ROYAL BOROUGH OF GREENWICH

LICENSING REVIEW SUB-COMMITTEE

WEDNESDAY, 27 SEPTEMBER 2017 AT 6.40 PM

MINUTES

PRESENT:

Members:
Councillor Jackie Smith (Chair), Councillors Mandy Brinkhurst, Matthew Morrow and Clive Mardner

Officers
Licensing Team Manager, Senior Prosecutions and Licensing Counsel, Licensing Officer & Committee Officer

Item No.

1 Apologies for Absence

There were no apologies for absence.

2 Urgent Business

There was no urgent business.

3 Declarations of Interest

Resolved –

That the list of Councillors’ memberships as Council appointed representatives on outside bodies, joint committees and school governing bodies be noted.
4 Minutes

Resolved -

That the minutes of the meeting of the Licensing Review Sub-Committee held on 16 August 2017 be agreed and signed as a true and accurate record.

5 Sal’s Mini Market 309 Plumstead High Street, Plumstead, London SE18 1JX

In attendance:
Adrian Winter (Applicant - Trading Standards)
PC Giles Balestrini (Met Police)
John Mcgirr (Public Health)
Mr Satheesh Murugaiah (Licence holder)
Ms Sarah Clover (License Holders Representative)

The Licensing officer gave an illustrated introduction to the report highlighting the supplementary documents circulated to all parties. He confirmed that as a result of mediation, between the applicant and the licence holder, there were now only 3 conditions in dispute as the others had been withdrawn or agreed. These were conditions 16, 21 & 22 as seen on the report. He continued to give a brief history of the premises licence and stated that the licensing visit, to the premises, on the 13 September 2017 was satisfactory as shown in appendix C of the report.

The License holder’s representative stated that her client had not been provided with the powerpoint presentation prior to the hearing and felt this should have been made available in line with the Licensing Act 2003.

The Chair stated that the powerpoint presentation showing images of the premises was standard procedure and was advised by her Legal advisor to continue with the hearing.

The committee was addressed by the applicant, Adrian Winter from Trading Standards, who confirmed that the review was submitted to promote the following licensing objectives: protection of children from harm as an under 18 volunteer had been sold alcohol at the premises and prevention of crime and disorder as non UK duty paid spirits were found on the premises. He also stated there were other instances of poor management practices that were contradictory to the licensing objectives.
The applicant confirmed that Mr Murugaiah had held the licence since 2010 and had no incidents with trading standards until 2014. He subsequently described the incidents outlined in the application for review and highlighted that over the 3 year period the nature and pattern of the incidents suggested that the business was being run inconsistently and had fallen short of the licensing objectives. He updated the Committee on the prosecution case against the license holder and an employee as a result of the incidents stating that the Mr Muragiah had pleaded not guilty and the case would be heard at Bromley Magistrates court on the 06 October 2017.

The applicant summarised by highlighting the number of incidents and the different nature of offences. He stated there had been a discussion with the license holder and their representative where a number of conditions were either withdrawn or agreed. He added that this left 3 conditions outstanding one of which was condition 16 which sought to formalise the reducing of strength voluntary scheme and condition 21 which they could not agree on the wording. The other condition was condition 22 which was proposed by the police.

The Sub Committee was addressed by PC Belestrini who highlighted the number of Computer Aided Dispatch calls to the shop and surrounding area. He confirmed that the police had asked for a labelling condition on the Licence to tackle the issue of street drinkers in the area.

In response to a question, PC Belestrini confirmed that only 2 of the CAD calls related directly to the premises with one of the callers claiming to be the owner and stating the disturbance caused by children was “an everyday occurrence.”

The Sub Committee was addressed by John McGrirr from the Public Health Licensing Team who stated that he supported the application submitted by trading standards especially the conditions on challenge 25 and reducing of alcoholic strength. He stated that challenge 25 was a key element in protecting children from harm as teenage drinking could lead to more mental health problems and a vulnerability to crime as a result of poor decision making. He added that high strength alcohol was linked to anti-social behaviour and domestic violence. He continued that the premises was in the Plumstead Ward, one of the most deprived areas in the Borough, and a Cumulative Impact Zone.

The Sub Committee was addressed by the licence holder’s representative who stated that the history of the premises, as set out by trading standards, showed there had been a mixed history of compliance which included
instances of good management by the licence holder. She added that it had taken 3 years to get to this stage and the licence holder was in agreement to the addition of conditions to the old licence however, he feels the 3 conditions that are being disputed would not be appropriate to add.

The licence holder’s representative stated that the condition with restrictions on the strength of alcohol would put her client at a disadvantage in terms of competition and would fall foul of competition law as it will restrict access to markets. She added that there had been concerns expressed by the Local Government Association & the House of Commons Select Committee around the voluntary super strength scheme limiting beers, cider & lagers to ABV 6.5%. There was also no direct evidence between the sale of high strength alcohol and the complaints raised in the review.

She gave an example of a judgement on a similar case, in the locality, where the Magistrates questioned the police encouraging local shop keepers to sign up to the high strength voluntary scheme when the large retailers had not done so.

In relation to condition 21, the licence holder’s representative stated that the condition would be difficult to impose and enforce. She felt the condition would be discharged after the notice was displayed and felt it was not a necessary step to support the licensing objectives. She added that there is only 1 CAD report submitted by the Police which shows a problem with school children and it is not clear who made the “everyday occurrence” comment as this is disputed by the licence holder.

The licence holder’s representative stated the condition to label alcoholic products sold at the premises was not fair to her client as anyone engaging in disorder could be linked to the shop via the label. She explained that 5 years ago it was thought this was a good idea however supermarkets and large retailers failed to comply and the practice, although aspirational, did not work so well on the ground. She added that a district judge had declined to add such conditions proposed by the same police force and overturned decisions on appeal. Continuing that this could add further cost to the Authority as there was no reference anywhere that the condition would make a difference.

The licence holder’s representative stated that this was a review application and the conditions requested should relate directly to the issues raised and address the incidents described in the application. She added that they also need to be enforceable and felt that this did not apply to the 3 conditions still being disputed. She continued that the general health data that had been submitted in support of the application was not relevant.
There was a discussion of the matter.

In response to questions, the licence holder confirmed that the resistance to agree the condition on restrictions to high strength alcohol was for legal reasons based on information from the LGA and the House of Lords Select Committee. She added that although the Licence holder was already part of the voluntary scheme for this condition he is scared of conviction for sales made in error but is willing to assist in local initiatives. She also stated that suppliers are keen to limit any skewing of the market therefore the challenge to combat these problem drinks should be top down and not adversely affect her client.

In response to questions on the labelling of products, the Licence holder’s representative confirmed that the practice was very hard for small businesses and usually lead to the employment of more staff which was costly. She added that the labels on the products could be misused and put her client at risk of wrongful prosecution. She challenged the Police to provide examples of success when the condition has been applied. She added once conditions are put on licences they are hard to remove as the variations would be submitted to the same authority and hearings and appeals are very expensive.

The Sub Committee noted that voluntary agreements where gestures of good will but could not be enforced and some of the licence holders concerns, with the conditions, seemed to suggest a problem with being held to account.

The police representative decided to withdraw condition 22 requiring the labelling of alcoholic drinks on the premises

All parties, with the exception of the Legal Advisor and Committee Officer, withdrew to allow the Sub-Committee to deliberate at 19.53pm. All parties returned at 20.06pm.

The Chair informed those present of the decision of the Sub-Committee, and stated that the full details would be given in the formal decision notice.

In reaching its decision the Sub Committee considered the Council’s statement of Licensing Policy, the Licensing Act 2003, the Regulations made there under and the Guidance issued by the Secretary of State under S.182 of that Act. In discharging its functions the Sub Committee did so with a view to promoting the licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.
The Sub Committee reviewed the premises licence of:

Sal’s Mini Market 309 Plumstead High Street, Plumstead, London SE18 1JX

and having considered all the evidence put before it the Sub Committee decided to:-

- Modify the conditions of the Premises Licence;

By adding the following conditions as agreed by the licence-holder:

1. The “Challenge 25”/“Think 25” proof of age scheme shall be operated at the premises. All customers who appear under the age of 25 will be challenged to prove that they are over 18 when attempting to purchase alcohol. Acceptable forms of ID include a photo driving licence, passport, or home office approved identity card bearing the holographic ‘PASS’ mark. If the person seeking alcohol is unable to produce an acceptable form of identification, no sale or supply of alcohol shall be made to or for that person.

2. All staff shall be trained in the law about the sale of alcohol. Such training will include challenging every individual who appears to be under 25 years of age and to refuse service where individuals cannot produce acceptable means of identification, acceptable forms of ID and using the refusal register. Such training (including any refresher training) will be logged and provided not less than every six (6) months. The training log will be made available for inspection by Police and authorised persons.

3. A refusals log must be kept at the premises, and made immediately available on request to the police or an authorised person. The refusals log is to be inspected on a monthly basis by the DPS and noted in the log and a record made in the log of any actions that appear to be needed to protect young people from harm. The log must record all refused sales of alcohol and include the following:
   a) the identity of the member of staff who refused the sale;
   b) the date and time of the refusal;
   c) the alcohol requested and reason for refusal;
   d) description of the person refused alcohol

4. The following posters shall be displayed conspicuously on the premises in customer facing areas:
• ‘Think 25’ or similar poster to advise potential purchasers that suitable proof of age will be required for all purchasers who appear to be under 25.
• ‘Don’t Buy Alcohol for Under 18’s’, or ‘It’s A Crime!’ or similar proxy sales poster intended to warn adults not to buy alcohol for those under 18 years-of-age.

5. The Premises Licence Holder will ensure that legible copies of the receipts for all alcohol goods purchased will be retained on the premises for at least twelve (12) months and be made immediately available on request to the police or an authorised person. The documents must include the following details:
   • Seller’s name and geographical address;
   • Seller’s company details, if applicable;
   • Seller’s VAT details, if applicable;
   • Vehicle registration detail, if applicable.

6. The Premises Licence Holder shall not purchase any alcohol goods from door-to-door sellers.

7. A CCTV recording system shall be installed that is compliant with, and capable of, capturing an image of evidential standards. The system shall continually record whilst the venue is open for licensable activity and/or when customers are present on the premises. All CCTV recordings shall be time- & date-stamped and maintained for a minimum of thirty-one (31) days. Cameras shall be installed so as to cover both internal and external areas of the premises. At least one camera shall cover ingress/egress points.

8. Staff shall be fully trained in the operation of the CCTV system and there shall be at least one member of staff on duty during trading hours who is able to provide copies of CCTV recordings to the Police and authorised officers of the Local Authority. Such copies shall, in any event, be provided within forty-eight (48) hours.

9. Notices shall be displayed advising that CCTV is in operation.

10. When CCTV is not operating, no supply of alcohol shall be made on the premises.
11. All staff shall be instructed to record in an incident book/register all incidents of crime & disorder occurring at the premises and details of any occasion when police are called. These records shall include the time & date of any incident and the identities of staff members involved. The incident book/register shall be made available for inspection by police or an authorised person on demand.

12. Alcohol shall not be sold in an open container or consumed in the licensed premises.

13. There shall be no self-service of spirits. All spirits shall be displayed for sale behind the counter.

14. Alcohol shall only be displayed in areas of the shop that are directly visible from the counter, or where covered by a CCTV camera via a monitor at the counter.

15. The area immediately outside the premises shall be monitored to ensure that any litter generated by the premises and/or its customers is regularly cleared.

16. Signage requesting customers to respect local residents and leave the premises quietly shall be displayed at each exit.

The Sub Committee’s decision was based on issues raised concerning Protection of Children from Harm and Prevention of Crime and Disorder.

At the time of the hearing it was accepted by the parties that conditions should be added to the licence. The Sub-Committee agreed with this position and did not consider suspension or revocation to be necessary or proportionate as this less onerous option would be sufficient. The Sub-Committee did however consider the issues raised on the review to be of such seriousness that taking no action would not be appropriate.

