

**MINUTES OF A MEETING OF A LICENSING SUB-COMMITTEE
19 October 2010 (10.30am – 11.35am)**

Present:

COUNCILLORS:

Conservative Peter Gardner (Chairman) and Frederick Thompson
Residents Group Linda Van den Hende

In attendance:

Mr Dursan Karakas the Premises Licence Holder, his representative Mr Graham Hopkins.

Trading Standards Service was represented by Keith Bush.

The Police were represented by PC Dave Leonard.

The LB Havering Licensing Officer, Mr Steve Bromley, the legal advisor and the clerk to the Sub-Committee were also in attendance.

Two members of Trading Standards Service attended as observers and a representative of the press were in attendance.

The Chairman advised those present of action to be taken in the event of emergency evacuation of the Town Hall becoming necessary.

Councillor Peter Gardner declared a personal interest as the applicant's representative was known to him.

**APPLICATION FOR A REVIEW OF A PREMISES LICENCE IN RESPECT OF
DINO'S, 123 MAWNEY ROAD, ROMFORD, RM7 7BH**

The Sub-Committee considered the application for a review of a Premises Licence under section 51 of the Licensing Act 2003 ("the Act") for the above premises as follows.

PREMISES

Dino's
123 Mawney Road
Romford
RM7 7BH

DETAILS OF APPLICATION

Application for a review of the premises licence by the London Borough of Havering Trading Standards Service under section 51 of the Licensing Act 2003 ("the Act").

APPLICANT

Keith Bush,
Operations Divisional Manager,
London Borough of Havering,
Trading Standards Service,
5th Floor, Mercury House,
Mercury Gardens,
Romford, Essex, RM1 3SL

1. Details of existing licensable activities

Opening hours of the premises		
Days	From	To
Monday to Wednesday	10.30 hours	22.30 hours
Thursday to Saturday	10.00 hours	23.00 hours
Sunday	10.30 hours	22.30 hours

The times the licence authorises the carrying out of licensable activities (Off sales of alcohol)		
Days	From	To
Monday to Wednesday	10:30 hours	22:30 hours
Thursday to Saturday	10:00 hours	23:00 hours
Sunday	10:30 hours	22:30 hours

2. Grounds for Review

The grounds for review of the licence were as follows:

The London Borough of Havering Trading Standards Service was committed to preventing underage sales of alcohol within the borough. Dino's had sold alcohol to underage volunteers twice since November 2009 and had failed in its duty to protect children from harm.

The premises were within close distance of King Georges playing fields, an area which suffered from drink related anti social behaviour.

3. Promotion of the Licensing Objectives

The review had been requested in order to promote the licensing objectives as shown below

The prevention of crime and disorder
The protection of children from harm

4. Details of Representations

Trading Standards – (a responsible authority under the Licensing Act 2003)

– The representation stated that:

- In February 2009 Trading Standards Service had received a complaint from a member of the public that her 14 year old son and his 16 year old friend had purchased alcohol and cigarettes from Dino's. She had identified the approximate time of the sale so the shops CCTV could be reviewed and the sale seen
- Officers had visited the premises 4 days later to speak to the Designated Premises Supervisor (DPS) and view the premises CCTV footage. The DPS had not been present at the time nor could he be contacted by mobile

phone. The individuals present informed the officers that the sale had not taken place and that there was no CCTV system operating at the venue.

