

Martin O'Brien  
Trading Standards Officer,  
London Borough of Hammersmith and Fulham

CC: The Premises Licensee, Designated Premises Supervisor

24 October 2011

Dear Mr O'Brien,

**Re: Application for a review of a Premises Licence in respect of  
premises at BEST QUALITY FOOD & WINE, 333-335 LILLIE ROAD,  
LONDON SW6 7NR**

#### Introduction

On the 22<sup>nd</sup> August 2011, Martin O'Brien on behalf of the London Borough of Hammersmith and Fulham Trading Standards Service ("the Applicant") made an application for a review of a premises licence ("the Application") for the above property ("the Premises"), under the provisions of the Licensing Act 2003.

The Applicant requested that the premises licence be revoked.

No relevant representations were received in connection with the Application.

#### The hearing

The Council convened a licensing Sub-Committee under the Licensing Act 2003 to consider the Application. The Sub-Committee held a hearing on the 10<sup>th</sup> October 2011.

Martin O'Brien attended the hearing on behalf of the Applicant. The premises licence holder, Mr Balvinder Singh Mallhotra, also attended the hearing.

A summary of the main points of evidence are contained in the minutes of the hearing enclosed with this letter

#### The Decision

The sub-committee considered the Application.

From the basis of what was reported to it and having regard to the representations made and the suggestions offered by the premises licence holder, the Sub-Committee decided the matter as it considered necessary for the promotion of the four licensing objectives. In doing so it had regard to all other material considerations including the guidance issued by the Secretary of State under s.182 of the Licensing Act 2003 and the Council's statement of licensing policy.

The Sub-Committee decided to revoke the premises licence.

The Sub-Committee considered the evidence put forward by the Trading Standards Service and the brief submissions made by the premises licence holder at the hearing, whereupon it decided that the evidence of the Trading Standard Service was to be preferred.

The Sub-Committee was concerned as to the nature of criminal offences committed by the premises license holder leading to his conviction in November 2009 and May 2011 further to breaches of the Consumer Protection Act and Trade Marks Act. The Sub-Committee considered whether it would be sufficient to remove the Designated Premises Supervisor. The Sub-Committee noted that the Designated Premises Supervisor and the premises licence holder is the same person. The Sub-Committee concluded that removing the Designated Premises Supervisor would have little effect as the premises license holder would remain in control of the premises.

The Sub-Committee decided that whilst the Designated Premises Supervisor ought to be removed, removing him wouldn't serve any purpose to promote the Council's licensing objectives.

Accordingly, the Sub-Committee considered that in order to promote the licensing objectives of the prevention of crime and disorder and public safety, it was necessary and proportionate to revoke the premises licence.

Please note that the decision by the Sub-Committee does not take effect until the end of the period given for appealing against the decision i.e. 21 days after deemed service of this notification letter.

#### Rights of appeal

The Applicant and the premises licence holder have the right to appeal against this decision to the Magistrates Court. Details are enclosed.

Yours faithfully

A handwritten signature in dark ink, appearing to be 'D. Smith' or similar, written in a cursive style.

Owen Rees  
For Chairman, Licensing Sub-Committee

# **LICENSING ACT 2003**

## **PREMISES LICENCES**

### **RIGHTS OF APPEAL AGAINST DECISIONS OF THE COUNCIL TO REVIEW PREMISES LICENCE**

Please note that under Section 181 and Schedule 5 of the Licensing Act 2003 the applicant, holder of a licence or persons who have made a relevant representation may appeal against the decision of the Council.

An appeal must be lodged within **21 days** of notification of the decision.

The address of the local magistrates' court is:

**West London Magistrates' Court  
181 Talgarth Road  
London W6 8DN**

**Tel: 020 8700 9371**

Relevant extracts from Part I of Schedule 5 of the Licensing Act 2003 are reproduced below.

### **APPEALS PART 1 PREMISES LICENCES**

#### *Review of premises licence*

- 8 (1) This paragraph applies where an application for a review of a premises licence is decided under section 52.
- (2) An appeal may be made against that decision by-
- (a) the applicant for the review,
  - (b) the holder of the premises licence, or
  - (c) any other person who made relevant representations in relation to the application.
- (3) In sub-paragraph (2) "relevant representations" has the meaning given in section 52(7).

