

Havering Council – Decisions taken by the Licensing Sub-Committee on Friday, 4 January 2013

Agenda Item No	Topic	Decision
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Note: this decision list is for guidance only. The text of the minutes, which may be different, is definitive.

Part A – Items considered in public

A1	GIDEA PARK GROCERIES - REVIEW	Licensing Act 2003 Notice of Decision						
		<p>PREMISES Gidea Park Groceries 628 Upper Brentwood Road Romford RM2 6HS</p> <p>DETAILS OF APPLICATION</p> <p>Application for a review of the premises licence by the Trading Standards Service under section 51 of the Licensing Act 2003 (“the Act”).</p> <p>APPLICANT Keith Bush Divisional Trading Standards Manager London Borough of Havering 5th Floor, Mercury House Mercury Gardens Romford, Essex. RM1 3SL</p> <ul style="list-style-type: none"> Details of existing licensable activities <table border="1"> <tr> <td align="center" colspan="3">Supply of Alcohol (OFF SALES ONLY)</td> </tr> <tr> <td align="center">Day</td> <td align="center">From</td> <td align="center">To</td> </tr> </table>			Supply of Alcohol (OFF SALES ONLY)			Day
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Day	From	To						

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		<table border="1"> <tr> <td>Monday to Saturday</td> <td>08.00 hours</td> <td>23.00 hours</td> </tr> <tr> <td>Sunday</td> <td>08.00 hours</td> <td>22.30 hours</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td>Good Friday</td> <td>10.00 hours</td> <td>22.30 hours</td> </tr> <tr> <td>Christmas Day</td> <td>12.00 hours 19.00 hours</td> <td>15.00 hours 22.30 hours</td> </tr> </table> <ul style="list-style-type: none"> • Grounds for Review <p>The application had been brought by the London Borough of Havering Trading Standards Service following the sale of alcohol to underage volunteers on one occasion in April 2012. The venue seemed to have a lack of systems and procedures in place to prevent underage sales. Trading Standards had approached the licensee to discuss the steps required to prevent further underage sales. These had not proved fruitful and in the light of the lack of co-operation Trading Standards had sought this review.</p> <ul style="list-style-type: none"> • Promotion of the Licensing Objectives <p>The review had been requested in order to promote the licensing objectives as shown below:</p> <ul style="list-style-type: none"> • The prevention of crime and disorder • The protection of children from harm <ul style="list-style-type: none"> • Details of Representations <p>Trading Standards – (a responsible authority under the Licensing Act 2003) – The representation stated that:</p>	Monday to Saturday	08.00 hours	23.00 hours	Sunday	08.00 hours	22.30 hours				Good Friday	10.00 hours	22.30 hours	Christmas Day	12.00 hours 19.00 hours	15.00 hours 22.30 hours
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		<p>On 4th April 2012 at approximately 16:55 the premises were visited as part of an underage test purchase exercise. Two female volunteers were used, one aged 16 and one aged 17. The volunteers were sold a 75cl bottle of Stowell white wine (alc 12.5%vol). The sale was made by a Mr Barish Yildiz. Mr Yildiz failed to challenge the volunteers for their age or request any identification. Mr Yildiz was issued with a Fixed Penalty Notice.</p> <p>A refusal log was found on site but the last entries were dated 18/1/11 and 18/4/11, indicating that either the document was not being used or no sales had been refused since April 2011. The till prompt system was checked at the time of the sale and it was found that it did not operate for the Stowell wine.</p> <p>At interview the DPS (Designated Premises Supervisor), Mr Solak, was unable to produce any training records for staff and relied on verbal training. He admitted he had not used the refusal log for over a year. He claimed to operate till prompts but admitted they were not working with all alcoholic drinks, only some. Mr Solak had a drinkaware challenge 25 poster in the window but no other supporting paperwork to show he was actively operating the scheme.</p> <p>It was noted that the current licence had no conditions attached to it relating to underage sales. A visit was made to the premises on 27th June 2012 by Keith Bush, Specialist Trading Standards officer, accompanied by Sasha Taylor, Senior Fair Trading Officer to discuss the matter with Mr Solak. It was suggested that conditions be added as Trading Standards had concerns that Mr Solak had insufficient systems and controls at his venue to effectively prevent underage sales.</p> <p>The visit was followed up by a letter suggesting how Mr Solak could forward the matter and alleviate the concerns. No response was received.</p> <p>Despite attempting to get the trader to implement better systems and controls at his venue to</p>

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		<p>prevent underage sales the licensee has failed to take this advice on board. In the light of the recent failure at the venue we would consider that additional conditions are necessary and proportionate to prevent further sales in the future.</p> <p>Chief Officer of Metropolitan Police (“the Police”) (a responsible authority under the Licensing Act 2003) –</p> <p>The representation stated that: ‘The applicant clearly has not demonstrated steps in order to protect children from harm in his policies or taken a reasonable response in the responsible sale of alcohol. Children who obtain alcohol often go on to commit crime and create disorder within our streets.</p> <p>The borough of Havering was rated third out of thirty-three boroughs of London for alcohol fuelled violence, it is vital that retailers play a responsible part in selling alcohol and protecting children from harm.</p> <p>Police feel that the conditions recommended by Trading Standards are appropriate and the police would further recommend the following conditions to be attached to the licence.’</p> <p>The CCTV conditions would assist in preventing crime and disorder and also assist in the investigation of any similar offences being reported to the police in the future. Proxy sale notices and clear window policies are essential and ensures adults are not buying alcohol for children, who often ask others outside, once they are denied themselves. Single bottles and small bottles are often all children can afford and by eliminating the sale/risk this can further assist in preventing children from harm, along with the knock on effect on crime and/or disorder.</p> <p>London Fire & Emergency Planning Authority (“LFEP”) – None</p>

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		<p>Health & Safety Enforcing Authority - None</p> <p>Planning Control & Enforcement – None</p> <p>Children and Family Services– None</p> <p>The Magistrates Court – None</p> <p>Representation from Interested Party – None</p> <p><u>Reply for the Premises Licensee</u></p> <p>Mr Dave Leonard, on behalf of the premises licence holder, Mr Solak, explained that Mr Solak was supportive of his neighbours and the users of his shop. He could not condone what had happened and he had advised Mr Yildiz to pay the Fixed Penalty Notice. The premises already had CCTV and the system was one of the best he had seen. The premises also had a refusals log; unfortunately this had not been regularly updated.</p> <p>The premises had had just two test purchase failures in 10 years, and whilst this was two too many it was not indicative of a premises which regularly failed to observe procedures. There was no excuse for failure, or the failure to respond to the letter. Mr Solak should be operating these conditions anyway. Mr Yildiz was no longer employed by Mr Solak.</p> <p>Mr Leonard had recommended to Mr Solak that he accept all the conditions. Since the latest incident Mr Solak had ensured that two of his employees obtained Personal Licences so there would be three Personal Licence Holders available.</p> <p>Mr Solak did have reservations about the suggested condition that No bottles of wine or spirits less than 70cl shall be sold from the premises. Mr Leonard argued that many of Mr Solak's customers purchased the smaller bottles which he sold from a shelf behind the counter. This</p>
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		<p>was not a case of selling irresponsibly but a case of meeting customer demand.</p> <p>Otherwise Mr Leonard on behalf of Mr Solak stated that he agreed with all conditions suggested by the responsible authorities, noting that the premises already sold cans/bottles of lager, cider, beer and spirit based mixers only in packs of four or more. He accepted too, the suggestion that the mandatory conditions on the licence be brought up to date.</p> <p>Mr Leonard responded to the comment from Paul Campbell regarding the status of Mr Solak's Personal Licence. If the Sub-Committee felt Mr Solak should need training he would attend the course being arranged by Trading Standards.</p> <ul style="list-style-type: none"> • Determination of Application <p>Consequent upon the hearing held on 4 January 2013, the Sub-Committee's decision regarding the review of a premises license for Gidea Park Groceries, 628 Upper Brentwood Road, Gidea Park, was as set out below, for the reasons shown:</p> <p>The Sub-Committee was obliged to determine this application with a view to promoting the licensing objectives, which are:</p> <ul style="list-style-type: none"> • The prevention of crime and disorder • Public safety • The prevention of public nuisance • The protection of children from harm <p>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.</p>

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		<p>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.</p> <p>Decision</p> <p>Having heard the representations made by Trading Standards and considered the written representations submitted by the Metropolitan Police and listened to the representations made on behalf of the premises Licence Holder the Sub-Committee was disappointed that the licence holder had allowed the matter to get as far as a review hearing, when co-operating with Trading Standards would likely agreed have avoided it. The Sub-Committee expects all licence holders to work with responsible authorities to promote all licensing objectives. The Sub-Committee did take into account, however, the premises' previous clean record. The Sub-Committee imposed conditions on the licence to respond to the concerns of Trading Standards and the Metropolitan Police all of which were accepted by the licence holder at the review hearing.</p> <p>The conditions to be imposed on the licence are:</p> <ul style="list-style-type: none"> • The mandatory conditions introduced since the licence was grand fathered over to replace the out of date mandatory conditions currently in place on the licence; • The conditions requested by Trading Standards and the Police, which are: <ol style="list-style-type: none"> a. All staff shall be suitably trained for their job function for the premises; documented refresher training shall be given every 6 months. This must be made available to a relevant responsible authority when called upon. b. The Premises Licence Holder should undertake appropriate training within six months of the receipt of this decision. c. CDGPG3 – A proof of age scheme such as Challenge 25 shall be

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		<p>operated at the premises where the only acceptable forms of identification are recognised photographic identification card such as a driving licence or passport.</p> <ul style="list-style-type: none"> d. CDGPG4 – 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. e. CDGPG12 – All occasions when persons have been refused services shall be recorded in writing and kept at the premises for a period of 12 months. f. CDGPG13 – Prominent clear notices shall be displayed at the premises about the supply of alcohol to minors and relevant offences involved. g. Electronic till prompts will be operated at the venue and this will trigger when any alcoholic beverage is scanned. h. CD16 - A properly specified and fully operational CCTV system shall be installed or the existing system maintained to a satisfactory standard. The system shall 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. i. CD18 -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. j. CD19 The CCTV system shall incorporate a recording facility and all

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		<p>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 shall comply with other essential legislation and all signs as required shall be clearly displayed. The system shall be maintained and fully operational throughout the hours that the premises is open for any licensable activity.</p> <ul style="list-style-type: none"> k. CD21 A staff member from the premises who can operate the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested. l. The front window of the store must be kept clear from any promotional posters or anything similar, staff are required to monitor outside the store to prevent any proximity sales. m. A personal licence holder will be on duty at all times during licensable activity. n. The premises shall not stock any cans/bottles of lager, cider, beer or spirit based mixers unless they are in packs of four or more. <p>The Sub-Committee reminded the Premises Licence Holder that they would expect both him and his staff to work closely with all the responsible authorities.</p> <ul style="list-style-type: none"> • Right of Appeal <p>Any party to the decision or anyone who has made a relevant representation [including a responsible authority or interested party] in relation to the application may appeal to the</p>

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		<p>Magistrates' Court <u>within 21 days of notification of the decision</u>. On appeal, the Magistrates' Court may:</p> <ol style="list-style-type: none"> 1. dismiss the appeal; or 2. substitute the decision for another decision which could have been made by the Sub Committee; or 3. remit the case to the Sub Committee to dispose of it in accordance with the direction of the Court; and 4. make an order for costs as it sees fit. <p>James Goodwin Clerk to the Licensing Sub-Committee</p>