

LICENSING SUB-COMMITTEE

Minutes of the meeting held at 10.00 am on 27 April 2023

Present:

Councillor Nicholas Bennett J.P. (Chairman)
Councillors Robert Evans and Kira Gabbert

Also Present:

1 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Councillor Nicholas Bennett was appointed as Chairman.

2 DECLARATIONS OF INTEREST

There were no declarations of interest

3 Review Hearing for Devrim Management T/A Embass Local 5 Station Approach Lower Sydenham SE26 5FD

Licence holder's request for adjournment:

The current licence holder requested a 6-week adjournment in order to allow time for preparation. He had assumed that the new licence holder (Elsa Retail Limited) would be present, but on Monday his solicitor had told him that the transfer of the licence had not been valid because of the review application.

Following a brief adjournment, the committee members returned and the Chairman announced that the request for an adjournment was denied and the hearing would proceed. Adequate notice of the hearing had been given. The new licence holder ought to have been aware.

Applicant's Case:

The Applicant provided the following chronology:

Following an underage sale, the licence was reviewed on 22 June 2022 when it was suspended for one month and an additional condition imposed that a personal licence holder be present at all times. There was a 'Challenge 25' sale on 21 September 2022, when no ID was requested, and on 14 February 2023 an underage sale was made. At an inspection visit on 16 February 2023 several licence breaches were identified. After the licence was transferred, a challenge 25 test in April 2023 was passed as the customer was asked for ID.
Licence holder's case:

The Licence holder said there was nothing he could say. He admitted his guilt, which is why he had applied to transfer the licence.

Questions to the licence holder:

The Chairman asked what actions had been after the previous suspension. The licence holder replied that a till prompt had been added. The WKD bottle sold to the minor did not have a bar code, so did not prompt.

In response to questions concerning the presence of a personal licence holder, Mr Tasyurdu explained that his son, who had a licence, had been present at the inspection on 16 February 2023. Ismail Akkiz also had a personal licence and had worked on 14 February 2023. Mr Akkiz was not present when the underage sale was made, so must have gone to the cash and carry. Ata Bulent was in charge in his absence, but he did not have a personal licence. He had been trained and authorised to train others, but had been in the toilet when the sale had been made.

Licensing Officer's case:

The licensing authority supported the request for revocation based on the previous history of events. Mr Slaney emphasised that support that had been provided but there had been a lack of engagement by the business.

Questions to the Licensing Officer:

There were none. The licence holder said the points made were valid. It was right that he had failed to supervise.

Final comments from licence holder:

He stated he was very sorry and that if Members were going to punish someone, it should be him. He would be grateful if the licence were only suspended for a few months.

Summary of decision:

Following an adjournment, Members returned and the Chairman announced the licence would be revoked.

Reasons:

The following are the reasons for the decision:

The Licensing Sub-Committee carefully considered the application for a review of the premises licence at Embas Local, 5 Station Approach, Lower Sydenham, London, SE26 5FD. In doing so, they had regard in particular to:

- The four licensing objectives
- The Council's current Statement of Licensing Policy
- The Council's Guidance for Members hearing a Review of a Premises Licence
- The Secretary of State's Revised Guidance issued under section 182 of the Licensing Act 2003

- The application and oral representations by the Applicant and licensing officer
- Oral representations by the Licence Holder

Members noted that the basis for the application was that the licensing objective of protecting children from harm was not being met.

Members took into account the absence of the current licence holder and how the Challenge 25 test in April 2023 had been passed.

The lack of engagement was serious and the suspension in 2022 had not resulted in effective improvement. Those were factors which resulted in Members not being confident that another suspension would lead to the promotion of the licensing objectives.

The previous history, multiple breaches of condition, failed Challenge 25 tests and underage sales demonstrated systematic failures by those involved in the business, including Ali Tasyurdu and Ismail Akkiz (the current designated premises supervisor).

It was completely unacceptable to sell alcohol to children. The failure to protect children from such harm was caused by irresponsible operation of the premises. The premises licence was therefore revoked.