

LICENSING PANEL MINUTES

24 SEPTEMBER 2019

Chair: * Councillor Maxine Henson

Councillors: * Michael Borio * Chetna Halai

* Denotes Member present

52. Appointment of Chair

That Councillor Maxine Henson be appointed Chair of the Licensing Panel Hearing.

53. Declarations of Interest

RESOLVED: To note that there were no declarations of interests made by Members.

54. Minutes

(See Note at conclusion of these minutes).

55. Licensing Procedures

The Chair asked the Panel Members, officer/s, Responsible Authority/ies and other attendees at the meeting to introduce themselves and then outlined the procedure for the conduct of an oral hearing.

RESOLVED ITEMS

56. Application for review of the premises licence for (A) Day Fresh, 50 South Parade, Mollison Way, Edgware, Middlesex, HA8 5QL

In attendance:

Legal Adviser:	Lina Amir
Licensing Officers:	Ash Waghela Natasha Cockar
Licence Holder:	Ms Kenkarajah
Licence Holder's Friend & translator:	H Jay
Metropolitan Police:	PC Beresford PC Downes PC Johnson

The Panel carefully considered all the relevant information including:

- written and oral representations by all the parties
- the Licensing Act 2003 and the steps that are appropriate to promote the licensing objectives
- the Guidance issued under section 182 of the Licensing Act 2003
- Harrow Council's Licensing Policy
- Human Rights Act 1998.

Members of the Panel also took into consideration the following, full details of which were set out in the Decision Notice sent to all interested parties:

- the police had observed that the licensee had not upheld one or more of the four licensing objectives and had breached the licence conditions, including the keeping of smuggled goods. For example, during a visit on 8 March 2019, the CCTV could not be operated, the Designated Premises Supervisor (DPS) failed to produce a personal licence when requested to do so by the police and there were no proper records of 'refusal' logs;
- the Licensing Authority and the police had made various attempts to work with the licence holder. Condition 8 of the licence had required two members of the staff to be employed at the store. This requirement had been explained to the licence holder and she had been advised that, if she found it difficult to comply with this condition, she should seek to have the condition removed. However, the condition had remained on the licence and had been breached continuously;

- despite being advised of the identities of the street drinkers to whom alcohol should not be sold, the licence holder had continued to sell to those customers;
- non-payment of duty on alcohol and tobacco on a number of occasions and the seizure of these goods by the HMRC (Her Majesty's Revenue and Customs), including the failure to provide evidence of purchase;
- no credible evidence or explanation had been provided by the licence holder in relation to the repeat breaches of the licence or the offence of holding smuggled goods;
- no offer by the licence holder of any means of remedying the breaches or ensuring that the licensing objectives would be upheld in the future. No responsibility was accepted for the repeat breaches. The licence holder did not offer to undertake training to ensure the upholding of the licensing objectives in the future;
- although the licence holder had requested an opportunity to improve and she had asked that she be given another chance to improve as this was her only business and she had four children, the Panel had been of the view that the licence holder had been given various opportunities since 2013 to improve but had continued to routinely breach the conditions on the licence and undermine the licensing objectives;
- consideration of the Guidance issued under section 182 of the Licensing Act 2003 which stated that certain criminal activity, such as the use of the licensed premises for the sale or storage of smuggled tobacco and alcohol, should be treated seriously;
- the police had not seen any evidence of a price gun having been used by the licence holder to identify that the alcohol sold had been bought from the premises in question;
- the submission from the licence holder that there were a few other off-licences in the area where the street drinkers were buying their drinks from and that the litter in the area could not be attributed to her premises. There were no signs on the side of her premises prohibiting street drinking although the signs were elsewhere.

The Panel concluded that, in the circumstances, revoking the licence was an appropriate and proportionate step to take in order to promote all the licensing objectives and, accordingly,

RESOLVED: That the licence for A Day Fresh, 50 South Parade, Mollison Way, Edgware, HA8 5QL be revoked.

REASONS: As detailed in the Decision Notice sent to all interested parties and set out in brief in the preamble above.

Right to Appeal

Any party aggrieved with the decision of the Licensing Panel on one or more of the grounds set out in schedule 5 of the Licensing Act 2003 may appeal to the magistrates' court within 21 days of notification of this decision.

The determination, in accordance with section 52(11) of the Licensing Act 2003, did not take effect:

- (a) until the end of the period given for appealing against the decision; or
- (b) if the decision was appealed against, the disposal of the appeal.

(Note: The meeting, having commenced at 7.32 pm, closed at 8.00 pm).

(Signed) COUNCILLOR MAXINE HENSON
Chair

[Note: Licensing Panel minutes are:-

- (1) approved following each meeting by the Members serving on that particular occasion and signed as a correct record by the Chair for that meeting;
- (2) not submitted to the next panel meeting for approval.

Reasons: The Licensing Panel is constituted from a pooled membership. Consequently, a subsequent Panel meeting is likely to comprise a different Chair and Members who took no part in the previous meeting's proceedings. The process referred to at (1) above provides appropriate approval scrutiny].