MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
6 November 2017 (10.30am - 12.00pm)

Present:

COUNCILLORS

Conservative Group	Linda Trew (Chairman) and Frederick Thompson (Vice-Chair)
Residents' Group	John Wood
East Havering Residents' Group	
Independent Residents Group	
UKIP Group	

Present at the hearing were Ms N Potiwal. Also in attendance were Police Licensing Officer PC Oisin Daly and Havering Licensing Officers Kasey Conway and Paul Jones and Sasha Taylor of Havering Trading Standards.

Also present were the Legal Advisor to the Sub-Committee and the clerk to the Licensing sub-committee.

The Chairman advised Members and the public of action to be taken in the event of emergency evacuation of the Town Hall becoming necessary.

No interests were disclosed at the meeting.

1 **APPLICATION TO REVIEW A PREMISES LICENCE - GRANGE EXPRESS**

PREMISES:
Grange Express
5 Grange Road
Romford
RM3 7DU

DETAILS OF APPLICATION

The application to review a premises licence was made by Council Officer Sasha Taylor on behalf of Trading Standards under the Licensing Act 2003. The application was received by Havering's Licensing Authority on 21 September 2017.

Sasha Taylor's application was based upon the following grounds:

- The trader has made two sales of alcohol to underage volunteers on the 12/4/2017 and the 04/08/2017
- The premises has failed in its duty to protect children from harm
- The failure of the prevention of crime and disorder

There were no representations against this application from interested persons.

There were 2 representations against this application from responsible authorities.
They were from The Licensing Authority and The Metropolitan Police.

APPLICANT

Sasha Taylor
London Borough of Havering (Public Protection)
Town Hall
Main Road
Romford
RM1 3BD

1. Details of existing licensable activities

The venue had a Premises Licence number 12414 which permitted the sale of alcohol - Monday to Saturday – 08.00 to 23.00 and Sunday 10.00 to 22.30.

The current licence holder at the premises was Ms Neelam Wanti Potiwal.

2. Details of Representation

Havering Council

The Licensing Officer attended and introduced the application.

Havering Council

Sasha Taylor representing Trading Standards attended and advised the following:

On 20 February 2017, the Trading Standards Service received intelligence from the Police that someone had been seen in a vehicle outside Grange Express handing over cigarettes to someone from the shop which were suspected to be illicit cigarettes.

On 23 March 2017, Senior Trading Standards Officer Michelle Hammond and Trading Standards Officers Ann Bowes visited the shop to inspect the premises for illicit cigarettes and carry out a full inspection. On this day the DPS was not available as she was working in a large supermarket chain and only her mother, Ms Kaur, was present in the shop. No illicit tobacco was found. However during the visit it was noted that there was no refusal book available, no tobacco notice displayed and Ms Kaur did not know how to operate the CCTV system. As a result of these concerns the premises was put on the list to be visited on the next underage test purchasing exercise.

On 12 April 2017, Grange Express was visited as part of an underage sale test purchase operation. At approximately 13:35 hrs a 17 year old female volunteer entered the premises and was sold a bottle of Smirnoff Ice Vodka (4% alcohol Volume). The sale was made by Jessbir Kaur, the mother of the DPS. Ms Kaur did not request any identification or challenge the volunteer as to their age. 5 premises were visited during the operation and Grange Express was the only premises to sell to the underage volunteer. Ms Kaur she said she thought the volunteer looked 21 and received a fixed penalty notice in relation to the sale.

During the visit it was noted that the refusal book contained only blank sheets and there were no training records present. There was a challenge 25 poster displayed in the shop, however Ms Kaur's comments regarding the volunteer looking 21 would indicate that she either failed to understand or chose to ignore that a challenge 25 scheme was in operation.

As a result of the failed test purchase the premises licence holder was written to and invited to attend a meeting to discuss the failure. On 19 May 2017, Neelan Potiwal attended Trading Standard's offices at Mercury House, Romford. The meeting was led by Senior Trading Standards Officer Michelle Hammond. Also present was Trading Standards Officer Lee Slaney, and Licensing PC Belinda Goodwin. At this meeting the following matters were discussed:

The role of the DPS
The sale of alcohol to the underage volunteer
Staffing in the shop
Training of staff
Refusal books/systems in place
CCTV
Local issue to the store

Following the meeting the trader was written to summarising the agreed action plan.

On 22 May 2017, Ms Potiwal signed up to Havering's challenge 25 code of practice. By signing this, a trader is agreeing to comply with the London Borough of Havering's Challenge 25 Code of Practice for the supply of age restricted products. Within the pack there were posters that the trader can display within the shop area, advice on the current age restrictions for various products and information on how to prevent underage sales.

On 26 June 2017, Michelle Hammond revisited the premises. The reason for this visit was to establish whether the agreed actions from the meeting on 19 May had been completed. When the officer arrived at Grange Express Mr Brem Singh Potiwal, the father of the DPS was the only person present in the shop. During the visit the officer checked the refusal book. This had not been used for one month. The DPS was not present and she was working at her other employment. No training records were available and no-one had applied for a personal licence. The *CCTV* mouse was broken and had been broken since the previous week. Mr Potiwal said that he worked in the shop alone and does not fill out the refusal book; he told his wife or daughter to fill it out. Michelle Hammond asked the DPS to contact her to discuss the visit. To date the DPS has never made contact with the officer.

On 11 July 2017 the venue was revisited as part of an underage test purchase exercise. During the operation a 16 year old female volunteer was used. A male was working at the shop and refused the volunteer the sale of alcohol. When the volunteer approached the till he asked for her age and she replied 16. He informed her he could not sell to her. However it was noted that he failed to ask for Identification which is preferable to simply challenging for an age. Following the pass a letter was sent to the trader confirming the refusal.

On 4 August 2017 the shop was again revisited as part of an underage sale operation. At approximately 14:05 hrs a 16 year old female volunteer entered the premises and was sold a bottle of 500rnl Koppenberg cider with an alcohol content of 4%. The seller did not ask the volunteer their age or for any identification.

Following the sale, Senior Trading Standards Officer Josile Munro. Trading Standards Officer Joy Afoke and Licensing Police Officer Oisin Daly returned to the shop to discuss the sale. When the officers introduced themselves a male came from out from the back of the shop shouting and complaining about the officers being there. The individual was quite agitated and the Police Officer had to intervene. The seller was identified as Ms Jessbir Kaur who had previously sold alcohol on 12th April 2017. The police did not feel it was appropriate to issue her with a second fixed penalty notice and this incident is being considered for legal action. The premises were sent a failure letter following the sale.

The trading standards service was concerned that there had been alcohol sold to two children on two occasions within only a few months. This was despite the attempt to engage with the trader during the meeting on 19 May 2017 and the visit on 26 June 2017. The DPS did not seem to have day to day control of running the business and was often away from the premises in other employment. The failings at the venue gave the Trading Standards Service significant concerns as to their commitment to preventing underage sales and responsible alcohol retailing.

A number of conditions had been breached and the Trading Standards service had serious concerns regarding the operation of the venue and the attitude of the staff to the important licensing objective of protection of children from harm. The sale of alcohol to a minor is a criminal offence and gave cause for concern in relation to crime and disorder. The fact this had occurred twice was evidence that the operator was either unwilling or unable to change their manner of operation. The service had lost confidence in the management of this venue and believed that the failures were sufficiently serious that revocation of the licence should be considered. The premises had a relatively small volume of alcohol for sale and the business should be able to operate without selling alcohol.

Metropolitan Police
PC Oisin Daly addressed the Sub-Committee. The Trading Standards application for a review of the premises licence at Grange Rd Express primarily focused on the sale of alcohol to children. Police echo those concerns given two sales in a short period of time.

The police also had concerns with inadequate CCTV and the fabrication of refusal logs to give the impression that staff were conducting age verification checks.

The police also had concerns regarding the management and their ability to uphold the licensing objectives, adhere to their licence conditions and manage a responsible business.

Pc Daly advised the following:

“On 4 August 2017 I assisted trading standards with a test purchase operation. I entered the shop following the failure of a test purchase along with trading standards colleagues. The female behind the counter was receptive when spoken to and aware of the situation. From a room at the rear of the shop a male exited, when he was informed that the shop had failed the test purchase he was instantly irate. He began to swear at trading standards officials, i told him to mind his language and he responded “they are breaking the f*****g law” in a loud voice towards trading standards officials. He continued to shout until he was calmed down by the female behind the counter. A short while later he returned to the front of the shop and began swearing loudly again. I told him to get out of the shop, as I walked him out I believed i could smell alcohol from his breath, when i

questioned him he denied having consumed alcohol and said that it must have been what he had had for lunch. Outside I spoke to him and told him clearly that if did not calm down and stop swearing I would arrest him for public order offences. He remained outside for the majority of the remainder of the visit".

The male in question was the husband of the server and was also employed at the premises, he was the father of the DPS.

Once inside the shop I assisted trading standards in conducting an inspection of the premises. The female behind the counter was unsure how to operate the CCTV, I used a remote mouse which was behind the counter to view CCTV contained on the system.

The CCTV itself was not compliant with the conditions on the licence, it was only recording for four days and not 28 as the licence stipulated.

Failures in a fully operating CCTV system had been highlighted before at the venue and had caused investigations to collapse.

There was a refusal log at the premises and there were a number of entries recorded. PC Daly found an entry from a couple of days before the visit and proceeded to view the corresponding CCTV footage. PC Daly searched half an hour before and after the time recorded in the refusal log, it was clear from CCTV there was no attempted sale at the time indicated on the log. During the hours footage that was watched there was only one customer in the shop.

Once the DPS arrived at the shop she informed PC Daly that it was her mother whose writing was on the record and that she must had made a mistake when recording the time. Due to the limited CCTV available at the time is was not possible to cross reference any further records.

As detailed in the Trading Standards report the venue had failed two test purchases in a relatively short period, the police had serious concerns about the management at the venue having the ability to run a responsible business.

In conclusion, the venue had failed two test purchases in spite of extensive education and training at a cost to the taxpayer, breached licence conditions repeatedly, been obstructive and abusive to trading standards officers and falsified records to give an impression of compliance.

The licence already had numerous conditions attached which should have acted as support for the management; however, they had failed to uphold the licensing objectives. Bearing this in mind the police would also ask that the Sub-Committee gave serious consideration to revocation of the licence.

Havering Council

Paul Jones, on behalf of the Licensing Authority addressed the Sub-Committee

Mr Jones advised that the submission of a premises licence review application required that the processing licensing officer installed a suitably worded notice at the premises. Mr Jones undertook this task and had encountered Ms Potiwal's father at the site. He was managing the premises alone at the time of the unannounced arrival.
Mr Potiwal had been found to be aggressive whilst his use of foul language demonstrated little restraint. His behaviour had suggested that he was less than suitable with regard to assuming the inherent responsibilities further to the demands of supplying alcohol to the public.

Mr Jones had conducted a full licensing inspection with Miss Potiwal, the premises licence holder and DPS. What emerged from the inspection was that Miss Potiwal had employment elsewhere so appeared not to be in day to day control of the premises as required when one assumed the role of DPS. Instead it appeared that the business was run predominantly by Miss Potiwal's parents. Mr Potiwal's temperament might appear to be at odds with the rigours of alcohol supply whilst Mrs Potiwal was the staff member who made both under-age alcohol sales during the Trading Standards' test purchase exercises.

Ms Potiwal confirmed that her mother had difficulty in assessing customers' ages so Ms Potiwal had voluntarily imposed a Challenge 50 age verification policy when the standard age verification policy across the country was Challenge 25. The result of this was that anyone seeking to purchase alcohol who appeared to Mrs Potiwal to be less than 50 years of age was required to be challenged to provide identification proving that they are over the age of 18.

Given the fact that a Challenge 50 policy had been imposed by Miss Potiwal suggested that there was little confidence in Mrs Potiwal's ability to appropriately restrict alcohol supplies if it was felt that Mrs Potiwal was unable to tell whether a 50 year old may conceivably be under-age.

The outcome of the licensing inspection was that the licence conditions were broadly in compliance; however, during a period when Ms Potiwal was on the shop floor and Mr Jones had been alone in the rear room of the premises it was noticed a large machete was located in the room. The machete had not been fastened to the wall as if it was a decorative item; instead it was placed in an upright position, handle uppermost, its blade loosely retained behind the skirting board immediately adjacent to the room's entrance, apparently affording quick and easy access to it without an individual having to step into the rear room. The presence and location of this weapon naturally had given Mr Jones some cause for concern given Mr Potiwal's apparently volatile nature of which he had recently experienced and his apparent status as shop manager.

Based upon these issues it was difficult for the licensing authority to retain confidence that the licensing objectives were being suitably promoted at the premises. That being the case the service might reasonably assess whether it could conclude that the premises was having an adverse impact upon the promotion of the licensing objectives and was therefore contributing to cumulative impact in Harold Hill.

3. Response from the Premises Licence holder

Ms Potiwal attended and advised the Sub-Committee that she had bought the premises and upstairs accommodation a number of years ago.
Ms Potiwal advised that if the premises lost its premises licence then the business would struggle without being able to sell alcohol.

The Sub-Committee was advised that steps had been put in place to rectify some of the problems including a refusal log being kept daily, testing of a new CCTV system and that all the cameras in the shop had been upgraded.

Ms Potiwal advised that she had looked at arranging training for the staff but was awaiting the outcome of the hearing before she committed to funding the training. Ms Potiwal also advised that she had looked at alternative, cheaper, training provided by an outside source.

The Sub-Committee was also advised that Ms Potiwal worked 11 ½ for a major supermarket retailer as a graduate trainee in business management following an education in Law.

Ms Potiwal confirmed that her mother no longer served alcohol in the shop and that the machete mentioned previously was a religious artefact that was importance to her faith.

Ms Potiwal agreed there had been some failings in the past with the management of the premises and vowed to rectify any problems going forward.

4. Determination of Application

The Sub-Committee had considered an application for review of the premises licence for the Grange Express located at 5 Grange Road, Romford. The application for review was submitted by the Council's Trading Standards Team.

Written and oral representations were received from 3 Responsible Authorities, namely the Council's Trading Standards Team, the Metropolitan Police Licensing Team, and the Council's licensing Team, inviting the sub-committee to revoke the licence on the grounds of prevention of crime and disorder, and protection of children from harm.

The Sub-Committee heard evidence from the respondent and considered the submissions made by the respondent.

The Sub-Committee reminded itself that it must promote the Licensing objectives and have regard to the Statutory Guidance issued under s. 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy.

Having considered all the evidence the Sub-Committee was of the view that revocation of the licence was the most appropriate way forward in promoting their licensing objectives.

The Sub-Committee was concerned that there had been a lamentable failure by the licensee (and DPS) to comply with the current conditions of the licence. The Sub-Committee was concerned that there had been two sales of alcohol to underage children during test purchase operations in circumstances where the licence required that the premises operate a challenge 25 policy. The Sub-Committee noted that in spite of attempts by Trading Standards to assist the licence holder between the first and second illegal sale, there had been no improvement.

To a lesser extent, the Sub-Committee noted that there were problems surrounding the CCTV and noted that the business had failed to comply with the conditions concerning CCTV. The Sub-Committee also noted that the refusal log procedure was not operating as expected and were concerned that a loose-leaf system had been deployed which undermined the ability of a responsible authority to properly police the use of the refusal log (i.e. it was no longer possible to tell if pages had been inserted or removed).

The approach that the Sub-Committee adopted was to decide whether to do nothing. It then considered the steps for promoting the licensing objectives in order as set out in the Licensing Act. The conclusion of the Sub-Committee was that given the failings identified it was inappropriate to do nothing. The Sub-Committee then determined whether the licensing objectives could be achieved by exercising one of the other steps however it was not convinced that these steps would rectify the inherent failings that were present in the operation of the business. The Sub-Committee noted that a number of stringent conditions were already attached to the licence and felt that it was unable to propose any more conditions to promote the licensing objectives and therefore concluded that it had no option other than to revoke the licence as this was the only way to achieve the Licensing objectives.

Chairman