



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Tuesday 1 September 2015 at 11.30 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Sunny Lambe (Chair)
Councillor Eliza Mann
Councillor Sandra Rhule

OTHERS PRESENT: Jabbar Ahmed, designated premises supervisor
Alan Aylott, legal representative for the premises
Muhammad Jamil Babar
P.C. Graham White, Metropolitan Police Service

OFFICER SUPPORT: Debra Allday, legal officer
Dorcas Mills, licensing officer
Bill Masini, trading standards officer
David Franklin, 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. In the absence of the chair, Councillor Sunny Lambe was nominated by Councillor Sandra Rhule to chair the meeting. This was seconded by Councillor Eliza Mann.

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: PAYLESS FOOD & WINE, 4 - 5 BADMINTON HOUSE, DOG KENNEL HILL, LONDON SE22 8BH

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

The trading standards officer, the applicant for the review addressed the sub-committee. Members had questions for the trading standards officer. The chair allowed the legal representative for the premises to ask questions of the trading standards officer also.

The Metropolitan Police Service representative addressed the sub-committee. Members had questions for the Metropolitan Police Service representative. The chair allowed the legal representative for the premises to ask questions of the police representative also.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had questions for the licensing officer. The legal officer advising the sub-committee also had questions for the licensing officer.

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

All parties were given five minutes for summing up.

The meeting went into closed session at 1.37pm.

The meeting resumed at 3.20pm 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 trading standards for a review of the premises licence in respect of Payless Food & Wine, 4 – 5 Badminton House, Dog Kennel Hill, London SE22 8BH and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives to suspend the premises licence for a period of 28 days and to modify the licence conditions as follows:

1. That the premises shall operate an agecheck 'Challenge 25' policy whereby customers purchasing alcohol who look or appear to be under 25 years of age will be asked for an approved form of proof of age to verify their age. Approved forms shall include a driving licence, passport or a PASS approved proof of age card such as the Proof of Age London (PAL) card.
2. That all staff involved in the sale of alcohol shall attend a recognised training scheme which will include training in the agecheck 'Challenge 25' policy. They must obtain a certificate of competence. A record of their training, including the dates that each

member of staff is trained, shall be available for inspection at the premises on request by the council's authorised officers or the police.

3. That agecheck or 'Challenge 25' signage shall be displayed at entrances to the premises, areas where alcohol is displayed for sale and at points of sale to inform customers that an agecheck 'Challenge 25' policy applies and proof of age may be required
4. That a register of refused sales of alcohol and if applicable, cigarette sales which is clearly marked with details of the premises, address and name of licence holder shall be maintained in order to demonstrate effective operation of the policy. On a monthly basis, the designated premises supervisor shall check the register to ensure it is being properly completed. He/she shall sign and date the register to that effect and, where appropriate, take corrective action if the register is not being completed correctly and in a timely manner. The register shall be available for inspection at the premises on request by the council's authorised officers or the police.
5. That there shall be a personal licence holder on the premises at all times alcohol is available for supply for the purpose of supervising such sales.
6. That no beers, lagers or ciders in single cans, bottles or multi-packs with an ABV of more than 6% will be displayed, sold or offered for sale from the premises.
7. That condition 101 shall be amended to read: "Every supply of alcohol under the premises licence must be made, or authorised by, a person who holds a personal licence. That authorisation must also be in writing and displayed on the premise adjacent to the display of the licence summary where the police or the council's authorised officers can inspect it.
8. That Mr Jabber Ahmed shall not be the designated premises supervisor.

Reasons

This was an application by trading standards for a review of the premises licence in respect of Payless Food & Wine, 4 – 5 Badminton House, Dog Kennel Hill, London SE22 8BH.

The licensing sub-committee heard from the trading standards officer, the applicant for the review who advised that the reason why this shop was visited on 10 April 2015 by trading standards and the Metropolitan Police Service was because a complaint had been made by members of the public living nearby via Southwark Council's members' office. The nature of the complaint was that people were being rowdy when they left the premise next to Payless and also urinating in the public areas outside. However, it was noted that this premises does not have a premises licence. The sub-committee were of the view that on the balance of probability these individuals were more likely to have come from the Payless premises.

On 10 April 2015 officers found that there was only one member of staff working at the premises (breach of condition 340) and that individual was unaware of the refusals register and had not received any training other than not to sell alcohol to children. He also knew nothing about training records or how to access the CCTV system. There was also a bottle opener at the cash register should customers wish to have their bottles opened after

purchase. In addition, he knew nothing about the minimum requirement of three staff at that time of day.

A further inspection took place on 17 April 2015 at 23.00 and it was noted that there was no attempt to close the front door and use the window service (breach of condition 342). When questioned by officers the member of staff stated that normally they would close the front door at 23.30 on Monday to Thursday and at approximately 01.00 over the weekends. The member of staff also advised that he knew nothing about the minimum number of people who were required to work at the premises at a given time. They advised that the designated premises supervisor (DPS) had just left the shop prior to the officer's visit, which also indicated the DPS's disregard to condition 342. When asked about training, the member of staff said that he had not been given any training other than not to sell alcohol or cigarettes to children. He did not know about a refused sales register, training records or how to access the CCTV system.

Trading standards further visited the premises on 28 August 2015 at 11.50. They found that there were only two members of staff working (breach of condition 340). When the officer looked at the refused sales register it was observed that this was completed up until 31 July 2015 but there were no entries for August. There was an entry dated 17 July 2015 signed by a member of staff who was not on the training records (breach of condition 343). A further member of staff was identified as an employee but they were not on the training records either.

The licensing sub-committee heard from the Metropolitan Police Service representative who advised that they supported the review with particular regard to the prevention of crime and disorder. Their main concern was the failure to comply with the window service condition (condition 342). By not complying with this condition the premises was putting the safety of both staff and the public at risk. As such the police had no faith in the current management in the running of the premises.

The sub-committee heard from the licensing officer representing the council as a responsible authority who also advised that they supported the review. They advised the sub-committee of additional breaches of the licence conditions, namely on 12 May 2015, the CCTV could not be operated by staff and on 6 June 2015, only two members of staff were in attendance when there should have been three. It was also noted that on 19 June 2015 officers spoke with the premises about street drinkers and high strength beer sales and that from time to time street drinkers would congregate outside the premises begging and attempting to purchase alcohol.

The licensing sub-committee heard from the representative of Payless Food & Wine who advised that the review application was made against Select and Save Foodstore Ltd and that Mr Jabbar Ahmed was the DPS. On 28 August 2015 the premises licence transfer application was submitted on behalf of Payless Food and Wine Ltd, of which Mr Ahmed is the sole director. On the same day, a DPS transfer was submitted. These are now subject to a consultation. In respect of the review it was accepted that there had been a number of failings and in large the premises was compliant with the licence conditions. The DPS transfer had been submitted in anticipation of today's review and it was accepted that there was a real risk that the DPS would be removed.

They advised that condition 340 was particularly onerous to a business of this size and that the non-compliance of this condition could not be considered as undermining the

licensing objectives. This was not a case for revocation but for compliance. Concerning the alleged breaches on 28 August 2015, the representative suggested that this was trading standards officers on a “fishing expedition” and in any event did not undermine the licensing objectives.

The premises licence holder should be reminded of section 182 of the Licensing Act 2003 guidance paragraph 2.3 that reads “Conditions should be targeted on deterrence and preventing crime and disorder”. During the course of this review process there have been seven visits to the premises and on five occasions the premises have been non-compliant with their licensing conditions. These are all serious breaches and crime is less likely to take place when these conditions are being adhered to.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and felt that this decision was appropriate and proportionate in order to address the licensing objectives.

Appeal rights

This decision is open to appeal by either:

- 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
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

Meeting ended at 3.30 pm

CHAIR:

DATED: