong cider (I did not count the trays of cider, as, being low duty, it is not as popular to evade the duty) - suggests that the business relies heavily on the sale of super-strength product. These beers are legal to sell but are particularly popular amongst people who abuse alcohol: it is not, in my opinion, responsible for a licensed business focus on selling this type of alcohol or to sell it as cheaply as this.

Recommendations

25. The Home Office guidance made under the Licensing Act, section 182 suggests (paras 11.27 & 11.28) that Committees should seriously consider revocation of the premises licence *in the first instance* when the sale of smuggled alcohol is detected. Trading Standards urge Members to focus on the acknowledged origin of some of the spirits and the likely explanations for the presence of certain alcohol and to follow this guidance.
26. Should the Committee not choose to revoke the licence, Trading Standards ask them to consider a period of suspension to allow the business time to review their business model, how they operate and to improve their procedures – something that Trading Standards could assist with if Mr Shah requested us to.
27. The Police application does not focus on the role of the DPS, Nadeem Sultan. However, he was witnessed to be the seller of strong beers and ciders to drunk customers on several occasions and he was, according to Mr Shah, the person who made the decision to sell spirits he knew to have come from an unregistered source. Trading Standards ask the Committee to consider whether this standard of behaviour is commensurate with the role of Designated Premises Supervisor and, if they do not feel it is, to require a DPS transfer if the licence is to continue.
28. Finally, should the licence continue and notwithstanding the licence holder's failure to comply with existing conditions, Trading Standards request that the Committee consider adding the following:
 - The licensee will report to Trading Standards any instance of a caller to the shop attempting to sell alcohol or tobacco products within 24 hours.
 - No spirits shall be purchased in a resealed box, without thorough checks being made to ensure it is legal to sell.

I believe this representation is consistent with the LBHF Statement of Licensing Policy and the promotion of the Licensing Objectives,

Doug Love
Senior Trading Standards Officer

From: Viviana Sarmiento
Sent: 01 June 2020 15:04
To: Licensing HF: H&F <licensing@lbhf.gov.uk>
Subject: Re: PLEASE READ : AB Wines Review 218 Uxbridge Road, London, W12 7JD

Hi Sophia,
My full address is Frithville Gardens
W12 7JN

Regards
Viviana

From: Viviana Sarmiento
Sent: 20 May 2020 10:26
To: Licensing HF: H&F <licensing@lbhf.gov.uk>
Subject: AB Wines Review

Hello, We have been living in Frithville Gardens for 5 years, and there has been a persistent problem in our street of people drinking alcohol on our door steps. It's so frustrating because this causes lots of noise, rubbish is left behind, not to mention people being sick and feeling free to urinate in our front gardens. Re the corner shop - although I totally understand they are trying to run a business, it is also the focus of all these drunks gathering and hanging around in our street. It feels unsafe sometimes. Frithville Gardens is one of those streets that, I gather, produces a considerable income for the council in parking fees and fines and perhaps we deserve a bit more of action in terms of keeping the street safe , clean and drunk-free.

Many thanks Viviana

From: Caroline Sowden
Sent: 22 May 2020 10:04
To: Licensing HF: H&F <licensing@lbhf.gov.uk>
Subject: AB Wines review

To H and F licensing committee,

AB Wines attracts all the down-and-outs from the entire neighbourhood and encourages them to hang out on the corner of Frithville Gardens. They have turned it and the bus stop into a filthy rubbish dump and toilet. The amount of urine has literally stripped the paint off the wall on the side of the estate agents. This makes living in this road extremely unpleasant for its hundreds of residents,

Thank you,

Caroline Sowden,
Brooklyn Court,
Frithville Gardens

From: Rose Alexander
Sent: 29 May 2020 16:15
To: Licensing HF: H&F <licensing@lbhf.gov.uk>
Cc: Mike Branson
Subject: AB Wines

Dear LBHF

We oppose any licensing extension to AB Wines. The anti-social behaviour and negative effects far outweigh any commercial benefit to the area. There was a terrible problem with people urinating near the store and old cans and bottles littered on the street. Last year we had an attempted break in to our home where the culprits defecated in our front garden and caused a lot of damage. The police suspect it was alcohol and drugs related. As a street we are trying to improve the quality of life for all the residents and increasing alcohol availability plays no part in this. Also, having read this book <https://www.goodreads.com/book/show/49094876-drink> I believe that efforts should be made at a policy level to encourage greater responsibility around consumption of alcohol. For this reason we oppose the AB Wines licence application.

Yours faithfully

Rose Alexander and Mike Branson
Frithville Gardens
London W12 7JN

From: c_pluwak <
Sent: 01 June 2020 11:19
To: Licensing HF: H&F <licensing@lbhf.gov.uk>
Subject: Re: PLEASE READ RE: Alcohol licence Application, AB Wines

Dear Sophia, thank you for acknowledging my email.

I can confirm my comments are indeed in support of the application made by the Police (PC Cooke).

Yours sincerely,

Christina Zablotska

From: c_pluwak
Sent: 31 May 2020 18:48
To: Licensing HF: H&F <licensing@lbhf.gov.uk>
Subject: Alcohol licence Application, AB Wines

For the attention of the licencing team at LBHF,

I am writing to you as a long term resident of Frithville Gardens. I have learned that AB Wines on Uxbridge Road is applying to renew its alcohol license.

I wish to draw your attention to problems of certain customers who, after having purchased alcohol in the local shops, including AB wines, go on to loiter on the corner of Frithville Gardens and Uxbridge Road. We are regularly confronted by groups of louts congregating at the end of the Gardens, drinking and smoking cannabis, who use the front garden walls to urinate against, drop litter and strew empty beer cans and vodka bottles where they see fit. Its a miserable and pathetic sight.

Given the current coronavirus pandemic, I wish to see more efforts by the local authorities to curb alcohol and drug related anti social behavior. I wish to see residents able to walk home without intimidation and fear.

In light of the above, I personally oppose to any renewal of an alcohol license for AB Wines.

I trust the above concerns will be acted upon.

Yours sincerely,

Christina Zablotska
Frithville Gardens
Shepherds Bush
London W12 7JN

From: Julia Pluwak
Sent: 01 June 2020 13:15
To: Licensing HF: H&F <licensing@lbhf.gov.uk>
Subject: Re: PLEASE READ RE: AB wines on Uxbridge Road W12

my address is

Linden Court
Frithville Gardens
W12 7JJ

regards

Julia

From: Julia Pluwak
Sent: 31 May 2020 17:57
To: Licensing HF: H&F <licensing@lbhf.gov.uk>
Subject: AB wines on Uxbridge Road W12

Hi

I live on Frithville Gardens and understand that the licence for AB wines is under review.

I wish to bring to your attention that over the past number of years Frithville Gardens has been blighted by small groups of men drinking beer and vodka. They tend to congregate outside AB wines sometimes but mostly they move to the entrance to Frithville Gardens (corner with

Uxbridge Road) and loiter/chat and drink. These individuals have bought the alcohol from AB wines as I have observed this on many occasions and sometimes hold their drink within the small black plastic bags AB wines gives out. If they are drunk and rowdy then it's quite intimidating when turning into Frithville Gardens from Uxbridge Road to be confronted by this suddenly and this makes you feel uneasy and not safe. On many occasions I have walked past a man urinating against the wall. In most cases the bottles are discarded in the same spot and are left lying on the pavement which is an eyesore.

I have rung ring 101 numerous times and I know the police are trying hard to turn up and move them on but I appreciate they might be on more important calls so at times they can't attend so the men remain on Frithville Gardens for a long time. Getting someone arrested for urinating is virtually zero as the police told me they have to catch them in the act of urinating to do something and as this is impossible the problem of men urinating goes sadly unpunished and unresolved.

I hope you can consider the above antisocial issues that are connected to the AB wines selling alcohol when reviewing their licence

regards

Julia Pluwak

Frithville Gardens resident

From: Claire Tindall
Sent: 03 June 2020 19:37
To: Licensing HF: H&F <licensing@lbhf.gov.uk>
Subject: Re: PLEASE READ: A B Wines 218 Uxbridge Road London W12 7JD

Hello and many thanks for your response. I'm sorry to take so long to get back to you.

I would like to add that AB Wines often have a staff member at the door moving people on if they are loitering. I've even seen them ask people nowhere near their shop around the corner to keep the noise down which was adhered to. They also do NOT serve alcohol to people who are too intoxicated. I've seen that plenty of times.

I have seen first hand efforts of AB Wines to keep nuisance at bay. Not everybody who loiters in the area has bought alcohol from AB Wines.

I hope this is not too late to be used for the hearing.

Kind regards,

Claire Tindall

-----Original Message-----

From: Claire Tindall
Sent: 20 May 2020 07:30
To: Licensing HF: H&F <licensing@lbhf.gov.uk>
Subject: AB Wines

Hi there

I live on Frithville Gardens and have done for 10 years. All this time I have found AB Wines extremely helpful. Nadeem who works there brightens any day and I often frequent the shop most days for little basics or tobacco or even just Nadeem's smile. I hope that they remain.

Kind regards

Claire Tindall Linden Court,
Frithville Gardens
W12 7JJ

From: theresa taylor
Sent: 21 May 2020 10:50
To: Licensing HF: H&F <licensing@lbhf.gov.uk>
Subject: An wines

I live in Frithville Gardens, and have used this store for the past 3 yrs, it's a family run business (lovely family) and hold to strict keeping the laws selling. never had any problems as I can see in the street.

Sent from Yahoo Mail on Android