

Decisions of the Licensing Sub-Committee

21 June 2017

Members Present:-

Councillor John Hart
Councillor Wendy Prentice

Councillor Zakia Zubairi

1. APPOINTMENT OF CHAIRMAN

RESOLVED that Councillor John Hart be elected as Chairman.

2. ABSENCE OF MEMBERS (IF ANY)

None.

3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)

None.

4. LICENSING SUB-COMMITTEE HEARING PROCEDURE

The Chairman explained the procedure that would be followed for the meeting.

5. REVIEW OF PREMISES LICENCE – COSTCUTTER, 7-10, SILKSTREAM PARADE, WATLING AVENUE, LONDON, HA8 0EJ

The Committee considered the application to Review a premises licence under section 51 of the Licensing Act 2003.

6. MOTION TO EXCLUDE THE PRESS AND PUBLIC

RESOLVED that the parties be excluded from the meeting, together with the press and public, in accordance with regulation 14(2) of the Licensing Act 2003 (Hearings and Regulations) 2005.

7. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION

The Sub-Committee deliberated in private session, accompanied by officers from HB Public Law and the London Borough of Barnet Governance Service.

8. RE-ADMISSION OF THE PRESS AND PUBLIC: ANNOUNCEMENT OF THE DECISION OF THE SUB-COMMITTEE

The parties to the application were readmitted to the meeting and the Chairman conveyed the Sub-Committee's decision as follows:

In the matter of a Review of the Premises Licence of:

Costcutter

7-10 Silkstream Parade, Watling Avenue, London HA8 0EJ

DECISION NOTICE

This is a review of the Premises Licence of Costcutter, 7-10 Silkstream Parade, Watling Avenue, London HA8 0EJ (hereinafter "the Premises"). The Premises is licensed for the sale by retail of alcohol off the premises only.

The review, under section 51 of the Licensing Act 2003 is brought by the Metropolitan Police by an application dated on 01/03/17. The Police say the following licensing objectives relating to public safety and the protection of children from harm are being undermined. Supporting representations also referred to the prevention of Crime and Disorder. The Police say that this is the case for the following reasons:

1. On 21/10/16 the Premises failed a test purchase whereby four cans of lager were sold to a fifteen year old;
2. On 04/11/16 during a visit to the Premises conducted by the Council in its capacity as responsible authority neither a copy of Part A nor Part B of the Premises Licence could be produced in breach of section 57 of the Licensing Act 2003.
3. On 23/01/17 the Premises failed a second test purchase whereby a bottle of cider was sold to a seventeen year old. The member of staff who sold the alcohol said they did not realise it was an offence to sell alcohol to a person under the age of 18;
4. On 24/01/17, during a joint visit between the Police, HMRC the Council's licensing team, trading standards and the EHO, 4.2 litres of Whisky and 312 litres of Beer on which it is believed that no UK duty has been paid was found in a storage area at the rear of the Premises. Part B of the Premises Licence could still not be produced.

In addition to this, on 04/11/16 it was found that a CCTV camera was not operational and had not been for over a year. It was also found that footage captured by the CCTV system was not being stored for more than 10 days. On 24/01/17, the defective camera was found to still not be working. The Police submitted that Mr Demirbas had told them that stock was purchased from a man in a white van. The Police had been unable to meet the previous DPS, Mr Dogan, before the Licence was transferred to Mr Demirbas.

The Sub-Committee has reviewed and considered the written and oral evidence and representations set out within the papers and put forward by the parties at the hearing on 21/06/17.

The Licensee did not dispute the events set out by the Police and supported by the Licensing Authority and Trading Standards. The Licensee's Representative accepted that the Premises had not been well run. Mr Umit Demirbas has since had the Licence transferred into his name and made efforts to improve the way in which the Premises is run, including commissioning specialist advice.

The Sub-Committee noted that the Licensee had arranged for his own test sales to be carried out. Documents submitted by the Licensee indicated that these had been carried out on 18, 19, 20, 21 and 22 May 2017. All of these test sales had been successfully passed. It was further noted by the Sub-Committee that the Licensee had arranged for all staff to undertake a Prevention of Underage Sales training course. However, on reviewing the dates of these activities, the Sub-Committee saw that the Licensee had only arranged for them to be carried out after the Police had issued the application for a review. The Licensee's representative explained that this was after the License had been transferred to Mr Demarbis.

On behalf of the Licensee Mr Kilic of NARTS had submitted, by an e-mail dated 03/05/17, a list of conditions that the Licensee would like to have added to the Licence to prevent the licensing objectives being further undermined and to prevent revocation of this Licence as a result of this review. Conditions had been agreed between all parties immediately prior to the commencement of the meeting of the Sub-Committee.