At the time of the hearing, the following proposed conditions had been withdrawn by Trading Standards:

1. The Designated Premises Supervisor or a personal licence holder duly authorised shall be present on the premises at all times alcohol is being sold. In their absence, sales of alcohol shall be suspended.

2. No more than 30% of the available display space at the premises shall be given over to the display of alcohol.
3. No single cans of any beer, lager or cider shall be sold from the premises.

At the hearing, the Police withdrew the proposed condition that:

All alcoholic drinks that are sold by the premises shall be clearly labelled or marked with either the name of the premises or the last four digits of the premises licence number.

There were two conditions which were proposed and not agreed:

1. No beer, lager or cider with an ABV of above 6.5% shall be sold at the premises, except for ‘premium’ product lines pre-agreed in writing with the Police and an RBG Licensing Officer in advance of such product being stocked. Copies of the written permission issued for the agreed ‘premium’ lines shall be kept at the premises and made available on request to the police and other officers of responsible authorities. (The “Reducing the Strength” Condition)

2. Only two school-age children shall be allowed in the store during the time that alcohol is on sale unless accompanied by a responsible adult; or (alternative wording):
   A notice shall be displayed in a prominent position at the entrance to the premises to the effect that no more than two school-age children are allowed in the store unless accompanied by an adult.

The Sub-Committee heard from the Applicant, the Representatives and the Licence Holder (via his Legal Representative).

The Sub Committee found that:
1. The “Reducing the Strength Condition” was not necessary in the circumstances as there had been no issues of crime or disorder which could be linked to the premises or to the provision of higher strength beer or cider.

2. The Sub-Committee further took into account that the licence-holder voluntarily complied with the “Reducing the Strength” Scheme and expressed its hope that they would continue to do so.

3. The Sub-Committee accepted that the single incident of anti-social behaviour by school children was not, in itself, sufficient for it to be necessary to require the licence-holder to display a sign limiting the number of school children in the shop.
4. The Sub-Committee further considered that a condition requiring the licence-holder to only permit entry to a limited number of school children may be difficult to enforce.

The Sub-Committee therefore determined that the two further conditions should not be imposed.

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

The applicant for review, holder of the Premises Licence, or any other person who made relevant representations to the application may appeal against the Council’s decision to the Magistrates Court. Such an appeal must be submitted to the Magistrates Court within 21 days of the date from when the appeal period is deemed to have started, which will be stated in the cover email/letter to the Notice of Decision.

Councillor Clive Mardner replaced Councillor Matthew Morrow as a Member of the Sub Committee.

6 US Mini Market (Premier) 13 Conway Road, Plumstead, SE18 1AH

In attendance:
Adrian Winter (Applicant – Trading Standards)
Mr Sivabaskaran Poobalasingham (Licence Holder)
Mr David Dadds (Licence Holder Representative)
PC Giles Balestrini (Met Police)
Councillor Matthew Morrow

At the beginning of the item the license holder’s representative asked to discuss the conditions with the applicant (Trading Standards) to see if an agreement could be reached.

The Sub Committee adjourned at 20:15pm to allow all parties to discuss the conditions and reconvened at 20.30pm.
The applicant confirmed that they had reached an agreement on the conditions with the licence holder and their representative. He stated the following had been agreed:

- Conditions 1 – 4 agreed as stated on the report
- Condition 5 agreed with an amendment of the refresher training to 6 months
- Condition 6 withdrawn
- Conditions 7 – 9 agreed
- Condition 10 agreed with an amendment to state “when the whole CCTV is not operating”
- Condition 11, 12, 13 withdrawn
- Condition 14 already on licence
- Condition 15 agreed with an amendment to exclude mixed spirit drinks
- Conditions 16 – 22 withdrawn

Those in support of the review confirmed they were in agreement with the modifications of the conditions on the licence.

The Chair informed those present of the decision of the Sub-Committee, and stated that the full details would be given in the formal decision notice.

In reaching its decision the Sub Committee considered the Council’s statement of Licensing Policy, the Licensing Act 2003, the Regulations made there under and the Guidance issued by the Secretary of State under S.182 of that Act. In discharging its functions the Sub Committee did so with a view to promoting the licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

The Sub Committee reviewed the premises licence of:

US Mini Market (Premier), 13 Conway Road, Plumstead, London 1AH 1JX

and having considered all the evidence put before it the Sub Committee decided to:

Modify the conditions of the Premises Licence;

By adding the following conditions as agreed by the licence-holder:

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alcohol. Acceptable forms of ID include a photo driving licence, passport, or home office approved identity card bearing the holographic ‘PASS’ mark. If the person seeking alcohol is unable to produce an acceptable form of identification, no sale or supply of alcohol shall be made to or for that person.

2 All staff shall be trained in the law about the sale of alcohol. Such training will include challenging every individual who appears to be under 25 years of age and to refuse service where individuals cannot produce acceptable means of identification, acceptable forms of ID and using the refusal register. Such training (including any refresher training) will be logged and provided not less than every twelve (12) months. The training log will be made available for inspection by Police and authorised persons.

3 A refusals log must be kept at the premises, and made immediately available on request to the police or an authorised person. The refusals log is to be inspected on a monthly basis by the DPS and noted in the log and a record made in the log of any actions that appear to be needed to protect young people from harm. The log must record all refused sales of alcohol and include the following:

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   b) the date and time of the refusal;
   c) the alcohol requested and reason for refusal;
   d) description of the person refused alcohol.

4 The following posters shall be displayed conspicuously on the premises in customer facing areas:

   • ‘Think 25’ or similar poster to advise potential purchasers that suitable proof of age will be required for all purchasers who appear to be under 25.
   • ‘Don’t Buy Alcohol for Under 18’s’, or ‘It’s A Crime!’ or similar proxy sales poster intended to warn adults not to buy alcohol for those under 18 years-of-age.

5 A CCTV recording system shall be installed that is compliant with, and capable of, capturing an image of evidential standards. The system shall continually record whilst the venue is open for licensable activity and/or when customers are present on the premises. All CCTV recordings shall be time- & date-stamped and maintained for a minimum of thirty-one (31) days. Cameras shall be installed so as to cover both internal and
external areas of the premises. At least one camera shall cover ingress/egress points.

6 Staff shall be fully trained in the operation of the CCTV system and there shall be at least one member of staff on duty during trading hours who is able to provide copies of CCTV recordings to the Police and authorised officers of the Local Authority. Such copies shall, in any event, be provided within forty-eight (48) hours.

7 Notices shall be displayed advising that CCTV is in operation.

8 When the whole CCTV system is not operating, no supply of alcohol shall be made on the premises.

9 There shall be no self-service of spirits. All spirits shall be displayed for sale behind the counter; this shall not include spirits when pre-mixed with other drinks.

10 Alcohol shall only be displayed in areas of the shop that are directly visible from the counter, or where covered by a CCTV camera via a monitor at the counter.

The Sub Committee’s decision was based on issues raised concerning Protection of Children from Harm.

At the time of the hearing, it was accepted by the parties that these conditions should be added to the licence. The further conditions proposed by Trading Standards were withdrawn. The Police, Public Health and Councillor Matthew Morrow confirmed that they were in agreement with the above conditions and, if imposed, would not pursue their representations further.

The Sub-Committee agreed with the approach suggested and agreed by all parties. They did not consider suspension or revocation to be necessary or proportionate as this less onerous option would be sufficient. The Sub-Committee did however consider the issues raised on the review to be of such seriousness that taking no action would not be appropriate.

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.
The applicant for review, holder of the Premises Licence, or any other person who made relevant representations to the application may appeal against the Council’s decision to the Magistrates’ Court. Such an appeal must be submitted to the Magistrates’ Court within 21 days of the date from when the appeal period is deemed to have started, which will be stated in the cover email/letter to the Notice of Decision.

The meeting closed at 8.36 pm

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Chair