

## LICENSING SUB-COMMITTEE

Minutes of the meeting held at 10.00am on 25 May 2017

### Present:

Councillor Tony Owen (Chairman)  
Councillors Ian F. Payne and Pauline Tunnicliffe

### 19 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Councillor Tony Owen was appointed Chairman.

### 20 DECLARATIONS OF INTEREST

There were no declarations of interest.

### 21 REVIEW OF THE PREMISES LICENCE AT CAPITAL WINES, 21 PENGE LANE, SE20 7DU

#### Decision:

That **additional conditions** be imposed on the licence, namely:

- 1) That the premises adopts the "Challenge 25 scheme" whereby any person that appears under 25 years of age has to prove they are 18 or over by providing identification bearing their photograph, date of birth and a holographic mark and/or ultraviolet feature. Examples of appropriate identification include passport, photo card driving licence, military ID and proof of age card bearing the PASS hologram.
- 2) The Premises Licence Holder shall ensure that a bound paper refusals register or electronic refusals register is maintained and kept on the premises and that this shall be immediately made available to Police or Council Officers on request. Refusal register records shall be held for a minimum of 12 months.
- 3) The refusal register shall be inspected on a regular basis (at least weekly) by the DPS (Designated Premises Supervisor) and signed by the DPS that they have checked the register.
- 4) Signage of the 'Challenge' 25 policy shall be prominently displayed on the premises.
5. All staff who sell alcohol to the public shall complete the prevention of underage sales online training provided by the Chartered Trading Standards Institute and Virtual College (or a similar training by another provider) by 17th

August 2017 or within 12 weeks of their first appointment at the premises, if the appointment was after that date. Records of the training and of the certificates confirming successful completion of the training will be kept and made available to Police or Council Officers on request.

6. CCTV cameras / system must be in working condition, in use and recording at all times that licensable activities are taking place. The system must be maintained to ensure it is always fully operational. The images recorded must be of good evidential standard, allow for facial recognition of suspects, be able to record in all lighting conditions and be capable of being downloaded and supplied on request to either an authorised officer of the Council or a Metropolitan Police Officer. The recordings should be kept for a minimum of 31 days.

It was also decided that the licence be suspended for a period of two weeks.

### **The Review:**

The Licensing Sub-Committee carefully considered the application made by Rob Vale of behalf of Trading Standards at London Borough of Bromley to review the premises licence of Capital Wines, 21 Penge Lane, Bromley SE20 7DU.

The application for review arose out of a test purchase on 1st December 2016, when Mrs Patel, the wife of the designated premises supervisor and premises licence holder, at the premises sold alcohol and a packet of cigarettes to two female volunteers under the age of 18, having failed to ask for identification to prove that they were 18 years of age or over.

There had been a prior visit on behalf of the Trading Standards division on 18th October 2016 when advice was given about the sale of age restricted products. Information had also been given on a previous occasion about a training opportunity concerning age restricted product sales and notification given that an underage test purchase would be attempted at the premises.

This was not the first time that an underage sale had taken place at the premises. Mr Patel, the designated premises supervisor had accepted a simple caution on 4th April 2013 that he had supplied one bottle of wine to two volunteers under the age of 18 on 9th March 2013.

### **Representations:**

Mr and Mrs Patel attended the review hearing and did not challenge the essential facts presented in the review application. They felt that the volunteers were more “made up” than in the photographs presented at the hearing but it was explained that the photographs had been taken shortly before the sales. The premises did have CCTV but the records had not been kept. They felt the matter had been closed when the penalty notice issued in respect of the latest underage sale had been paid. Prior to the underage sale, a challenge had been made to a person who it transpired was

27 years old. It was felt that the volunteers were with him. Mr Patel did keep a refusals log after the failed test purchase in 2013 but stopped this around 2015.

**Policy Guidance:**

The Council's Statement of Licensing Policy 2016 - 2021 states that the Licensing Authority has instructed its officers to adopt a zero tolerance approach to criminal offences and breaches of licence conditions committed in licensed premises in the Borough. The matters that may be investigated following complaints or concerns include breach of licence conditions.

Guidance issued under section 182 of the Licensing Act 2003 paragraph 11.20 indicates that in deciding which of the powers available on a Review for them to use, licensing authorities should so far as possible seek to establish the causes of the concerns which the representations identify. The remedial action should generally be directed at these causes and should always be no more than a necessary and proportionate response.

Judicial authority (*Bassetlaw DC v Worksop Magistrates Court*) confirms that in a review involving criminal activity, wider considerations come into play, and the furtherance of the licensing objectives includes the prevention of crime. Deterrence is an appropriate consideration for the licensing authority on such a review.

**The Sub-Committee's Conclusions :**

The Sub-Committee carefully considered the facts and circumstances presented to them.

The Sub-Committee felt that the imposition of additional licence conditions was necessary and proportionate in order to promote the licensing objectives in this case. It had been demonstrated that underage sales had taken place on more than one occasion. Members concluded that a Challenge 25 policy should be required to reduce the possibility of a recurrence. A refusals register would demonstrate the effective introduction of such a policy and clear signage would act as both an indication of that policy and as deterrence. Training of the staff would help the staff understand their responsibilities concerning underage sales and be useful to refresh the designated premises supervisor as to the training he had already received.

Although there was a CCTV system on the premises the records from this were not being kept and a condition would set out what was expected.

Unfortunately this was not a first offence and the Sub-Committee found that poor management and supervision, the lack of an effective challenge policy and poor training contributed to the recent underage sale. They found a period of suspension was necessary as deterrence to future unlawful sales but that it should be as short as possible and that a period of two weeks was proportionate.

**22 REVIEW OF THE PREMISES LICENCE AT THE WINE SHOP, 75  
COTMANDENE CRESCENT, BR5 2RA**

The Sub-Committee considered an application made by Mr Rob Vale of the Trading Standards division for a review of the premises licence on the grounds set out in the application and in particular in respect to a test sale made on 14th March 2017. The test sale was to 15 year old and 16 year old female volunteers who purchased one bottle of Bulmer's Wild Blueberry and Lime Cider, one bottle of Bulmer's Crushed Red Berries and Lime Cider and a packet of Mayfair cigarettes.

The test purchase followed a visit to the shop on 31<sup>st</sup> January 2017 by a Senior Customer Protection Inspector who gave advice about the sale of age restricted products and provided an underage sales information pack. A letter had also been sent to the premises giving information about a training opportunity and giving notice that an underage volunteer would visit the premises in the future and attempt to make a test purchase of an age restricted product.

The premises licence holder and the designated premises supervisor is Mr Rajeshkumar Ramaswamy. He did not attend the Review hearing. Instead, Mr Nick Singh attended who said he was the owner of the business. Mr Singh advised that Mr Ramaswamy's wife was unwell and he accordingly had asked him to attend. Mr Singh advised that there were 3 staff including himself and Mr Ramaswamy who ran the business. The test sale had been made by Mr Bal Baria who was no longer employed at the premises. Although Mr Baria stated that there was not a refusals register and was unable to find any training records, Mr Singh assured that these did exist, although he did not bring them to the hearing. Mr Baria had stated that he would be working on his own all that evening (a condition on the premises licence required two staff members whenever alcohol sales extend beyond 19.00 hours) Mr Singh stated that there were sufficient members of staff for two persons to be present.

The Committee was not satisfied that sufficient measures had been put in place to ensure that sales of age restricted products to underage persons would not take place in the future and felt that the evidence may also reveal a lack of compliance with licence conditions. Although the Committee was satisfied that Mr Ramaswamy had received notice of the hearing, the Committee felt he should be given a further opportunity to address the Sub-Committee and put his side of the matters.

The Review was accordingly adjourned to a date to be notified by the Council. The Committee requested that Mr Ramaswamy attend with the refusals log

and the training records and be prepared to demonstrate that the licence conditions were being complied with.

Chairman