*General provision about appeals under this Part*

9. (1) An appeal under this Part must be made to [a magistrates' Court]
- (2) An appeal under this Part must be commenced by notice of appeal given by the appellant to the [designated officer] within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.
- (3) On an appeal under paragraph ..... 8(2)(a) or (c) the holder of the premises licence is to be the respondent in addition to the licensing authority.....



# Licensing Sub-Committee Minutes

Monday 10 October 2011

## **PRESENT**

**Committee members:** Councillors Victoria Brocklebank-Fowler (Chairman), Michael Cartwright and Marcus Ginn

### **3 - GENERAL SMUTS, 95 BLOEMFONTEIN ROAD, LONDON, W12 8AA**

**Applicant:** PS Stuart Ratcliffe, Licensing Sergeant for the Borough

**Premises licensee and DPS:** Yasser Hamouda

**In attendance:** Muj Khan, Chair of the White City Muslim House Trust and other members of the Muslim community; Mary Pack, staff; Kevin Gannon, staff; Martin Fieldhouse and Eman Saker, local residents.

### **4 - AM-PM (BEST QUALITY FOOD AND WINE), 333-335 LILLIE ROAD, LONDON, SW6 7NR**

**Applicant:** Martin O'Brien, Trading Standards Officer for London Borough of Hammersmith and Fulham

**Premises licensee and DPS:** Balvinder Malhotra

**Officers:** Adrian Overton, Licensing Officer, Lewis Aldous, Licensing Officer, Piero Ionta, Legal Advisor and Katia Richardson, Committee Coordinator.

#### **1. APOLOGIES FOR ABSENCE**

There were none.

#### **2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

3. **GENERAL SMUTS, 95 BLOEMFONTEIN ROAD, LONDON, W12 8AA**  
**(APPLICATION NUMBER:2011/01281/LAPRR)**

The Sub-Committee received and considered an application by PS Stuart Ratcliffe on behalf of the Metropolitan Police for the review of a Premises License under section 51 of the Licensing Act 2003 in respect of the premises known as General Smuts situated at 95 Bloemfontein Road, London, W12 8AA.

**Main Points of Evidence**

**Licensing Officer**

Adrian Overton, Licensing Officer, introduced the application, which had been made on 17 August 2011. He said that Mr Khan, Chair of the White City Muslim House Trust, and other representatives of the Muslim community were present at the hearing. However, they had not made representations during the consultation period and were therefore unable to speak.

The Chairman asked whether the premises detailed on the map on page 19 of the Panel pack also included the hall next door. Adrian Overton clarified that the premises licence covered the entirety of the building, as detailed on page 16 of the Panel pack.

In response to a question from the Chairman, Adrian Overton said that, in addition to the incidents described by PS Ratcliffe, the Council was not aware of any other incidents at the premises.

Councillor Cartwright asked whether the removal of the alcohol licence would prevent other non-licensable activities taking place in the rest of the building. Piero Ionta, Legal Advisor to the Committee, said that it would not, however, the Panel should clarify with PS Stuart Ratcliffe whether he was asking for the revocation of the whole licence or just the alcohol provision. Further to any clarification sought, the decision would be a consideration for the Panel.

**Metropolitan Police**

PS Stuart Ratcliffe, Licensing Sergeant for the Borough, said that the Metropolitan Police felt the need to bring this review to the Panel on the grounds of the prevention of crime and disorder and issues with public safety at the premises.

He said that the premises were located on the edge of the White City Estate, which was a trouble hotspot for the borough. He added that crime and disorder problems related to the premises were generally not reported as people who resided in that area tended not to do so.

He stated that he had first visited the premises and carried out a full licence check on 15 July 2011, as a result of concerns highlighted by the Safer Neighbourhoods Team for the area. The premises were found in breach of many conditions of its licence, as described in the Panel pack.



As a result of the breaches he had issued a Section 19 Closure Notice to Yasser Hamouda, the Designated Premises Supervisor (DPS). He also advised on the procedure to have the Closure Notice terminated by the police.

On 19 July 2011, the DPS had attended Fulham Police Station and admitted that he had never employed door staff after 9:30pm or on QPR match days, as he could not afford it. PS Ratcliffe advised that he would terminate the Closure Notice if he received written confirmation stating the DPS' intentions to shut the premises at 21:30pm every night and confirming that the signage and complaints book issues had been rectified. However, as no confirmation had been received, the Closure Notice remained in place.

Nonetheless, on 13 August 2011, the premises had opened and served alcohol on a match day contrary to the Closure Notice issued by the police. In addition, the DPS had also breached a condition on the premises licence that on match days three door supervisors should be employed. Supporting statements made by two police officers (contained in the Panel Pack) confirmed that only two door staff had been on duty that day.

