

## **Licensing Sub-Committee – 30 November 2007**

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Minutes of the meeting of the **Licensing Sub-Committee** held on **30 November 2007** when there were present:-

Cllr K A Gibbs  
Cllr K H Hudson

Cllr A J Humphries

### **OFFICERS PRESENT**

A Law	- Solicitor
N Khan	- Solicitor
P Nellies	- Licensing Officer
S Worthington	- Committee Administrator

### **87 APPOINTMENT OF CHAIRMAN**

Cllr A J Humphries was appointed Chairman of the Sub-Committee.

### **88 PROCEDURE FOR LICENSING REVIEW HEARING**

The Committee noted the procedure to be followed during the review hearing.

### **89 REVIEW OF PREMISES APPLICATION**

The Sub-Committee considered an application for a review of a premises licence made under section 51 of the Licensing Act 2003. The application related to premises known as Rayleigh Food and Wine, 24 High Street, Rayleigh. Members had before them the report of the Head of Environmental Services setting out the details of the application.

The applicant's representative stressed that since December 2006 there had been 4 instances of underage sales of alcohol at the premises, the first occurring in February 2007, with another in May and 2 further instances in June 2007. The applicant's representative stressed that the Police considered it to be unacceptable for there to be any sales of alcohol to persons under the legal age.

Particular reference was made to the Government guidance issued in June under section 182 of the Licensing Act 2003 which stated that any criminal activity, including the sale of alcohol to minors, arising in connection with licensed premises should be treated particularly seriously, including consideration of revocation of a premises licence

The applicant's representative indicated that the Police considered that there were still problems associated with the sale of alcohol at the premises, despite the best efforts of the premises supervisor and the licence holder. The Police were not seeking revocation of the licence, but were seeking 13 additional conditions to be imposed on the premises licence, a list of which was circulated to the Sub-Committee, together with a 3-week suspension of the licence, during which time extensive training should be given to staff, particularly with respect to the sale of alcohol to under-aged persons.

The applicant's representative drew attention to an amendment to condition 5, relating to closed circuit television (CCTV), such that any images captured on CCTV should be made available to the Police or Local Authority upon reasonable request. In addition, it was noted that, with respect to condition 13, relating to the employment of an SIA registered door person on Fridays and Saturdays, the person should be employed from 6pm.

The applicant's representative emphasised that the Police considered that condition 13 was vital, given that there had been instances of under-age sales of alcohol at times when a door supervisor had been on site; without one there was an increased risk of such sales.

In response to Member questions, the following was confirmed by the applicant's representative:-

- In September 2007 a female minor stopped by the Police for possession of alcohol admitted to having bought it from the premises, despite not having shown proof of age to the vendor when asked.
- On each occasion that alcohol was sold at the premises to minors, a different member of staff was involved, but not the premises supervisor.
- Penalty notices for disorder (PNDs) had been issued to 4 members of staff at the premises in connection with the sale of alcohol to minors.
- Operation MIRE did not target the premises specifically, but rather was aimed at the Rayleigh town centre in general.
- Proof of age material had been given to the premises supervisor.

In conclusion, the applicant's representative emphasised that it was possible that the premises licence could be transferred at any time. The Police considered it necessary that the employment of a door supervisor at weekends be included as a condition to the licence, so that in the event of any transfer of the licence, any new licence holder would have to abide by this condition. It was equally clear to the applicant that the training provided to staff by the licence holder was not working, as sales to minors were continuing. A 3-week suspension of the licence would enable external trainers to provide staff with extensive training in applying a no identification / no sale policy at the premises.

The licence holder's representative emphasised that the licence holders were willing to comply with all of the additional conditions requested by the Police, with the exception of condition 13. In addition, the licence holder's representative claimed that the proposed suspension of the premises licence was not proportionate to the problems associated with the premises. A 3-week suspension would adversely affect the licence holder and his staff, causing considerable financial hardship.

The licence holder's representative stressed that, since the licence holder had been prosecuted on 2 occasions for under age sales of alcohol, measures had been taken to ensure that all staff at the premises were properly trained with respect to the sale of alcohol and proof of age. The licence holder had taken all reasonable steps to avoid the committing of offences with respect to the sale of alcohol, including voluntarily employing a door supervisor on Thursday, Friday and Saturday evenings.

A short sample of a training CD-Rom, "a guide to saying no", was played to those present at the hearing. It was noted that this was included as part of the induction training for all new staff at the premises. The training included an overview of the law relating to the sale of alcohol, a video showing the effects of alcohol, plus a video scenario illustrating how to refuse to sell alcohol to minors. The CD-Rom supported a training manual for new staff. There were visible signs within the premises reinforcing what staff had been taught about the sale of alcohol. In addition, records of staff training were kept at the premises. It was, however, clear that some staff that had undergone training still sold to minors.

The licence holder's representative emphasised that test purchases had been made at the premises by the Police / Trading Standards officers in the earlier part of the year, at which no sales to minors had been made. In addition, the Police had had to be called to the premises on separate occasions when customers who had been refused sales, started to cause disturbances. There were, it was claimed, more refusals than sales of alcohol to minors. In addition, those staff that had sold to minors, were subsequently dismissed and it was made clear to all other members of staff that any sale of alcohol to minors would result in their dismissal from employment.

The licence holder's representative drew attention to the fact that the licence holder had voluntarily employed a door supervisor on Friday and Saturday evenings in order to ensure that all identity cards were checked. The licence holder did not consider that it was necessary to impose this as a condition to the premises licence, but that the situation should be reviewed after a period of 6 months and continued if this was seen to be necessary. The licence holder believed that during a 6-month period the message would be sent out to youths that they anyone under age would not be able to purchase alcohol and it would give staff the opportunity to become more confident and robust in refusing sales.

The licence holder's representative, in response to Member questions, confirmed the following:-

- All 4 members of staff who had been found to sell alcohol to minors no longer worked at the premises; 2 had been dismissed and the other 2 had been employed on a probationary basis.
- The premises supervisor is present at all times during store opening hours, but, given the large size of the store, could not be present at the till points

at all times.

- The premises supervisor holds a personal licence; his brother was in the process of obtaining a personal licence and the licence holder had also paid for another member of staff to undergo personal licence training.
- On 6 September when alcohol was sold to the female minor the premises supervisor had been in the rear office; the customer had insisted that although she had no identification with her that she was known to the owner.
- Staff are told that they should seek the premises supervisor's advice whenever they are in any doubt about a sale of alcohol.
- The licence holder will ensure that all staff receive refresher training ; individual staff training records are kept for all members of staff, including ones in Turkish.
- The licence holder did not live on the premises.
- The licence holder would be prepared to work with the Police with respect to condition 9 of the Police's suggested list of additional licence conditions.

The licence holder's representative emphasised that the licence holder would be willing to bring in external trainers to provide his staff with additional training. He stressed that the licence holder had taken all reasonable steps to ensure compliance with the law, but some members of staff had gone against his specific instructions. Particular attention would be paid in future to the recruitment of new staff.

Members, having considered all the evidence and representations made, recognised that the licence holder had made some effort to control the sale of alcohol to minors. They did not, however, consider that the measures were wholly adequate, given the Police evidence relating to further sales to minors. The Committee therefore felt that all 13 conditions proposed by the Police should be imposed on the premises licence, subject to condition 5 making reference to a sound-enabled closed circuit television surveillance system. It was noted that the first 3 conditions on the current operating schedule would effectively be replaced.

Members did not consider that a 3-week suspension of the premises licence should be imposed, but did feel that there would be merit in employing an SIA registered door supervisor to work daily from 6pm until close of business during shop trading for a 3-week period in order to provide some initial support to staff members, particularly with respect to refusing sales of alcohol.

### Resolved

- (1) That an SIA registered door supervisor be employed to work from 6pm until the close of business each day that the shop is open for trading for a 3-week period, to commence in 28 days.
- (2) That the following additional conditions be applied to the licence:-
  - The licensee shall ensure that at all times when the premises are used for any licensable activity there are sufficient competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the licence and preventing crime and disorder.
  - All staff shall be adequately trained on under age identification and on the requirement not to permit drunkenness on the premises and written training records shall be kept for all staff engaged in the sale of alcohol or other licensable activity. Refresher training will take place at least every 6 months and if possible every 3 months.
  - The premises will run a proof of age scheme. Members of staff will see credible photographic proof of age evidence from any person who appears to be under the age of 21 and is seeking to purchase alcohol. Such credible evidence, which shall include a photograph of the customer, will either be a passport photograph, driving licence, or proof of age card carrying a pass logo.
  - A suitably worded sign of sufficient size and clarity must be displayed at the point of entry to the premises, in the area of the alcohol display, and in a suitable location at the point of sale advising customers that they may be asked to produce evidence of their age.
  - The licensees shall have and maintain an efficient, sound-enabled closed circuit television surveillance system. This should be in operation 24 hours, for 365 days a year. Recordings shall be retained for at least 30 days. The lighting in the premises will be such that the CCTV operates at the best possible level. Recordings to be made available to the Police and the Licensing Authority upon reasonable request.
  - A suitably worded sign of sufficient size and clarity must be displayed at the point of entry to the premises and in a suitable location at the point of sale advising customers that CCTV is operating in the premises.
  - A member of staff should always be on duty that is able to download and burn images off the CCTV when requested by the Police.

- The licensees shall co-operate with all reasonable projects of the Licensing and Police Authorities to achieve the licensing objectives.
- Customers who cause any incidents of crime and disorder shall be prohibited from returning to the premises, the length of such prohibition to be determined by the designated premises supervisor.
- Experienced staff shall be employed to supervise the customers and regular staff briefing meetings shall take place to maintain the four licensing objectives. All new staff shall be adequately trained on safety requirements and all aspects of the licensing act.
- The licence holder / DPS will keep a refusal record to record all refusals of sales of alcohol. This record will be produced to the Police or Licensing Authority for inspection, upon request.
- The licence holder / DPS will keep an incident record to record all incidents that take place on the premises. This record will be produced to the Police or Licensing Authority for inspection, upon request.
- An SIA registered door supervisor will be employed to work from 6pm until the close of business on Fridays and Saturdays. A door supervisor should be used for the same hours on Christmas Eve, New Year's Eve and Halloween, whatever days these events fall on. (HES)

The meeting commenced at 10.10 am and closed at 1.15 pm.

Chairman .....

Date .....

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