

## **LICENSING SUB-COMMITTEE No. 1**

*Thursday 24 September 2009*

Membership: Councillor Lewis (Chairman), Councillor Havery and Councillor Prendergast

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon

Relevant Representations: Metropolitan Police Service (Applicant),  
Environmental Health and local residents (x3).

Present: Inspector Neil Acheson, Sergeant Andy Joines, PC Alan Sharp and PC Mark Williams (Metropolitan Police), Mr Ian Watson (Environmental Health), Mr James Hayes (Licensing Inspector), Mr Imran Ahmad (AD Law, representing Licensee) and Mr Mohammed Sheikh (owner of the franchise).

### **Costcutter, 480-482 Harrow Road, W9 09/05514/LIREVP**

An application for the Review of the Premises Licence for Costcutter was received by the Licensing Authority on 22 July 2009. The application was made by the City of Westminster Police Licensing Team, and was made under section 51 Licensing Act 2003. The application relates to Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and the Protection from Children from Harm. A review of the premises is sought to prevent ;

- (i) The potential for Crime and Disorder resulting from the sale of alcohol outside permitted hours (contrary to condition 4 of the licence) and sale of alcohol to a minor.
- (ii) The potential for Public Nuisance resulting from the sale of alcohol outside permitted hours (contrary to condition 4 of the licence) and sale of alcohol to a minor.
- (iii) The exposure of Children to Harm, resulting from the sale of alcohol to a minor.

The Authority must, having regard to the application and the representations, take such steps (if any) as it considers necessary for the promotion of the licensing objectives. The steps are:

- (a) to modify the conditions of the licence (modify, delete or add conditions);
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence.

Where the authority modifies the conditions or excludes a licensable activity from the scope of the licence it may provide that the modification or exclusion is to have effect

permanently or for a period not exceeding 3 months.

Decision (including reasons):

After careful consideration of the written and oral representations, the Sub-Committee's decision was to revoke the licence. The Sub-Committee shared the perception of the Police, Environmental Health and local residents that the sale of alcohol from the premises, including the incidents of selling alcohol outside permitted hours and also selling to minors, contributed to some of the distinct problems in the area. Members had no confidence that the situation would change as the management had not demonstrated over a period of time that they would put the necessary measures in place to rectify the situation.

The Sub-Committee noted that Sergeant Crawford of the Safer Neighbourhood Team in the area had felt it necessary to request the premises to stop selling alcohol at the store as he believed it might be contributing to the antisocial behaviour problems in the area. Inspector Acheson stated that whilst the licensee had voluntarily agreed to temporarily stop selling alcohol, he had declined to surrender the licence to stop doing so. Members heard Inspector Acheson refer to the representations of PC Williams and PC Sharp which detailed their test purchases when the premises had sold alcohol to minors and the accounts of local residents stating that they could still buy alcohol after the terminal hour at the premises. Inspector Acheson had also expressed concerns that Mr Farooq and Mr Ahmed had not made a commitment to attend meetings with the Police to discuss the offences. He had not heard from the premises how they intended to improve their poor record.

Inspector Acheson also gave evidence relating to a recent robbery outside the premises. The Chairman agreed to hear that evidence but Mr Ahmad, on behalf of the licensee, said that there was nothing to show that the robbery was in any way connected with his client's premises.

Inspector Acheson also indicated that, in view of the evidence presented by the Environmental Health Consultation Team, the police's view was that it was more appropriate to revoke the licence than to simply suspend the licence for three months.

The Sub-Committee also heard from a Licensing Inspector, Mr Hayes, who gave evidence on behalf of Environmental Health. He had made a number of visits to the premises outside the shop's licensed hours and he had experienced difficulties in establishing who was in day to day control of the premises. The Licensing Inspectors had no confidence in the management of the premises.

