



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 4 April 2013 at 10.00 am at Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Sunil Chopra (Chair)
Councillor Lorraine Lauder MBE
Councillor Adele Morris

OTHERS PRESENT: Zeeshan Khan, representative from Costless Express
Abid Hussain, representative from Costless Express
Barry Craig, licensing agent representing Costless Express

OFFICER SUPPORT: Debra Allday, legal officer
Wesley McArthur, licensing officer
Bill Masini, trading standards officer
Andrew Weir, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The three 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 - COSTLESS EXPRESS, 276 LOWER ROAD, LONDON, SE8 5DJ

The licensing officer presented the 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 representatives from Costless Express addressed the sub-committee. Members had questions for the representatives from Costless Express.

The sub-committee went into closed session at 12.20pm.

The sub-committee resumed at 2.05pm 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 this council's trading standards team for a review of the premises granted under the Licensing Act 2003 to Mr Zeeshan Khan in respect of the premises known as Costless Express, 276 Lower Road, London SE8 5DJ, and having had regard also to all relevant representations has decided it necessary for the promotion of the licensing objectives to:

Modify the conditions of the licence as set out below, in addition to the mandatory conditions:

Conditions

1. That conditions 342, 343 and 344 be removed from the licence.
2. 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 Southwark Proof of Age (SPA) card.
3. That all staff involved in the sale of alcohol shall attend a training course which will include training in the agecheck 'Challenge 25' policy, age recognition techniques, the law relating to the sale of alcohol and how to prevent/deal with conflict. A record of their training, including the dates that each member of staff is trained and an accurate summary of the training material/content shall be available for inspection at the premises on request by the council's authorised officers or the police.
4. 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.

5. 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. The register shall be available for inspection at the premises on request by the council's authorised officers or the police.
6. That an electronic point of sale (EPOS) system is installed at the premises. It shall be configured to prompt the operator to check proof of age when an alcoholic product is scanned. The prompt should require the operator to confirm the purchaser is over 18 before the next item can be scanned or the transaction completed.
7. That, if any advertising campaigns or promotions of alcohol are planned, the premises licence holder shall ensure that they are carried out in a socially responsible manner and that they do not encourage irresponsible drinking. If authorised officers raise concerns about any promotion the premises licence holder shall discontinue it.
8. That there be a minimum number of three personal licence holders available such that there can always be a minimum of one at all times on the premises at all times that alcohol is sold.

Reasons

This was a hearing of an application the Southwark Council environmental team for a review of the premises know as Costless Express, 276 Lower Road, London SE8 5DJ. This application was made under Section 51 of the Licensing Act 2003.

The licensing sub-committee heard evidence from the Southwark Council trading standards team, the applicant for the review, who made the application for review based on two grounds:

1. Prevention of crime and disorder
2. Protection of children from harm.

The officer advised the committee that on 8 December 2012 the trading standards team, together with the police, attended the premises and there was no personal licence holder on the premises when alcohol and tobacco were sold to a sixteen year old female. The sale was made by a male who was an illegal immigrant from Pakistan who should have left the UK in March 2012. Furthermore, the correct business ownership details were not displayed contrary to the Companies Act 2006. With regard to the underage sale of alcohol, the male employee, failed to request ID and there is no evidence that a recognised proof of age scheme was in place. There was also no evidence that neither a training scheme for all staff supplying intoxicating liquor was in place nor a refusals book.

The licensing sub-committee heard evidence from the representatives of Costless Express, 276 Lower Road, London SE8 5DJ who accepted that the facts of the incident that took place on 8 December 2012 were not in dispute. Since that date, the employee who had made the underage sale, was no longer employed at the premises. The second employee who was on the premises was also no longer employed by the company. Since that date, a new assistant manager has been put in place. Mr Khan accepted a simple

caution in lieu of prosecution. Other processes have now been put in place such as a refusals book and a training book, two additional personal licence holders, 'Challenge 25' age check policy and an increase in CCTV equipment.

The sub-committee take it very seriously that this is not the first occasion that there has been an underage sale made from the premises, the first time being in 2009 and the second in December in 2012. Having regard to the Section 182 of the Licensing Act guidance, a second incident of underage sales isn't deemed to be persistent (paragraph 11.30) and whilst the sub-committee were initially minded to, it will not revoke the premises licence. The sub-committee acknowledged the company taking full responsibility for the incident that occurred on 8 December 2012 and their failings of management processes which resulted in Mr Khan accepting a simple caution on 6 February 2013 for three offences.

Whilst representations were made of the changes that have been made at the premises in terms of business structure, the increase in number of personal licence holders, the sub-committee remain concerned that the processes currently in place are not robust enough to avoid a similar incident of this nature happening again.

The sub-committee were concerned by the number of personal licence holders to ensure sufficient cover over a 24 hour period and it is for this reason that condition 8 be imposed. The sub-committee must also be satisfied that no further underage sales take place and wants a more pro-active approach taken by the installation of the electronic point of sale system.

The sub-committee feels that the suspension of the licence for eight weeks will give enough time for the conditions to be put in place and for the officers to inspect the premises to ensure compliance. The sub-committee also recommends that regular inspections of the premises are undertaken by both the licensing team and trading standards team to ensure future compliance of the conditions.

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 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.

The meeting closed at 2.15pm.

CHAIR:

DATED: