

Licensing Sub-Committee

MINUTES of the Licensing Sub-Committee held on Monday 4 July 2011 at 10.00 am at Town Hall, Peckham Road, London SE5 8UB

PRESENT: Councillor Sunil Chopra (Chair)
Councillor Adele Morris
Councillor Renata Hamvas

OTHERS PRESENT: Councillor Dora Dixon-Fyle (Observing)
Councillor Michael Bukola (Observing)
Bill Masini, Trading Standards (Applicant)
Ilknur Kilic, licensee
Ali Kilic
Justin Shale, Barrister
Salman Tumay, licensee
Suleyman Yuzuguzel, licensee
Colin Turner, Barrister

OFFICER SUPPORT: Jayne Tear, Licensing Officer
Felix Rechtman, Legal Officer
Kenny Uzodike, Constitutional Officer

1. APOLOGIES

There were none.

Councillors Michael Buloka and Dora Dixon-Fyle were in attendance to observe the proceedings.

2. CONFIRMATION OF VOTING MEMBERS

The three members present were confirmed as voting members.

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

There were none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

Councillor Adele Morris declared a personal and non prejudicial interest in item 6. She

informed the committee that she resides in the area but not within 100 meters of the location of the premises.

5. LICENSING ACT 2003 - DULWICH SUPERMARKET, 18 LORDSHIP LANE, LONDON SE22 8NH

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

The trading standards officer presented the application for a review of the premises license. Members had questions. The licensees' legal representative had questions for the officer.

The licensees' legal representative addressed the sub-committee.

All parties were given 5 minutes to sum up.

At 10.40am the meeting went into closed session to discuss the application.

At 11.00am the meeting resumed and the chair read out the following decision:

RESOLVED:

The council's licensing sub-committee, having had regard to the application by the council's trading standards department for a review under section 51 of the Licensing Act 2003 of premises licence granted to Mr Salman Tumay and Mr Suleyman Yuzuguzel in respect of premises known as Dulwich Supermarket, 18 Lordship Lane, London SE22 8NH and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives and specifically the protection of children from harm objective to modify the licence as follows:

1. Add the 4 additional conditions proposed by Trading Standards in their submissions which are listed as follows:
 - The premises shall operate an age-check '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 Southwark Proof of Age (SPA) card;
 - All staff involved in the sale of alcohol shall be trained in the age-check 'Challenge 25' policy. A record of their training, including the dates that each member of staff is trained, shall be available for inspection on request by the council's authorised officers or the Police;
 - Age-check 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 age-check 'Challenge 25' policy applies and proof of age may be required;
 - A register of refused alcohol and cigarettes sales, which is clearly marked

with the details of the premises, address and name of licence holder, shall be maintained in order to demonstrate effective operation of the policy. The register shall be available for inspection at the premises on request by the council's authorised officers or the Police.

Such conditions to be implemented within 28 days from the date of the sub-committee meeting.

2. The sub-committee also found it necessary to add a further condition whereby "A personal licence holder shall be present on the premises at all times when licensable activities are undertaken."

Reasons

The reasons for this decision are as follows:

The sub-committee heard evidence from trading standards that on 3 separate occasions sale of cigarettes were made to a minor.

The sub-committee further heard evidence from trading standards that free training was offered following the first sale and attended by the seller and one of the Designated Premises Supervisor (DPS). The sub-committee further heard from trading standards that 4 conditions should be added to the licence as per page 14 of the Agenda.

The sub-committee found this conduct to be unacceptable and in clear breach of the protection of children from harm objective in the Licensing Act 2003 and view such breaches very seriously.

The sub-committee heard from the licensee that they accepted there was a failure on their part and the part of management which resulted in breaches of the licensing objective. Having accepted responsibility for the breaches, the licensee, submitted that the 4 conditions proposed by trading standards should be added to the licence and that no further breaches will occur.

The sub-committee also heard evidence from the licensing officer that an inspection took place on 22 June and premises were found in full compliance with their licence.

In the circumstances the sub-committee found it is necessary and proportionate to add to the license the 4 conditions proposed by trading standards (referred to above) and necessary to amend the proposed condition 4 to read "a Register of refused alcohol and cigarettes sales, which is clearly marked with the details of the premises, address and name of licence holder, shall be maintained in order to demonstrate effective operation of the policy. The register shall be available for inspection at the premises on request by Council's authorised officers or the police."

The sub-committee also found it necessary to add a further condition whereby "A personal licence holder shall be present on the premises at all times when licensable activities are undertaken."

Appeal Rights

This decision is open to appeal by either:

- a) The applicant for the review;
- b) The premises licence holder; or
- 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 chief executive 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 - BLUE MOON, 38 - 40 HARPER ROAD, LONDON SE1 6AD

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

The trading standards officer presented the application for a review of the premises. Members had questions. The legal representative of the licensee had questions for the officer.

The sub-committee heard from the licensee and asked questions.

All parties were given 5 minutes to sum up.

At 11.46am the meeting went into closed session to discuss the application.

At 12.08pm the meeting resumed and the chair read out the following decision:

RESOLVED:

The council's licensing sub-committee, having had regard to the application by Trading Standards for a review of the premises licence granted under the Licensing Act 2003 to Ilknur Kilic in respect of the premises known as Blue Moon Supermarket, 40 Harper Road, London SE1 6AD and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives and specifically the protection of children from harm objective to modify the licence as follows:

1. Add the 4 additional conditions proposed by Trading Standards in their submissions which are listed as follows:
 - The premises shall operate an age-check '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 Southwark Proof of Age (SPA) card;

- All staff involved in the sale of alcohol shall be trained in the age-check 'Challenge 25' policy. A record of their training, including the dates that each member of staff is trained, shall be available for inspection on request by the council's authorised officers or the Police;
- Age-check 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 age-check 'Challenge 25' policy applies and proof of age may be required;
- A register of refused alcohol and cigarettes sales (to be approved by Trading Standards), which is clearly marked with the details of the premises, address and name of licence holder, shall be maintained in order to demonstrate effective operation of the policy. The register shall be available for inspection at the premises on request by the council's authorised officers or the Police.

Such conditions to be implemented within 28 days from the date of the sub-committee meeting.

2. The sub-committee also found it necessary to add a further condition whereby "A personal licence holder shall be present on the premises at all times when licensable activities are undertaken."

Reasons

The reasons for this decision are as follows:

The sub-committee heard evidence from trading standards that on 2 separate occasions sale of alcohol and cigarettes were made to a minor and on the 3rd occasion cigarettes alone were sold to a minor.

The sub-committee further heard evidence from trading standards that free training was offered following the first sale and attended by the seller and the licence holder. The sub-committee further heard from trading standards that 4 conditions should be added to the licence as per page 39 of the Agenda.

The sub-committee found this conduct to be unacceptable and in clear breach of the protection of children from harm objective in the Licensing Act 2003 and view such breaches very seriously.

The sub-committee heard from the licensee that they accepted there was a failure on their part and the part of management which resulted in breaches of the licensing objective. Having accepted responsibility for the breaches, the licensee, implemented a challenge 25 policy at premises and further introduced a refusal register at the premises. The licensee further submitted that the 4 conditions proposed by trading standards should be added to the licence and that no further breaches will occur.

In the circumstances the sub-committee found it is necessary and proportionate to add to the license the 4 conditions proposed by trading standards (referred to above) and to amend the proposed condition 4 to read "a register of refused alcohol and cigarettes sales (to be approved by Trading Standards), which is clearly marked with the details of the premises, address and name of licence holder, shall be maintained in order to demonstrate effective operation of the policy. The register shall be available for inspection at the premises on request by council's authorised officers or the police."

The sub-committee also found it necessary to add a further condition whereby "A personal licence holder shall be present on the premises at all times when licensable activities are undertaken."

Appeal Rights

This decision is open to appeal by either

- d) The applicant for the review;
- e) The premises licence holder; or
- f) 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 chief executive 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

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

The meeting closed at 12.08pm.

CHAIR:

DATED: