

LICENSING SUB-COMMITTEE

Minutes of the meeting held at 10.00 am on 28 June 2017

Present:

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

Also Present:

26 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Councillor Tony Owen was appointed as Chairman for the meeting.

27 DECLARATIONS OF INTEREST

There were no declarations of interest.

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

Decision:

A. That the following be added at the end of the existing licence condition 14:

“These records must include external certification and / or minutes summarising the in-house training which has been undertaken. If the training is in-house, then the minutes must be signed by every person taking part in the training.”

B. That additional conditions be imposed on the licence, namely:

1. The Premises Licence Holder shall maintain a list of names in the shop which identifies the staff permitted to sell alcohol. In addition, a written staff rota will be kept at the premises. These records shall be made available immediately to Police or Council Officers on request.

2. The refusal register shall be inspected and countersigned by the DPS on a weekly basis, the DPS confirming that they have checked the register. Refusal register records shall be held for a minimum of 12 months.

3. Signage of the “challenge 25” policy shall be prominently displayed throughout the sales area of the premises.

The Review:

The Licensing Sub-Committee have carefully considered the application made by Rob Vale of behalf of Trading Standards at London Borough of Bromley to review the premises licence of The Wine Shop.

The application for review arose out of a test purchase on 14th March 2017 when an employee at the premises sold alcohol to a volunteer under the age of 18, having failed to ask her for identification to prove that she was 18 years of age or over.

The review hearing was initially convened on 25th May 2017, when it heard evidence from Ms Ruth Hancock, Lead Trading Standards Practitioner at the London Borough of Bromley, and from Mr Nick Singh, the owner of the business. The DPS, Mr Rajeshkumar Ramaswamy, was unable to attend that hearing and Mr Singh had not brought the refusals log or records of training with him to that hearing. It was therefore adjourned for these records to be produced and for Mr Ramaswamy to attend.

Mr Ramaswamy and Mr Singh both attended the second hearing on 28th June.

Facts arising out of the hearing:

Considerable discussion took place at both hearings in relation to the way in which the business was run. A page was produced at the second hearing, which listed the dates of training which had taken place over recent months but no details were provided on that record as to the content of that training. Mr Singh stated that he had undertaken the online training suggested by the sub-committee at the first hearing, but he had not printed off the certificate to confirm this.

A refusals log dating from February 2017 was produced at the second hearing. The sub-committee was told that this was the current log and that previous refusal logs and training records had not been taken to the hearings.

Mr Ramaswamy stated that there were always 2 members of staff present in the shop after 7pm, in accordance with condition 18 of the licence. It was put to him that this contradicted the statement of Mr Baria, the employee who had failed the test purchase. Mr Baria had stated that he was the manager and that he was the only person working there that evening. Mr Singh responded that he had also been working in the shop that evening, but that Mr Baria had been confused and panicked by the test purchase and had failed to tell Mr Singh about it when he arrived, waiting to tell Mr Ramaswamy the following day. Mr Baria is no longer employed in the shop.

The sub-committee discussed several of the licence conditions with Mr Singh and Mr Ramaswamy, particularly those in relation to staffing numbers, staff training, and the challenge 25 policy requirements. It was made clear that the

sub-committee felt that compliance with these conditions needed to be strengthened and more detailed evidence of compliance must be maintained.

Policy Guidance:

The Council's Statement of Licensing Policy 2016 - 2021 indicates 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 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. That guidance also states that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives.

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 objective includes the prevention of crime. Deterrence is an appropriate consideration for the licensing authority on such a review.

The Council's policy guidance states that, in considering the response to a review undertaken as a result of a first time underage sale test purchase, the local authority should bear in mind aggravating factors including poor management and training, and a lack of an effective challenge policy.

The sub-committee's conclusions:

The sub-committee carefully considered the facts and circumstances presented to them by both trading standards and by the DPS.

The sub-committee had concerns regarding the management of the premises, particularly in relation to training and record keeping. They balanced these concerns against the fact that the review process had brought these shortcomings to the attention of the relevant parties and indicated steps which could be taken to address them. The sub-committee was also mindful of the fact that this was the first time that the premises had been subject to a review.

The sub-committee gave serious consideration to the removal of the DPS and to imposing a period of suspension, but, on balance, decided that an opportunity should be given to raise standards following this first offence.

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In all of the circumstances, the sub-committee considered that the imposition of additional licence conditions was necessary and proportionate in order to promote the licensing objectives in this case.

The Meeting ended at 12.00 pm

Chairman