PS Ratcliffe added that on 7 May 2011 the premises had been involved in serious disorder between QPR and Leeds fans. As a result, the DPS had been attacked and there had been criminal damage to the premises. There had been no door staff on duty and no CCTV had been provided to the police.

PS Ratcliffe informed that on 26 May 2011 a male leaving the premises had been stopped, searched and arrested for being in possession of cannabis and over £1000 in cash. PS Ratcliffe explained that as there was an ongoing criminal prosecution concerning this individual at the time that he applied to review the premises licence, this information was not included in his written submission as it was sub judice. He suggested that this fact indicated the presence of drugs in the premises.

He discussed the options available to the Committee and concluded that he did not believe that adding any further conditions to the licence would prevent the issues highlighted. The Panel could suspend the licence but he believed this would only delay further action into the future. The Panel could also remove the DPS, however, as he was also the premises licence holder, the management would not change. As a result, the police believed that the revocation of the whole premises licence was the only way to prevent crime and disorder and issues with public safety at the premises on match days.

In response to a query from the Chairman, PS Ratcliffe said that Section 19 Closure Notice was currently in place. He added that in all the discussions with the DPS he had clearly stated that the Closure Notice would be terminated if the issues were rectified.

#### Premises Licence Holder

Yasser Hamouda, premises licensee and DPS, gave evidence as to the circumstances surrounding the review. He said that when PS Ratcliffe had visited the premises he pointed out three issues: anti-drink-driving notices, a complaints

book, and the need for two door supervisors after 21:30pm. However, as it was a small business, he could not afford to employ another member of staff.

The Chairman reminded the DPS that it was a condition of the licence. However, the DPS stated that he was not aware of all of the conditions as he had never seen the full licence.

In response to a question from the Chairman, Adrian Overton confirmed that the licence was issued by delegated authority. It was transferred into Mr Hamouda's name on 9 July 2008 and a copy of the full licence was sent to him with all the conditions attached.

The DPS informed that he had complied with the three requests made by the police. He provided the anti-drink-driving notices, the complaints book and employed two door supervisors. However, one of them was not at the door all the time.

The Chairman pointed out that it was a condition of his licence to provide two SIA registered door supervisors at all times after 9:30pm. The DPS did not respond to this.

The DPS added that he had emailed PS Ratcliffe informing him of his compliance but had not received a reply. He added that there had never been a problem inside the premises before and no complaints had ever been received from local residents.

The Chairman noted that the Section 19 Closure Notice was still in place and it was his responsibility as a DPS to find out the conditions of the licence and to abide by it.

The DPS stated that he would close at 9:30pm to avoid the need for an extra security door staff.

Councillor Cartwright asked whether he understood how to run licensed premises as he had opened the pub with a Closure Notice in place. The DPS accepted that he was not aware as to what licensable activities were permitted in the premises license. The DPS said that he had opened the premises because he had complied with the three requests made by PS Ratcliffe. He added that PS Ratcliffe had said that once all issues had been rectified and the police had informed him that the premises could be reopened.

The Chairman asked whether there was a drugs issue inside the premises and if he tested the toilets with wipes. The DPS replied that he had always tested the premises and had never had any problems.

In response to a question from the Chairman, the DPS said that during match days he only used plastic cups. He had also removed the seats outside the pub to avoid problems.

With regards to the video footage filmed by PC Murphy, Councillor Ginn asked if people were drinking from glasses and bottles outside the premises. PS Ratcliffe

confirmed that they were and added that the issue would not have happened if the front of the premises had been controlled properly.

In response to a question from Councillor Ginn, PS Ratcliffe said he had not received confirmation from the DPS of his intention to close at 9:30pm, and therefore preventing the need for door staff on non-match days.

Councillor Ginn asked the DPS whether he had informed PS Ratcliffe in writing that he had complied with all the requested issues. The DPS said he had written to PS Ratcliffe and had a copy of the email at home. Councillor Ginn asked PS Ratcliffe if he had received an email from the DPS, PS Ratcliffe affirmed he had no record or recollection of receiving any such an email from the DPS.

In response to a question from Councillor Ginn, the DPS accepted that there had been public disorder following the incident described by PS Ratcliffe on 7 May 2011. The DPS also said he was not aware of being in breach of the Closure Notice when he opened the premises on 13 August 2011, as he believed the notice had been lifted.

Councillor Cartwright asked the DPS whether he considered himself responsible for the whole of the premises area. The DPS stated that he was only responsible for the pub. The rest of the premises were his landlord's responsibility. The DPS handed the Panel a copy of the plan on Page 16 of the Panel Pack where he had marked in red the area that he believed the premises license to apply to.

However, Adrian Overton reiterated that the licence was for the entirety of the premises. He added that Condition 20 stated the capacity for the individual areas.

*The Sub-Committee adjourned to seek legal advice at 10.52am, returning at 11.01am.*

### Summing Up

PS Ratcliffe reiterated that the premises had been running in breach of its fundamental licence conditions for four years and the DPS had not taken responsibility for the premises and not followed his advice. He concluded that his issue was not with the activities in the premises but with the mismanagement and the lack of support for the licensing objectives.

The DPS stated that he had had done everything that PS Ratcliffe had asked him to do.

*The Sub-Committee retired to consider its decision at 11.04am, returning at 11.17am.*

### **RESOLVED THAT**

The Panel, having considered the evidence submitted, agreed unanimously to vary the license so as to remove the sale by retail of alcohol both on and off the premises and to remove the Designated Premises Supervisor.

*Full reasons for the decision are contained in the decision letter which accompanies these minutes.*

**4. AM-PM (BEST QUALITY FOOD AND WINE), 333-335 LILLIE ROAD, LONDON, SW6 7NR (APPLICATION NUMBER:2011/01295/LAPRR)**

*Councillor Michael Cartwright informed the Panel that he was Justice of the Peace, sitting at West London Magistrates' Court, and also a Crown Court Justice, sitting at Isleworth Crown Court, where some of the prosecution cases had been dealt with. However, he had no involvement in any of these cases and had been advised he had no personal interest.*

The Sub-Committee received and considered an application for review of the premises licence at AM-PM (Best Quality Food and Wine), 333-335 Lillie Road, London, SW6 7NR.

Main Points of Evidence

Licensing Officer

Lewis Aldous, Licensing Officer, introduced the application, which had been made on 22 August 2011 by the Trading Standards Services. He added that no representations had been made.

Trading Standards Services

Martin O'Brien, Trading Standards Officer for London Borough of Hammersmith and Fulham, informed the Panel that Mr Malhotra, the DPS, had been convicted twice for breaches of legislation enforced by the Borough's Trading Standards Services. The first conviction had been for possession for supply of tobacco without the required health warnings. The second conviction had also been for the same issue, in addition to selling counterfeit lighters, counterfeit bottles of champagne and counterfeit DVDs.

He added that on appeal on 26 July 2011, Mr Malhotra's fine for his second conviction had been set at £6000 and costs had been reduced to £3985.

He said that this licence review related to the criminal actions of Mr Malhotra and his continuous behaviour; it was not an issue of managing the premises. There were a variety of counterfeit products found in the premises and consumers could be put at risk. As the DPS was also the license holder it was unlikely that his removal would change the way the business operated.

### Premises Licence Holder

Balvinder Malhotra, premises licensee and DPS, said that this was his only business and he would pay the fine that the Crown Court had requested him to pay.

### Summing Up

Martin O'Brien concluded that Trading Standards were requesting the revocation of the premises licence in its entirety. The variety of products found in the premises showed that this was not a mistake but a systematic behaviour. The previous conviction had not acted as a deterrent in this case.

Mr Malhotra said that he had no idea the products were counterfeit.

*The Sub-Committee retired to consider its decision at 11.32am, returning at 11.38am.*

### **RESOLVED THAT**

The Panel, having considered the evidence submitted, agreed unanimously to revoke the premises licence.

Full reasons for decision are available in the decision letter which accompanies these minutes.

## **5. EXCLUSION OF THE PUBLIC AND PRESS**

### **RESOLVED THAT:**

The Committee is invited to resolve, under Section 100A (4) of the Local Government Act 1972, that the public and press be excluded from the meeting during the consideration of the following items of business, on the grounds that they contain the likely disclosure of exempt information, as defined in paragraph 1 of Schedule 12A of the said Act, and that the public interest in maintaining the exemption currently outweighs the public interest in disclosing the information.

## **6. MINUTES**

### **RESOLVED THAT:**

The minutes of the meeting held on 3 September 2010 be confirmed and signed as an accurate record of the proceedings.

Meeting started: 10.04 am  
Meeting ended: 11.38 am

Chairman .....

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