- In October 2009 Trading Standards Service had received a complaint from the Mawney Safer Neighbourhoods Team regarding an ongoing problem with underage drinking and anti-social behaviour at King Georges Playing Fields, Mawney Road. The Team believed the alcohol had been sold locally.
- On 5 November a test purchase had been undertaken by two female volunteers, both aged 16. They had been sold two bottles of wine. The person who had made the sale was issued with a £80 fixed penalty notice. The DPS had not been on the premises but had been contactable by telephone. There had been no refusal log available at the premises at the time of the sale and it was requested that this be provided to Trading Standards within 14 days. The refusal log had never been provided to Trading Standards. The DPS was unable to provide any written records of any staff training, and till prompts were not in use at the venue. The DPS accepted a formal caution for the failed test purchase.
- On 31 July another test purchase had been made by a 15 year old female volunteer. On this occasion it had been the DPS who made the sale. When requested he had been unable to provide a refusals log.
- Trading Standards were concerned that these sales were being made by senior staff, bringing into question the management of the premises. No steps were taken with regard to a refusal log, training of staff, or to install CCTV as promised.
- Recent changes in the legislation stated that two sales within a three month period were considered persistent selling and the premises could be issued with a 48 hour closure notice.
- Under the current licence there were no conditions, Trading Standards Service were looking for the imposition of conditions in respect of use of CCTV, till prompts, maintenance of a refusals register and issues around training of staff.

Chief Officer of Metropolitan Police (“the Police”) (a responsible authority under the Licensing Act 2003) –

The representation stated that:

- Despite several meetings and calls to address police concerns, the management at the premises had failed to promote the licensing objectives regarding the prevention of crime and disorder, and the protection of children from harm.
- Prevention of crime & disorder – On each occasion the police had visited the premises the manager in charge had claimed the shop’s CCTV system was either faulty, non existent, not fitted or about to be fitted. The staff had been advised previously that a properly fitted and operating CCTV system would not only assist as a security measure but based on the recurring inference of underage sales being made, may actually protect their integrity by negating any frivolous or vexatious claims of that nature. The police requested a number of conditions be imposed on the licence to ensure an appropriate CCTV system was installed.
- Protection of children from harm – It was unlawful a person under the age of 18 to buy alcohol just as it was unlawful to sell or supply alcohol to them. To prevent such crimes it would be necessary to require a policy to be

applied at certain licensed premises requiring the production of “proof of age” before such sales were made. All operators and staff had both a duty and responsibility to ensure that only those who were of age were provided with intoxicants. The police were seeking conditions to support this.

- The quality of the staff training and security at the premises needs to be of a capable standard that positively addresses the promotion of the four licensing objectives. The police were asking for conditions to address these concerns.

London Fire & Emergency Planning Authority (“LFEPA”) – None

Health & Safety Enforcing Authority - None

Planning Control & Enforcement – None

Children and Family Services– The Sub-Committee decided that there was no valid representation as the letter from Children and Family Service was neither dated nor signed

The Magistrates Court – None

Representation from Interested Party – None

Reply for the Premises Licensee

The representative for the premises holder accepted that this was a serious matter but did not represent persistent selling as defined by the Licensing Act 2003. The premises holder was now engaging with Trading Standards Service and had now installed a new CCTV system. He was operating Challenge 25 and had a refusals register. He would only accept a valid passport or photo driving licence as proof of age.

The premises holders’ uncle was now a personal licence holder and his sister would be seeking to become a personal licence holder. Mr Karakas was offering to undertake DPS training.

He felt that the CCTV camera outside the premises would act as a deterrent. However, the introduction of till prompts would be expensive. A written notice had been placed on the till to alert staff to the need to Challenge 25.

The premises was a family run business and there had been no intention to sell to underage customers. The fact there was no conditions attached to the current licence reflected a weakness in the legislation not a weakness of the owners.

The premises owner and DPS accepted that the two underage sales had taken place and was prepared to accept all the conditions requested. He had already invited the Crime Prevention Officer to call and inspect his new CCTV. He did have problems with bottle marking and as an alternative had suggested marked bags and/or pricing tags.

He had also expressed concern that a long term suspension would not be appropriate. The premises were a family run business and such a suspension would affect their livelihood. He suggested that if a suspension was to be

imposed a shorter term would be proportionate. He stated that the two test purchases were the only ones carried out, and that a short suspension would be a serious wake up call, as had the review process itself.