Paragraph 11.27 of the Guidance to the Licensing Act 2003 sets out various matters that are to be treated as being particularly serious where the Sub-Committee is required to seriously consider, even in the first instance, revocation of the Licence on review. These matters include the storage and sale of smuggled tobacco and alcohol. It is clear that smuggled alcohol is being stored in the Premises; it may have been sold from the premises.

The Sub-Committee were not impressed that conditions were only agreed immediately prior to the meeting of the Sub-Committee. The Sub-Committee were of the view the parties had had plenty of time to agree conditions before the meeting.

The Sub-Committee considered revocation of the Licence but concluded that this was not an appropriate case for revocation in view of the good intentions shown by Mr Demirbas. However, the Sub-Committee were not satisfied that condition 6 was appropriate and determined that it should be amended to not permit any sales of beer, larger or cider above 6.5% abv either in quantities of three or more or at all. The Sub-Committee were concerned that high strength beer, lager or cider could be sold to children or street drinkers.

The Sub-Committee therefore resolved that the Licence be amended as follows

1. Conditions 4, 5 and 6 be removed from Annex 2 of the current licence;
2. An external agency to be employed to undertake quarterly test purchases with the reports sent directly by the agency to Trading Standards and Barnet Licensing and Barnet Police Licensing Unit.
3. An external agency to be employed to give all new staff appropriate training on induction and to give refresher training to all staff on a minimum 6 monthly basis. Copies of the training records provided by the agency are to be sent directly to Trading Standards and Barnet Licensing. Copies of these training records will be held at the Premises. Evidence of such training must be made available when requested by an enforcing authority.
4. Goods purchased and provided for sale by retail at the premises will be purchased from a reputable source. Persons responsible for the recruiting of such suppliers shall undertake a due diligence check on chosen suppliers to ensure all invoices

are available for all items purchased by the Premises and that these are available for inspection by an enforcing authority. The Premises shall ensure a robust stock control system is implemented and managed with the Premises ensuring that identified staff receive training in the stock control system.

5. The Premises shall operate a challenge 25 policy. Anyone attempting to purchase alcohol who appears under the age of 25 years shall be required to produce valid photo ID (such as a photocard, driving licence, passport or PASS accredited age verification card) to prove that they are 18 years or older. Failure to produce acceptable ID shall result in a refusal of the sale. This refusal shall be documented in the refusals/incident log. Prominent signage notifying patrons of the challenge 25 scheme shall be displayed in the premises.
6. The premises will not sell any beer, lager or cider than exceeds the strength of 6.5% abv or higher.
7. An incident log shall be kept at the Premises and made available on request to an authorised officer of the Council or the Police. The incident log will record the following:
 - (a) All crimes reported to the Premises.
 - (b) All ejections of patrons.
 - (c) Any complaints received.
 - (d) Any incidents of disorder.
 - (e) All seizures of drugs or offensive weapons.
 - (f) Any faults in the CCTV system.
 - (g) Any visits by a relevant authority or an emergency service.
 - (h) Any incidents where persons have attended the Premises in an attempt to sell goods to the Premises which could reasonably be considered counterfeit or smuggled.
 - (i) All refused sales of alcohol including the date and time of the refused sale and the name of the member of staff who refused the sale.
8. CCTV
 - (a) The Premises shall have a multi-camera, colour, digital recording, CCTV system.
 - (b) The head unit (recorder) for storing images will store such data on a hard drive or a similar quality medium.
 - (c) If the head unit (recorder) is kept on the premises it must be located in a secure cabinet or other secure area, preferably out of the sight and reach of the public. The unit must be further secured by physical means to prevent anyone from merely picking up and removing the unit, e.g. a secure metal boot or metal case strap, bolted on to an immovable object like a wall or floor.
 - (d) A CD, DVD burner or USB type device will also form part of the system to facilitate making copies of the footage.
 - (e) The quality of the images must be of a sufficiently high standard to allow identification of the subject matter.
 - (f) Cameras will cover key areas identified by the operator and Police. These will include clear headshots of persons entering the shopping area, the till area and areas where alcohol are displayed for sale.
 - (g) Images must be retained for a minimum period of 31 days before overwriting.

- (h) The images will be made available in reasonable time on demand by the Police and authorised officers of the London Borough of Barnet.
- (i) At all times when the premises are open there shall be at least one person who is capable of operating the CCTV system if required to do so by the Police or authorised officers of the London Borough of Barnet.
- (j) This system will be fully maintained at all times to ensure correct operations;

9. The Licence holder will not engage in any irresponsible drinks promotions.

Right of Appeal

Any party aggrieved with the decision of the licensing Sub-Committee on one or more of the grounds set out in schedule 5 of the Licensing Act 2003 may appeal to the magistrates' court within 21 days of notification of this decision.

Dated: 21 June 2017

9. ANY OTHER ITEM(S) THE CHAIRMAN DECIDES ARE URGENT

None.