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## DONCASTER METROPOLITAN BOROUGH COUNCIL

### LICENSING SUB-COMMITTEE

MONDAY, 26TH NOVEMBER, 2018

A MEETING of the LICENSING SUB-COMMITTEE was held in the COUNCIL CHAMBER, CIVIC OFFICE on MONDAY, 26TH NOVEMBER, 2018, at 10.00 am.

#### PRESENT:

Chair - Councillor Linda Curran

Councillors Bev Chapman, Steve Cox and Nikki McDonald.

1 Declarations of interest, if any

There were no declarations made at the meeting.

2 Adjournment of Meeting

RESOLVED that in accordance with Council Procedure Rule 17(l), the meeting stand adjourned at 12.04 p.m. to be reconvened on this day at 12.14 p.m.

3 Reconvening of Meeting

The meeting reconvened at 12.14 p.m.

4 Duration of Meeting

In accordance with Council Procedure Rule 33.1, the Committee considered whether it should continue its business as it had been in process for three hours and all business had not yet been considered.

RESOLVED that in accordance with Council Procedure Rule 33.1, the Committee, having sat continuously for 3 hours, continue to consider the items of business on the agenda.

5 Application for a Review of Premises Licence - Doncaster Food & Wine, 89 Nether Hall Road, Doncaster, DN1 2QA

The Sub-Committee considered an application for a review of an existing premises licence for Doncaster Food & Wine, 89 Nether Hall Road, Doncaster DN1 2QA.

The review was brought before the Sub-Committee on the grounds of 'the Prevention of Crime and Disorder' and 'Public Safety' Licensing objectives. A summary of the application was attached as Appendix B to the report.

Representations from the Public Health Authority and members of the local community in support of the review were attached at Appendix E to the report.

The Sub-Committee Members, the Applicant, the Premises Licence Holder and representatives acting on behalf of the Premises Licence Holder, persons making representations and Responsible Authorities, had received the agenda prior to the meeting.

Subsequent to the dispatch of the agenda papers, additional information from the Premises Licence Holders Agent relating the addition of further Conditions to be attached to the Premises Licence, had been circulated to Members of the Sub-Committee, the Applicant, persons making representations and Responsible Authorities prior to the commencement of the hearing.

At the commencement of the hearing, the Chair made introductions and outlined the procedure to be followed.

The Licensing Officer introduced the report and outlined the salient points.

The applicant from Environmental Health (Health and Safety) and a representative of Public Health, were in attendance at the meeting, made representations and answered questions.

The Premises Licence Holder and representatives acting for the Premises Licence Holder were in attendance at the meeting.

Prior to representations being made, a representative acting on behalf of the Premises Licence Holder, requested that the Sub-Committee exclude members of the public from the meeting in accordance with Section 14 Licensing Act 2003 (Hearing) Regulations 2005, to allow personal information to be disclosed which, according to the Premises Licence Holder, would impact on his and his families' safety if disclosed. The Council's Solicitor advising the Sub-Committee, made reference to the Council's rules of procedure for Licensing Hearings and the Licensing Act 2003 (Hearings) Regulations 2005, and clarified that the Sub-Committee could exclude the public from all or part of a hearing where it considered that the public interest in doing so outweighed the public interest in the hearing, or that part of the hearing, taking place in public.

The Chair and Members noted that there were members of the Public and Press present at the meeting and therefore:-

It was RESOLVED that in accordance with Council's rules of procedure for Licensing Hearings and the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the part of the hearing where certain personal information was to be disclosed by the representative acting on behalf of the Premises Licence Holder and the Premise License Holder on the basis that the public interest in so doing outweighed the public interest in the hearing, or that part of the hearing, taking place in public.

The Premises Licence Holder and representatives acting on behalf of the Premises Licensing Holder, made representations and answered questions.

All parties were then asked to leave the room whilst the Sub-Committee deliberated on the application and reached a decision.

RESOLVED that the Sub Committee considered the application for a Review of the Premises Licence for Doncaster Food & Wine, 89 Nether Hall Road, Doncaster DN1 2QA and took into account the written representations made and the evidence presented, the steps that were appropriate to promote the Licensing Objectives, the Home Office Guidance and the Statement of Licensing Policy and decided to revoke the licence.

The Sub-Committee made the decision for the following reasons:-

It was submitted by the Health and Safety Responsible Authority supported by Public Health and the Committee agrees that the sale that Alcohol from unregulated sources are regarded as smuggled and therefore means that premises selling such alcohol are trading irresponsibly and potentially illegally. All off licences in Doncaster have been written to about the selling of smuggled goods by Trading standards. At least 2 letters have been written about the dangers and sent to Mr Salem as a Premises Licence Holder. In addition, whilst the Sub-Committee has no actual evidence of other letters or details of the verbal conversations that Health and Safety Responsible Authority say has taken place the Sub-Committee believe that such conversations have happened and therefore Mr Salem is well aware of the dangers of selling smuggled alcohol and the consequences including the dangers to the public.

On 29th August, 2018 alcohol was found on sale in the Premises by Health and Safety Responsible Authority that appeared not to have the appropriate labelling. Mr Salem has admitted this alcohol was purchased from the Beer Fella which he knew was an organisation that does not have the requisite licences to sell alcohol legally. The Beer was therefore smuggled. The Health and Safety Responsible Authority asked Mr Salem for invoices for beer and lager for the previous 6 months. Mr Salem has been unable to produce any receipts for purchases of beer/lager from any source for the period from 10th January, 2018 to 29th August, 2018 and the Sub-Committee believe this is because he had previously purchased alcohol from illicit source(s) meaning he has sold and potentially stored smuggled alcohol. The Sub-Committee note that Mr Salem knowingly purchased alcohol from a company that he knew was no longer trading within the law. At this visit it was also noted the CCTV was not working in breach of the licence.

In early October, information was received that the Beer Fella had made a delivery to the Premises. A visit showed 16 cases of beer in the premises. None had any English writing and this makes them smuggled goods as they do not meet food labelling standards. Mr Salem said that he had purchased the beer from the Beer Fella. The alcohol was not seized but the Premises Licence Holder was asked to send the alcohol back.

Mr Salem has operated his licence for 9 years and has a number of supporters. It has been put to the Sub-Committee that the Police have not raised any representations and that this is relevant. The Sub-Committee do not agree as the Review has been brought by a Responsibly Authority who is also a prosecuting authority.

Mr Salem is clearly apologetic for the fact he has sold smuggled alcohol and it was submitted to the Sub-Committee that the first time Mr Salem had sold smuggled alcohol was on 29th August, 2018 he apologies for this. However, the Sub-Committee do not believe this is the first occasion evidenced by the lack of invoices.

The Licensing Sub-Committee note that the CCTV is now working.

The Sub-Committee note the Statutory Guidance states that it is expected that revocation of the licence, even in the first instance, should be seriously considered where premises have been used for the sale and storage of smuggled alcohol. It was submitted to the Sub-Committee and it is accepted that the Premises Licence Holder is responsible for the licence and further is well aware of his responsibilities in relation to his license. The Sub-Committee therefore accepts that the licence is not being operated in accordance with the conditions of the licence and therefore have no confidence that the premises is operating so as to promote the licensing objectives.

The Sub-Committee have considered at length the conditions proposed but believe that the premises licence holder is still responsible for the premises and that he has been trading irresponsibly, have no confidence that the conditions submitted or indeed any conditions or other sanction will therefore ensure that this will prevent the premises from trading irresponsibility and therefore undermining the licensing objectives.

CHAIR: \_\_\_\_\_

DATE: \_\_\_\_\_