5. Determination of Application

Consequent upon the hearing held on 19 October 2010, the Sub-Committee's decision regarding the review of a premises license for Dino's, 123 Mawney Road, Romford, Essex RM7 7BH was as set out below, for the reasons shown:

The Sub-Committee was obliged to determine this application with a view to promoting the licensing objectives, which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

In making its decision, the Sub-Committee also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Havering's Licensing Policy.

In addition the Sub-Committee took account of its obligations under s17 of the Crime and Disorder Act 1998, and Articles 1 of the First Protocol of the Human Rights Act 1998.

Decision

Having considered the relevant representations by the responsible authorities and the premises license holder, the Sub-Committee decided to add the following conditions to the premises licence.

Conditions to be added to premises licence were:

1. No supply of alcohol may be made under the Premises Licence;
 - (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence, or
 - (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
- 2 Every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence
- 3 (1) The premises licence holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
 - (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol,

identification bearing their photograph, date of birth and a holographic mark.

- CD1 All staff shall be suitably trained for their job function for the premises. The training shall be written into a programme, ongoing and under constant review, and must be available to a relevant Responsible Authority when called upon.
- CD15 A properly specified and fully operational CCTV system shall be installed or the existing system maintained to a satisfactory standard. The system will incorporate a camera covering each of the entrance doors and be capable of providing an image which is regarded as 'identification standard' of all persons entering and/or leaving the premises. All other areas of risk identified in the Operational Requirement shall have coverage appropriate to the risk.
- CD16 The installation or upgrading of any CCTV system shall comply with current best practice. In addition the documentation listed below shall be included in a 'System File' which should be readily available for inspection by the relevant authority;
- Site plan showing position of cameras and their field of view.
 - Code of Practice.
 - Performance specification e.g. storage capacity, image file size, IPS for each camera and purpose of each camera position
 - Operational requirement.
 - Incident log.
 - Maintenance records including weekly visual checks.
- CD17 To obtain a clear head and shoulders image of every person entering the premises on the CCTV system, persons entering the premises should be asked to remove headwear, unless worn as part of religious observance.
- CD18 The CCTV system shall incorporate a recording facility and all recordings shall be securely stored for a minimum of one calendar month. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed. The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity. For premises using a video recording system, the cassette tapes shall be used on no more than 12 occasions to maintain the quality of the recorded image.
- CD19 The positions of all CCTV cameras shall be clearly shown on a set of plans which should form part of the 'System File'. Any alteration to the system should only be carried out after consultation with and written approval of Havering Police and the Licensing Authority.
4. The premises owner should arrange for the Crime Prevention Officer to check the CCTV system within 4 weeks of the date hereof to ensure it complies with the conditions.

CDGPG3 Prominent clear notices shall be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.

CDGPG11 All members of staff at the premises shall seek “credible photographic proof of age evidence” from any person who appears to be under the age of 18 years and who is seeking to purchase alcohol. Such credible evidence, which shall include a photograph of the customer, will include a passport, photographic driving licence, or Proof of Age card carrying a “PASS” logo.

CDGPG12 All occasions when persons have been refused service shall be recorded in writing and kept on the premises for six months.

CDGPG13 Prominent, clear notices shall be displayed at the premises about the supply of alcohol to minors and the relevant offences involved.

- 5. The premises will adopt and support a Challenge 25 policy and accept passport and photographic driving licence identification.
- 6. A refusals register should be kept on the premises at all times, shall be available for inspection and kept for a minimum of 12 months. The register shall include details of the persons refused the sale of intoxicating liquor, the date and time of the refused sale, description and apparent age of the person refused, and details of the items refused.

The Sub-Committee **agreed** that the conditions listed above should be implemented as soon as practical. The sub-committee further **agreed** that the licence shall be suspended for a period of 48 hours commencing 10.00a.m. 30 October 2010.

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CHAIRMAN

Date: 2010