

**LICENSING ACT 2003**

**DRINKS DIRECT SUPERMARKET LTD**  
256 High Street, Langley, Slough. SL3 8HA

Review of Premises Licence – **Number PL004630**  
Application made by Slough Borough Council Trading Standards Service

**1. CURRENT POSITION**

- 1.1 On the 17<sup>th</sup> April 2013, Slough Borough Council's Trading Standards Service brought a Review of the Premises Licence for Drinks Direct Supermarket Ltd, 256 High Street, Langley, Slough, SL3 8HA.

**Licences**

- 1.2 Drinks Direct operates under a Premises Licence number PL004630. The Premises Licence Holder and named Designated Premises Supervisor (DPS) is Mr Charanjit Singh Arura, who holds a Personal Licence (number LBHIL0918) issued by the London Borough of Hillingdon.
- 1.3 The DPS is responsible for the day to day management of the premises.
- 1.4 The Premises Licence authorises the carrying out of the Relevant Licensable Activities as follows:
- **M - The sale by retail of alcohol for consumption Off the premises only**
- 1.5 The times the Licence authorises the Licensable Activities are:

Monday to Saturday - 08.00am to 11.00pm  
Sunday - 10.00am to 10.30pm  
Good Friday - 08.00am to 10.30pm  
Christmas Day - Noon to 10.00pm

A copy of the current Premises Licence is attached at **Appendix A**.

**2. BACKGROUND INFORMATION**

- 2.1 The grounds of Review are:
1. The Prevention of Crime and Disorder,
  2. Public Safety
  3. The Protection of Children from Harm,

The full Review Application and supporting evidence are contained at **Appendices B and C**.

## 2.2 The grounds for the current Review Application are based on the following:

- On 10<sup>th</sup> April 2013 Trading Standards inspected the premises of Drinks Direct and seized;
  - 36 x packs of cigarettes, with non-English health warnings
  - 16 x pouches of hand rolling tobacco (50g) with non-English health warnings
  - 9 x packs of tobacco 'shisha', bearing no government health warnings
  - Approximately, 100 x packets/pouches of 'smokeless' chewing tobacco (e.g. Gutkha, Khaini, Uda Pancchi, etc) bearing no government health warnings
  - 9 x bottles of counterfeit Jacobs Creek wine
  - Packets of imported prescription only medicines

Illegal possession of all the above items constitute offences under the Trade Marks Act 1994, the Consumer Protection from Unfair Trading Regulations 2008 and the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 (as amended)

- That the premises were subject of a previous Review Application in 2012 again made by Trading Standards Service for selling alcohol to an underage person, selling cigarettes to an underage person, selling fireworks in breach of the fireworks licence conditions and being found in possession for sale of counterfeit alcohol, condoms and batteries.
- In 2007 counterfeit Durex condoms and imported cigarettes were seized and in 2008 a written warning was given to Drinks Direct following the seizure of counterfeit vodka and Durex condoms. *(These two seizures were also detailed within the previous review in 2012)*

2.3 Advice on underage sales had previously been provided to the business in October 2005, January 2008 and July 2009

2.4 The Premises were subject to a previous Review Application made by Trading Standards Officers in 2012 following the sale of both alcohol and tobacco products to underage persons on 16<sup>th</sup> November 2011 and the sale of fireworks outside the allowed sale period on 17<sup>th</sup> November 2011.

2.5 At the previous Review hearing the Committee having carefully considered all the information available, decided to impose the following on the Premises Licence:

- The Premises Licence Holder is required to undertake the requirements of the Council's can-marking scheme.
- CCTV to be installed and recordings to be kept for 31 days (compliant with Home Office regulations) and made available upon the request of Thames Valley Police or the Licensing Authority.
- Staff to be trained on how to work the CCTV system where a staff member can download any potential evidence if required by Thames Valley Police or the Licensing Authority.
- In accordance with Central Government guidance and due to the seriousness of the incident highlighted the Sub-Committee also decided to issue the premises with a **"Yellow Card"**. **It was highlighted that if a further review was necessary and matters had not improved, the premises licence could be revoked. (see Appendix D)**

- 2.6 For the offence on 16<sup>th</sup> November 2011 Drinks Direct were convicted and fined £900.00 and ordered to pay costs of £1005.74 with the seller Mr Grover being fined £300.00 and ordered to pay costs of £150.00. For the offence on 17<sup>th</sup> November 2011 Mr Charanjit Singh Arura was convicted and fined £1,000.00 and ordered to pay costs of £850.00.

### **3. APPLICATION – REVIEW OF PREMISES LICENCE**

3.1 The Licensing Authority is satisfied that this application for Review meets the appropriate legislative requirements within the Licensing Act 2003 and is therefore a valid application to be considered by the Licensing Sub-Committee.

3.2 There are various grounds on which a Review Application may be triggered and these

- 1 or more sales to minors of alcohol or **any other age restricted product**
- Reports of anti-social behaviour linked to the premises
- Evidence of proxy sales
- Sales of alcohol outside trading hours
- Other crime and disorder connected to the premises
- Sales of counterfeit or substitute goods

3.3 The recommendation made by the Trading Standards Service, due to the recent seizure, and of the previous history and management of the premises is that there is no other alternative than the premises being issued with a “Red Card” and for the Premises Licence to be revoked.

### **4. REPRESENTATIONS RECEIVED**

4.1 Responses to the Review Application from Responsible Authorities have been received.

4.2 The Thames Valley Police Licensing Officer has responded by supporting the Review Application and recommendations being made.

The full written response is attached at **Appendix E**.

4.3 The Royal Berkshire Fire and Rescue Service confirmed that they do not propose to make a representation. This response is attached at **Appendix F**.

4.4 There have not been any responses from any other Responsible Authorities.

### **5. RELEVANT GUIDANCE**

The amended guidance issued under section 182 of the Licensing Act 2003 was published in October 2012 and the salient points that the Committee must have regard to for Review Applications are detailed below:

**11.1** The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

**11.2** At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

- 11.10** Where authorised persons and Responsible Authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.16** The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17** The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18** However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.
- 11.19** Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
  - to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
  - to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
  - to suspend the licence for a period not exceeding three months;
  - to revoke the licence.
- 11.20** In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.
- 11.21** For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22** Equally, it may emerge that poor management is a direct reflection of poor company

practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

**11.23** Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

5.1 The committee should also consider and make use of the 'Yellow and Red Card' system as directed and recommended by The Department of Culture, Media and Sport (DCMS) and as approved by the Licensing Committee.

5.2 The procedure to be followed for the Review hearing is attached at **Appendix G**.

## **APPENDICES**

Appendix A - Copy of Premises Licence for Drinks Direct PL004630

Appendix B - Review Application and supporting information made by Trading Standards

Appendix C - Review Application Supporting Information.

Appendix D - Copy of 'Yellow Card' from April 2012

Appendix E - Response from Debie Pearmain Thames Valley Police Licensing Officer

Appendix F - Response from Royal Berkshire Fire and Rescue Service

Appendix G - Procedure to be followed for Review hearing.

## **Background papers**

- The Licensing Act 2003
- Guidance issued under Section 182 of the Licensing Act 2003 - (Revised October 2012)
- Regulations (cited as the Licensing Act 2003 ([Various]) Orders 2005
- Slough Borough Council Statement of Licensing Policy - December 2010
- DCMS Guidance – Red and Yellow Card System
- LACORS Guidance to Trading Standards as a Responsible Authority: Reviews

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