Mr Ahmad on behalf of the licensee was of the view that the links between the premises and crime and disorder were tenuous in a number of respects (such as the references to prostitution and the recent robbery). In particular, he said that the police had never written to his clients prior to the incidents giving rise to the review application to indicate to them that they were the cause of crime and disorder in the

area. Moreover, he said that there were other premises within 50 yards of the premises which operated to the same hours and which also sold alcohol. He said that there were at least four shops that sold super strength alcohol.

He further stated that there were no excuses for the sale of alcohol to minors or the failure to attend the meetings with Police to discuss the offences apart from the fact that Mr Farooq and Mr Ahmed thought the latter were voluntary meetings. He did not object to the option of a suspension of the licence for three months in order to train staff regarding the necessary procedures. Mr Ahmad stated that though Mr Farooq was still the Designated Premises Supervisor, it was intended that he would be replaced by Mr Sheikh who was in attendance. The Sub-Committee were concerned by the number of premises Mr Sheikh said he was involved with. The Sub-Committee did not think that Mr Sheikh would offer sufficient commitment to the premises which is what was required in the circumstances.

The Sub-Committee had particular regard to the evidence presented by interested parties. It was felt that there was considerable local objection which could not be ignored. The Committee did have regard to the petition, though there were doubts about its accuracy. However, it was considered that a significant number of entries were genuine with accurate names and addresses. Whilst the Sub-Committee did accept that not all of the problems in the area could necessarily be laid at the door of these premises, it was considered that there was enough evidence to show that the premises was the source of many problems.

Combined with the specific objections that had been submitted, the clear evidence relating to the sale of alcohol to minors, the history of problems that were associated with the premises, including sales of alcohol outside of licensing hours, and the fact that the licensees had not made adequate attempts to meet with the police, it was considered that the premises had not been adequately managed and that revocation was the only means to secure the promotion of the licensing objectives.

## **APPEALING AGAINST LICENSING DECISIONS OF THE COUNCIL**

### **1. WHO CAN APPEAL?**

An important change to licensing law included in the Licensing Act 2003 is that whereas previously only applicants for a licence could appeal to the Magistrates' Court if they were not happy with a decision of the Council, now both applicants and local residents can appeal. For example, if a local resident has objected to an application for a licence being granted, but the Council decides to grant with certain conditions, that resident may appeal to the court, either about the grant of the licence or to ask for different conditions to be granted by the court, such as an earlier finishing time.

### **2. CAN I RESPOND TO AN APPEAL BY THE OPERATOR IF THEIR APPLICATION HAS BEEN REFUSED?**

The Magistrates Court at Horseferry Road, where such appeals are heard, have said that you can. The Magistrates Court has decided that, where an applicant appeals against the refusal of a licence by the Council, any person who made objections to that grant has the right to respond to the appeal separately from the Council, if they wish. So objectors will be notified by the court of any appeal.

Westminster is very experienced at dealing with appeals against its licensing decisions and always contacts people who objected at the Council hearing to see if they wish to continue their objection by supporting the Council. Objectors therefore have a choice of mounting their own response to an appeal by an operator, in which case they would be responsible for any costs involved and be subject to the directions of the court about how and when the appeal hearing will take place. Or they can become witnesses of the Council, giving evidence in a written statement, and if required and willing to do so, in person, at the court.

### **3. HOW DO I APPEAL?**

You may at any time before the expiration period of twenty-one days beginning with the date of this letter appeal to the City of Westminster Magistrates' Court, 70 Horseferry Road, London SW1P 2AX."

### **4. CAN I GET HELP WITH AN APPEAL?**

Yes. The Westminster Citizens Advice Bureau has a specially trained adviser who may be able to help you with advice. The Licensing Adviser can be contacted on 020 7467 3015 or by e-mail on [licensing@westminstercab.org](mailto:licensing@westminstercab.org).

You may also seek help about what is happening in appeals by operators that the Council is responding to by speaking to the licensing appeals manager on 020 7641 5984 or by email on [hdavies@westminster.gov.uk](mailto:hdavies@westminster.gov.uk).