

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Tuesday 6 May 2014 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Lorraine Lauder MBE
Councillor Adele Morris

**OTHERS
PRESENT:** P.C. Ian Clements, Metropolitan Police Service
Debra Silvester, licensing representative for Costcutter
Waheed Allahgul, representative from Costcutter
Frank Fender, legal representative for Right Price
Shahmamood Daulatzai, representative from Right Price
Robert Bothkay, representative from Sainsbury's
Joanne Surguy, representative from Sainsbury's

**OFFICER
SUPPORT:** Cynthia Barrientos, legal officer
Kristie Ashenden, licensing officer
Mark Orton, licensing officer
David Swaby, licensing officer representing the council as a responsible authority
Andrew Weir, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: COSTCUTTER, 257-259 SOUTHWARK PARK ROAD, LONDON SE16 3TP - REVIEW

The licensing officer presented their report. Members had questions for the licensing officer.

The trading standards officer addressed the sub-committee. Members had questions for the trading standards officer.

The Metropolitan Police Service representative addressed the sub-committee. Members had questions for the police representative.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had no questions for the officer.

The representative from the premises addressed the sub-committee. Members had questions for the representative from the premises.

All parties were given five minutes for summing up.

The licensing sub-committee went into closed session at 11.47am.

The licensing sub-committee resumed at 1.30pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the council's licensing sub-committee, having had regard to the application by other persons for a review of the premises granted under the Licensing Act 2003 in respect of the premises known as Costcutter, situated at 257-259 Southwark Park Road, London SE16 3PT and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives to revoke the licence.

Reasons

This was a hearing of an application by trading standards for a review of the premises known as Costcutter situated at 257-259 Southwark Park Road, London SE16 3TP

This application was made under Section 51 of the Licensing Act 2003.

The licensing sub-committee heard evidence from trading standards, the applicant for the review who made representations in relation to the prevention of crime and disorder and the protection of children from harm licensing objectives. The officer advised that they had conducted a joint inspection of the premises with HMRC on 31 January 2014. On inspection, 210 bottles were found to have failed to comply with the fiscal markings of duty

paid. All items were seized and 31 bottles of Glens Vodka were identified as being counterfeit.

At the time of the inspection, Mr Sayed Safi claimed to be the manager of the shop but did not hold a personal licence. Trading standards confirmed that he had been the premises licence holder since June 2009 and at the time of inspection Mr Waheed Allahgul was the designated premises supervisor. Mr Safi was unable to say where the alcohol had come from or produce any invoices.

The officer advised that a number of breaches of the licence were found. These included that no alcohol licence was displayed, no personal licence holder was on the premises while intoxicating liquor was being sold, there was no proof of age scheme available on site, no refusal book for the sale of alcohol or any recent training records were available. Mr Safi was unable to answer the questions put to him by the trading standards officer and said that he had only been at the premises for three months, despite being a premises licence holder since 2009. Mr Safi appeared to be reliant on Mr Allahgul, who was called to attend the premises to provide documents and information to the officers. Upon inspecting the documents produced by Mr Allahgul it was found that the last entry for the refusal of sales book was 3 February 2012 and the last training record was 18 March 2011.

In the opinion of the trading standards officer, the inclusion of additional conditions on the licence would be of little value in achieving compliance with the licence.

The licensing sub-committee heard from the licensing officer representing the council as a responsible authority who advised the sub-committee that they supported the review by trading standards. They advised that it appeared that the premises had a complete disregard to the licence conditions.

The licensing sub-committee heard from the Metropolitan Police Service who also supported the review. They advised that the premises had scant regard for the licensing objectives in relation to the prevention of crime and have allegedly been involved in crimes regarding counterfeit goods or the non payment of duty. In their opinion there was little by way of conditions the officer could offer which would satisfy the licensing objectives and as such they felt that the only route was to revoke the licence.

The licensing sub-committee heard evidence from the licensing agent representing the premises. They advised that the current licence holder and designated premises supervisor had been in custody from 19 April 2013 to 28 October 2013. They claimed that during this time the licence had been transferred back to Mr Sayed Safi, Mr Allahgul's brother-in-law. It was during this period that Mr Allahgul believed that the purchase of the counterfeit alcohol had taken place.

The agent advised that on the day of the trading standards inspection a personal licence holder had been present but had suffered a head injury and had gone home with the intention of returning within an hour. This evidence was countered by the trading standards officer who advised that this was the first time that he had heard of this as nobody had raised this as a reason for no personal licence holder being available at the time of inspection. He also advised that he had been at the premises for around two hours and a personal licence holder had not returned during this period. It was accepted that Mr Safi should have been advised not to sell any alcohol during this period when the personal

licence holder was off the premises. They advised that Mr Safi had been unable to find the documents requested by the officers because the shop window had been broken, leading to water ingress and damage to the documents.

The licensing agent offered to circulate a large number of various documents to the sub-committee. However, the sub-committee had not been notified of this before or at the beginning of the meeting and none of the other parties had been given sight of these documents. Having had regard to Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005 the sub-committee resolved not to admit this late evidence.

Mr Allahgul advised the sub-committee that he had asked Mr Sayed Safi to run the premises in his absence and had relied on him to run the business in accordance with the licence. He informed the sub-committee that he had been completely unaware of the 210 bottles of alcohol at the premises, subsequently confiscated by HMRC and was shocked to hear of this. He advised that he had taken an active role of the running of the premises from April 2014 and had applied to transfer the premises licence back to his own name from 24 March 2014.

On hearing all the evidence put before it, the sub-committee felt that there were several inconsistencies in the evidence presented by the premises licence holder. The sub-committee did not have faith in the current management to implement existing conditions on the licence, let alone adhere to any additional conditions, particularly in light of the previous warnings on February 2010 and 29 August 2012. The premises has been wilfully disregarding the licensing conditions and licensing objectives and as such the licensing sub-committee had no alternative but to revoke the licence.

In reaching this decision the sub committee had regard to all the relevant considerations and the four licensing objectives.

The licensing sub-committee considered that its decision was appropriate and proportionate in order to address the licensing objectives.

Appeal rights

This decision is open to appeal by:

- a) The applicant for the review
- b) The premises licence holder
- c) Any other person who made relevant representations in relation to the application.

Such appeal must be commenced by notice of appeal given by the appellant to the justices clerk for the magistrates court for the area within the period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

This decision does not have effect until either:

- a) The end of the period for appealing against this decision or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

6. LICENSING ACT 2003: RIGHT PRICE SUPERMARKET 214-216 BOROUGH HIGH STREET, LONDON SE1 1JX - REVIEW

The licensing officer presented their report. Members had questions for the licensing officer.

The trading standards officer addressed the sub-committee. Members had questions for the trading standards officer.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had no questions for the officer.

The Metropolitan Police Service representative addressed the sub-committee. Members had questions for the police representative.

The representative from the premises addressed the sub-committee. Members had questions for the representative from the premises.

All parties were given five minutes for summing up.

The licensing sub-committee went into closed session at 2.40pm.

The licensing sub-committee resumed at 3.29pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the council's licensing sub-committee, having had regard to the application by other persons for a review of the premises granted under the Licensing Act 2003 in respect of the premises known as Right Price Supermarket, situated at 214-216 Borough High Street, London SE1 3TP and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives to revoke the licence.

Reasons

This was a hearing of an application by trading standards for a review of the premises known as Right Price Supermarket situated at 216-218 Borough High Street, London SE1 3TP.

This application was made under Section 51 of the Licensing Act 2003.

The licensing sub-committee heard evidence from trading standards, the applicant for the review, who made representations in relation to the prevention of crime and disorder and the protection of children from harm licensing objectives. The officer advised that they had conducted a joint inspection of the premises with HMRC on 31 January 2014. On inspection 156 litres of duty evaded Italian wine, 76 litre of duty evaded sparkling Italian wine and 3.5kg of duty evaded shisha were found at the premises. All items were seized and receipts and invoices were requested. However, to date no receipts or invoices have been received by the authorities.

On 12 February 2013, following a complaint, trading standards visited the premises to inspect tobacco. On inspection 6.8kg of shisha was found. The trading standards officer advised that none of this shisha complied with relevant health labelling requirements, nor had any duty been paid.

On 22 January 2014, trading standards officers visited the premises on a pre-arranged advisory visit. No personal licence holder was present at the premises at this time. During this visit, matters were identified requiring attention.

On 7 February 2014, there was no personal licence holder on the premises when alcohol was supplied and on the same date, at 00.20 hours alcohol was sold outside of the licensed hours as part of a test purchase.

On 11 February 2014, as part of a test purchase, a 14 year old female was sold a bottle of Malibu Z Pear and a packet of ten Marlboro cigarettes without questioning or verifying her age.

The trading standards officer informed the sub-committee that in their opinion the inclusion of additional conditions on the licence would be of little value in achieving compliance with the licence.

The licensing sub-committee heard from the licensing officer representing the council as a responsible authority who advised the sub-committee that they supported the review by trading standards. They advised that the premises had knowingly or carelessly sold alcohol and tobacco to the most vulnerable group, children. He was sceptical that any further conditions to the licence would be adhered to.

The licensing sub-committee heard from the Metropolitan Police Service who advised that they supported the review. They informed the sub-committee that the operation of this premises fell far below the standards expected. They further advised that they did not think that additional conditions were workable and supported a revocation of the licence.

The licensing sub-committee heard evidence from the representative from Right Price Supermarket who advised that the premises licence holder accepted that he was responsible for any breaches of the licence that happened at the premises, despite delegating management of the premises. The premises licence holder was not aware of the breaches of the licence until after the inspections.

The representative advised that the premises licence holder had made the robust decision to change management of the premises and proposed a number of additional conditions to be added to the licence, which in their opinion addressed the licensing objectives. On the agreement of all parties, the sub-committee allowed the admission of a list of the proposed conditions. The representative also proposed a three month suspension of the licence.

In summing up, in response to the list of proposed conditions and suggested three month suspension of the licence, the trading standards officer advised that in their opinion that a number of the proposed conditions would be unworkable. He also added that there would be no control over who took over the management of the premises and whether they would adhere to the proposed conditions.

In light of the serious nature and the number of breaches of the licence conditions,

including underage sale of tobacco and alcohol to a 14 year old, the sub-committee have no faith in the management of the premises to implement additional conditions. The sub-committee resolved to revoke the licence and suggested that any new management of the premises apply for a new licence including a detailed operating schedule in their own right.

In reaching this decision the sub committee had regard to all the relevant considerations and the four licensing objectives.

The licensing sub-committee considered that its decision was appropriate and proportionate in order to address the licensing objectives.

7. LICENSING ACT 2003: SAINSBURY'S, 58 GREAT DOVER STREET , LONDON SE1 4YF

The licensing officer presented their report. Members had questions for the licensing officer.

The applicant addressed the sub-committee. Members had questions for the applicant.

The licensing sub-committee went into closed session at 3.55pm.

The licensing sub-committee resumed at 4.32pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the application by Sainsbury's Supermarkets Ltd for a grant of a premises licence issued under the Licensing Act 2003 in respect of Sainsbury's , 58 Great Dover Street, London SE1 4YF is granted as follows:

Licensable Activity	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Sale and supply of alcohol (on the premises)	07.00 to 23.00	07.00 to 23.00	07.00 to 23.00	07.00 to 23.00	07.00 to 23.00	07.00 to 23.00	07.00 to 23.00
Hours premises are open to the public	00.00 to 00.00	00.00 to 00.00	00.00 to 00.00	00.00 to 00.00	00.00 to 00.00	00.00 to 00.00	00.00 to 00.00

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in Section M of the application form and the following condition:

- That no alcohol to be stored or displayed within two metres of the entrance door.

Reasons

This was an application submitted by Sainsbury's Supermarkets Ltd for a grant of a Premises Licence issued under the Licensing Act 2003 in respect of Sainsbury's, 58 Great Dover Street London SE1 4YF.

The licensing sub-committee heard evidence from the applicant who informed the sub-committee that they had conciliated with the Metropolitan Police Service and had agreed the additional condition above. The police had initially proposed six conditions but it was later found that five of these were already part of the operating schedule. The police withdrew their representation on the basis that the one remaining condition be added to the licence.

The applicant advised that they already had ten Sainsbury's Locals in Southwark, none of which have been a cause for concern. They advised that the conditions, included in their operating schedule had been developed over time, following consultation with ward councillors and responsible authorities. They went on to inform the sub-committee that they had robust procedures in place in relation to the training of all staff and their Challenge 25 policy.

In relation to the one outstanding representation from a residents' management company, the applicant advised that they had approached the management company during the planning process with a view to discuss their concerns. However, this was declined and the applicant decided not to approach the management company in respect of the conciliation of the licensing application.

In response to the representation on public nuisance, the applicant advised that having run ten other Sainsbury's Local stores in the borough that there was no evidence that granting the licence to sell alcohol to this premises would lead to an increase in antisocial behaviour.

The licensing sub-committee noted the written objection from the local residents' management company as no representatives were in attendance.

The sub-committee found that there were no reasonable grounds to refuse the application. The sub-committee suggested that the applicant liaised with local residents in order to address any issues that may arise in the future.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives.

The licensing sub-committee considered that it was appropriate and proportionate to attach this condition in order to address the licensing objectives.

Appeal rights

The applicant may appeal against any decision:

- a) To impose conditions on the licence
- b) To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a) That the licence ought not to be granted; or
- b) That on granting the licence, the licensing authority ought to have imposed different or additional conditions to the licence, or ought to have modified them in a different way

May appeal against the decision.

Any appeal must be made to the magistrates' court for area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

The meeting closed at 4.40pm.

CHAIR:

DATED: