MINUTES OF
LICENSING SUB-COMMITTEE

Wednesday, 8 July 2015
(7:00 - 8:06 pm)

Board Members Present: Cllr Adegboyega Oluwole (Deputy Chair), Cllr Kashif Haroon and Cllr Chris Hughes

Apologies:

7. Declaration of Members' Interests

There were no declarations of interest.

8. Application for a Review of the Premises Licence for Costcutter, 183 Broad Street, Dagenham, RM10 9JD

The Councils Principal Licensing Officer, Mr Paul Adams, presented a report in respect of an application to review the premises licence for Costcutter, 183 Broad Street, Dagenham, RM10 9JD.

The Sub-Committee were advised that on 13 May 2015, an application for the review of the premises licence was received from Theo Lamptey, Chief Trading Standards Officer, London Borough of Barking and Dagenham under the licensing objectives prevention of crime and disorder and the protection of children from harm.

The current Premises Licence Holder and the Designated Premises Supervisor was held by Mr Sinnathamby Sabapathy. The authorised licensable activities, the times for carrying out licensable activities and a copy of the premises licence were appended to the report.

Mr Theo Lamptey was invited by the Chair to present the application for review to the Sub-Committee. Mr Lamptey advised that the review had been applied for as there had been two failed test purchases at the premises. He then asked Mr Vincent Searle, Trading Standards Officer, who investigated the case to present further information to the Sub-Committee.

Mr Searle advised the Sub-Committee that on Friday 30 January 2015, alcohol was sold to a 16 year old under a joint Trading Standards and Police test purchase operation. The shop failed to have CCTV in operation, which was a condition on the licence, and there was no refusal book available. Furthermore there also seemed to be some confusion over the ownership of the premises.

Following the underage sale, an investigation was undertaken by the trading standards officers, it was concluded that a number of conditions on the licence were not being adhered to and the owner of the business was not fully aware of his responsibilities.

Based on the evidence supplied to the Sub-Committee, Mr Seale requested that
the premises licence be suspended for three months.

Mr Noel Samaroo, the Premises Licence Holders representative, was present and in response to a question, was advised that the Council did use a red and yellow card system, whereby the Licence holder would initially be called in for an interview and be given a number of remedial steps by way of written agreement to improve the current situation, this would be viewed as the “Yellow Card”. If after a specified period of time and monitoring if there had been no sign of improvement the premises would be issued with a “Red card” which would mean the matter would be put forward to a Review hearing. However by using this process it did not stop any Interested Party or Responsible Authority from applying for a review at any time.

Andrew O’Connor PC 516KG was present on behalf of the Metropolitan Police who supported the review of the premises. Mr O’Connor raised concerns regarding the ownership of the business, training and lack of till prompts (particularly as the system was not used) and requested the following conditions be added to the licence along with the three months suspension suggested by the Trading Standards Office:

1. **Challenge 25 Scheme to be adopted** – The premises shall operate in accordance with the ‘Challenge 25’ scheme. The scheme operates on the basis that whilst alcohol may be sold to persons aged 18 years and over, anyone who is, or appears to be under 25 years of age will be asked for ID. Notices to this effect should be displayed in clear and prominent positions at these premises. The only proof of age accepted in respect of the sale of alcohol shall be a photo driving licence, passport, and other approved photographic ID bearing the PASS hologram.

2. **Refusal book in place and recorded regularly** – A refusals book shall be kept at the premises, in which must be recorded, the date, time and circumstances under which any attempted purchase by a young customer has been refused. This book must be made available for inspection by any police officer, police community support officer or authorised office of the Licensing Authority. Entries in this book must be made as soon as practicable after the refusal of the sale. The DPS should check and sign the entries on at least a weekly basis.

3. **CCTV Installed on the premises (Recordings must be kept for a minimum of 31 days)** – A CCTV system shall be installed, kept and maintained at all times during the currency of the license. The CCTV system serving the premises shall:
   a) Be maintained, fully operational and in good working order at all times (if the system breaks down then police should be informed immediately and repaired within two (2) working days);
   b) Make and retain clear images that include the points of sale of alcohol and facial images of the purchasers of the alcohol;
   c) The CCTV recordings shall show an accurate date and time that the recordings were made and all recordings shall be retained for a period of not less than 31 days;
   d) The original, or a copy of the CCTV recording, will be available on request to the Police and the Local Authority within 48 hours;
   e) Copies of CCTV recordings shall be provided in a format that can be viewed on readily available equipment without the need for specialist software.
4. **Staff Training** – All new members of staff shall, before first starting to sell alcohol, be trained as to their responsibilities under the Licensing Act 2003, namely sales to underage, persons already intoxicated, sales by proxy, licensable hours, conditions attached to the premises license. This training should be recorded in a staff training log showing what training has been given, to whom, by whom and on what date. This should be signed by the DPS as correct. These records shall be available on request to any Police Officer, Police Community Support Officer or an authorised officer of the Local Authority.

5. **Continuation Training** – All staff shall receive training on the prevention of underage sales at least every six (6) months. Such training shall be recorded in a Staff Training log showing what training has been given, to whom, by whom and on what date. This should be signed by the DPS as correct. These records shall be available on request to any Police Officer, Police Community Support Officer or an authorised officer of the Local Authority.

The Chair then invited Mr Mick McManus, Alcohol Co-ordinator, Substance Misuse Strategy Team to address the Sub-Committee. Mr McManus echoed the concerns of the Trading Standards Officers and the Police, advising that the premises were less than 400 metres from a secondary school and 200 metres from a local park. In response to a question from Mr Samaroo, Mr McManus advised that he had received no intelligence with regard to children attending the premises regularly to purchase alcohol, as this would be a matter for the Police to comment on.

The Chair invited Mr Samaroo to make representation to the Sub-Committee on behalf of his client, Mr Sabapathy.

Mr Samaroo advised those present that Mr Sabapathy was the current owner of the business; however he had considered selling it earlier in the year. On the day of the test purchase, the potential new owners were at the premises, with one looking at receipts and invoices in the till area. Despite being asked to call over Mr Sabapathy (who was showing the other potential owner how to stack the shelves) if a customer wished to buy alcohol, this did not happen. The alcohol was sold and the purchase was not run through the till system. Mr Samaroo felt it was unfortunate that the test purchase had taken place on one of the two days the potential owners had spent time in the premises.

The refusals book could not be found when it was requested as it had been moved when the premises was tidied up. However it had been found approximately one week later and had been used within the last fortnight.

Since the underage sale, the Sub-Committee were advised that a refusals book was now in place, the premises were operating “Challenge 25” and the CCTV system had been upgraded.

The Sub-Committee questioned when relevant training had last been undertaken at the premises and was advised this was undertaken by a company in 2012, however that company who provided the training had since dissolved and no further training had been undertaken. Mr Samaroo advised that he would be undertaking training with all staff at the premises as soon as possible and would repeat it at six month intervals.
The Chair then gave each party the opportunity to sum up before the Sub-Committee retired to deliberate.

DECISION

The Sub-Committee had regard to the Licensing Act 2003, The Statutory Guidance issued under Section 182 and the Council's Licensing Policy.

The Sub-Committee, in reaching their decision, had regard for the licensing objectives and in particular the objectives of crime and disorder and the protection of children from harm.

The Sub-Committee considered all the evidence placed before it including all written documentation and oral submissions.

The decision of the Sub-Committee was to suspend the premises licence for two weeks and to modify the conditions of the premises licence. The Sub-Committee felt that this was an appropriate and proportionate means of promoting the licensing objectives.

It was the Sub-Committee’s view that the respondent demonstrated a failure to have safe and settled procedures in place to negate the sale of alcohol to minors. This was demonstrated by the two failed test purchases and the failure to adhere to the current licensing conditions.

The Sub-Committee’s view was that the premises were acting irresponsibly. The Sub-Committee resolved to suspend the licence for a period of two weeks to provide for those procedures to be put in place. This period was proportionate to the time required for the respondent to put in place the steps required by the Sub-Committee.

Further, the Sub-committee agreed that in order to promote the licensing objectives to modify the conditions of the premises licence as follows:

The Prevention of Crime and Disorder

CCTV Installed on the premises (Recordings must be kept for a minimum of 31 days) – A CCTV system shall be installed, kept and maintained at all times during the currency of the license. The CCTV system serving the premises shall:

f) Be maintained, fully operational and in good working order at all times (if the system breaks down then police should be informed immediately and repaired within two (2) working days);

g) Make and retain clear images that include the points of sale of alcohol and facial images of the purchasers of the alcohol;

h) The CCTV recordings shall show an accurate date and time that the recordings were made and all recordings shall be retained for a period of not less than 31 days;

i) The original, or a copy of the CCTV recording, will be available on request to the Police and the Local Authority within 48 hours;

j) Copies of CCTV recordings shall be provided in a format that can be viewed on readily available equipment without the need for specialist software.

Lockable blinds installed
Heavy metal door installed at rear of premises

Security Grills installed to all windows

ADT alarm installed

Public Safety

Back and front light installed

Fire exit signs installed

The Prevention of Public Nuisance

Noise less compressors for the dairy cabinet installed

The compressors to be covered with wooden fence to prevent the noise

The Protection of Children from Harm

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Training

Staff Training – All new members of staff shall, before first starting to sell alcohol, be trained as to their responsibilities under the Licensing Act 2003, namely sales to underage, persons already intoxicated, sales by proxy, licensable hours, conditions attached to the premises license. This training should be recorded in a staff training log showing what training has been given, to whom, by whom and on what date. This should be signed by the DPS as correct. These records shall be available on request to any Police Officer, Police Community Support Officer or an authorised officer of the Local Authority.

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be available on request to any Police Officer, Police Community Support Officer or an authorised officer of the Local Authority.

There was a right to appeal this decision within 21 days commencing on the day that notification of the decision was received.