

Minutes of the Licensing Sub-Committee 4

Tuesday 20th January, 2015 at 10.00 am
in the Council Chamber, The Council House, Dudley

Present:-

Councillors J Cowell, D Hemingsley and H Turner

Officers:-

R Clark (Legal Advisor), B Hughes (Licensing Enforcement Officer) and K Taylor (Democratic Services Officer) – All Directorate of Resources and Transformation.

19 **Election of Chair**

In the absence of the Chair (Councillor M Roberts) it was

Resolved

That Councillor Cowell be elected Chair for this meeting of the Sub-Committee only.

(Councillor Cowell in the Chair)

20 **Apology for Absence**

An apology for absence from the meeting was received on behalf of Councillor M Roberts.

21 **Appointment of Substitute Member**

It was reported that Councillor J Cowell had been appointed as substitute Member for Councillor M Roberts for this meeting of the Sub-Committee only.

22 **Declarations of Interest**

No Member made a declaration of interest in accordance with the Members' Code of Conduct.

23 **Minutes**

Resolved

That the minutes of the meeting of the Sub-Committee held on 16th December, 2014, be approved as a correct record and signed.

24 **Application for a Licensed Premises Gaming Machine Permit – The Bostin Fittle, Tipton Road, Dudley.**

It was noted that this item had been withdrawn by the applicant prior to the meeting.

25 **Application for Review of Premises Licence – One Stop (Previously Bridge General Stores) 42 Bridge Street, Coseley**

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of One Stop (Previously Bridge General Stores) 42 Bridge Street, Coseley.

Mr R Thirugnanasampanthan (Premises Licence Holder and Designated Premises Supervisor) was in attendance at the meeting.

Also in attendance were C King, Principal Trading Standards Officer, and G Wintrip, Age Restricted Products Enforcement Officer, (Both Directorate of Environment, Economy and Housing); and WPC Cheema and J Willers, West Midlands Police.

Following introductions, the Licensing Enforcement Officer presented the report on behalf of the Council.

Mr C King then presented the representations of Trading Standards and in doing so highlighted that the grounds of the review had been based on the serious undermining of the two licensing objectives, namely, the prevention of crime and disorder and the protection of children from harm due to the poor management of the premises following the underage sale of alcohol.

Mr King informed the Sub-Committee that on 12th September, 2014, a fifteen year old male was sold alcohol from the premises, and again on 26th September, 2014, the same male was sold alcohol from the premises contrary to section 146(1) of the Licensing Act 2003 and in direct contravention to the licensing objectives.

On 15th April, 2013, an officer from Trading Standards carried out a visit to the premises and spoke to Mr Thirugnanasampanthan. The purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, and Mr Thirugnanasampanthan was given detailed advice including information in respect of acceptable proof of age and the importance of keeping a refusals register. Mr Thirugnanasampanthan was provided with an information pack that included an advice booklet, a Challenge 25 poster, a refusals register, a poster about proof of age and a sample Proof of Age Standards Scheme card. He was also requested to ensure that it was brought to the attention of all staff to ensure they were aware of their obligations under the Licensing Act 2003; Mr Thirugnanasampanthan also signed an ARP form 0847 to acknowledge receipt of the information pack during the visit.

It was noted that on 26th June, 2013, an alcohol test purchase exercise had been undertaken at the premises which did not result in a sale being made.

It was further noted that on 8th August, 2014, a yearly advisory visit was undertaken at the premises, and the visiting officer spoke to Mr Thirugnanasampanthan who was again present. Further advice was given relating to the law concerning the sale of age restricted products. Mr Thirugnanasampanthan also signed an ARP form 1200 to acknowledge that the visit had taken place.

Mr King further stated that at 17:30 hrs on Friday 26th September, 2014, WPC Berry was on uniform patrol in Bridge Street, Coseley, and witnessed a fifteen year old male who she recognised outside the One Stop shop in Bridge Street. WPC Berry located the male nearby and whilst questioning the male admitted to purchasing four cans of Carlsberg lager, two cans of Carling lager and three cans of Strongbow cider. It was noted that the male also admitted that he had purchased alcohol from the premises on 12th September, 2014, and on neither occasion had he been asked to produce identification.

Following the sale, and having visited the premises, it was discovered that the individual who sold the alcohol to the male had been a Mr R Lamir, who admitted selling the alcohol to the male and that he did not request identification.

It was reported that WPC Berry visited the premises later the same day and spoke to Mr Thirugnanasampanthan, and when he was informed of the sale he stated "Please don't report me, this won't happen again but please don't report me".

In concluding, Mr King stated that should the Sub-Committee be minded not to revoke or suspend the premises licence, they could consider including additional conditions to the licence. A full list of the proposed conditions had been circulated to all parties prior to the meeting.

WPC Cheema then presented the representations of West Midlands Police and WPC Berry's witness statement, and also informed the Sub-Committee that the Police had carried out checks on the police systems and there had been some serious issues with local youths causing anti-social behaviour in the local parks which was exacerbated by alcohol.

It was further noted that there was no further police evidence regarding the alleged sale on 12th September, 2014.

Mr Thirugnanasampanthan then presented his case, and in doing so referred to the alleged sale on 12th September, 2014, in particular that he was working at the premises on that day, and did not recall making the sale. He also referred to the alleged sale on 26th September, 2014 and stated that having viewed the CCTV footage it appeared that the male placed the alcohol in his bag, and that the seller, Mr Lamir, did request identification but not from all those that were present as a number of young men were at the counter at the time.

Mr Thirugnanasampanthan reported that he dismissed Mr Lamir immediately following the sale, and confirmed that he had been fully trained prior to working on the register. It was also noted that Mr Thirugnanasampanthan was no longer in contact with Mr Lamir and that he was very angry that the sale had been made.

It was noted that an automatic till prompt was installed in the register resulting in a notice being displayed when an age restricted product had been scanned. It was further reported that Mr Thirugnanasampanthan would remind his staff on a daily basis to check for identification.

At this juncture, Mr Thirugnanasampanthan circulated the training programme and records that he carried out at the premises, including a training record for Mr Lamir dated September, 2014.

Concerns were raised by all parties, as it appeared that the copy passport for Mr Lamir contained in the training record had a different name and date of birth as mentioned in the documentation submitted by both Trading Standards and West Midlands Police. Mr Thirugnanasampanthan confirmed that the photograph was accurate and that he was known by his nickname "Raz", although his records stated Mohammed.

Mr Thirugnanasampanthan also stated that Mr Lamir visited the premises seeking employment, and had worked in the store for two weeks and trained and instructed in the sale of alcohol on his first day of work.

It was further noted that the premises was a family business, and the staff on the training records were members of Mr Thirugnanasampanthan's extended family, with Mr Lamir being the only non-family employee.

In responding to a question by Mr King, Mr Thirugnanasampanthan confirmed that he had not known Mr Lamir prior to his visit to the premises, and that he had not requested references prior to Mr Lamir's employment.

It was also reported that Mr Thirugnanasampanthan resided above the premises and worked the majority of the operating hours.

In responding to a question by Mr King, Mr Thirugnanasampanthan confirmed that the refusals register was electronic and details entered through the till register, and that he had installed eight CCTV cameras in the premises, which he was able to access and download.

In responding to a question by the Chair, Mr Thirugnanasampanthan confirmed that he had checked and photocopied Mr Lamir's passport and student I.D card prior to his employment.

In responding to a question by the Legal Advisor, Mr Thirugnanasampanthan stated that he did not maintain a manual refusals register, and that he was able to print a copy of the electronic refusals register over a thirty day period. He also stated that although he had CCTV footage that appeared to show youths stealing alcohol on 26th September, 2014, the footage was unclear for it to be reported to the Police.

In responding to a question by the Chair, Mr Thirugnanasampanthan confirmed that he was in agreement with the conditions suggested by Trading Standards.

In summing up, Mr King, on behalf of Trading Standards, stated that the review had been submitted following the detection by West Midlands Police and that he had deep concerns of the management of the premises following evidence presented at the hearing today.

In summing up, WPC Cheema, on behalf of West Midlands Police, raised concerns in relation to the sale of alcohol and the impact this caused in the area and that she fully supported the recommendations submitted by Trading Standards.

In summing up, Mr Thirugnanasampanthan stated that he had operated the premises for eight years with no issues or complaints and asked that the Sub-Committee give him a chance.

The parties then withdrew from the meeting in order to enable the Sub-Committee to determine the application.

The Sub-Committee having made their decision invited the parties to return and the Chair then outlined the decision.

Resolved

That, subject to the following conditions being applied to the premises licence, no further action to be taken in relation to the review of the premises licence in respect of One Stop, 42 Bridge Street, Coseley : -

Conditions

- (1) A written Proof of Age Policy (Challenge 25) is to be put in force, which all staff authorised to sell alcohol will be trained in and adhere to. Valid proof of identification will only include passport, photographic driving licence or a Proof of Age standards Scheme (PASS) proof of age card such as Citizen card. No other form of identification shall be accepted.
- (2) A4 notices to be displayed on the door to the premises and near the point of sale stating that it is an offence to buy alcohol for persons under the age of 18.
- (3) A Register of Refusals of Sale of Alcohol which indicates the date, time and reason for refusal will be operated and maintained at the premises. The Premises Licence Holder shall review the book once a week ensuring it is completed and up-to-date. The Premises Licence Holder will sign the book each time it is checked. This book shall be made available for inspection by an officer of any responsible authority.

- (4) CCTV to be in place at the premises and to be recording at all times when the premises are open for licensable activity, to the specifications of the West Midlands Police Crime Reduction Officer so that the alcohol display area and the point of sale area can be viewed. All images are to be recorded and kept for a minimum of 28 days and made available to any responsible authority upon request immediately, and all staff are to be trained and able to operate and download CCTV. The hard drive is to be locked but readily accessible to staff.
- (5) The Premises Licence Holder will take proportionate steps to review the premises' CCTV on a weekly basis in order to identify persons under the age of 18 who are attempting to buy alcohol or persons over the age of 18 buying on their behalf. A record of these checks shall be maintained and be available for inspection upon request by an officer of any responsible authority.
- (6) All persons engaged to sell alcohol must complete a training programme, which includes a written test, to verify the competency of that person prior to them being authorised to sell alcohol.
- (7) The premises licence holder shall ensure that monthly reviews are conducted with any persons authorised to sell alcohol in order to reinforce training, promote best practice and policy. The monthly reviews will be recorded in writing.
- (8) A file shall be maintained at the premises for each person authorised to sell alcohol (with proof of identity which will be a copy of passport and/or driving licence). This file shall contain all training records for each person along with copies of monthly reviews as stated in point 7. This file shall be made available for inspection by any officer from a responsible authority upon request.
- (9) Any person who is suspected of purchasing alcohol for any person under the age of 18, shall be refused service.

Reasons for Decision

This is a review of a premises licence brought by Trading Standards on 24th November, 2014. In response to advertising the review, both the West Midlands Police and the Director of Public Health have made representations.

The Premises Licence Holder, Mr Ravi Thirugnanasampanthan attended today. He is referred to incorrectly as Mr "Dhiru" in the statement of WPC Berry and it was confirmed today that this should be spelt "Thiru" but that he was the same person. He asked to be referred to as Mr Ravi. He is also the Designated Premises Supervisor. There was no representative from Public Health.

Trading Standards bring the review as a result of a fifteen year old male being sold alcohol on 12th September, 2014 and a further four cans of Carlsberg lager, two cans of Carling lager and three cans of cider on 26th September, 2014.

The evidence of Trading Standards is that they visited the shop in April 2013, to give advice and an advice pack to the Premises Licence Holder and that a further annual visit took place on 8th August, 2014. It is noted that a test purchase exercise was conducted in June, 2014 and no sale was made.

The evidence of West Midlands Police (WPC Berry) is that the officer saw the fifteen year old boy outside the store on 26th September and the boy admitted that he had bought alcohol from the shop for his friends. Mr Thirugnanasampanthan's evidence was that on the CCTV the boy appeared to be placing alcohol in his bag from the store, and that the shop attendant, Mr Lamir was not clear how much had been paid for on 26th September, as a number of young men were at the counter at the time. He also admitted buying alcohol from the same store on 12th September, 2014. The officer spoke to a Mr Lamir in the store and he admitted to making the sale and to not asking the boy for any proof of age. There is no further police evidence regarding the alleged sale on 12th September. Mr Thirugnanasampanthan stated that he worked in the shop all of that day and made no sale to the boy and that the CCTV revealed no sale being made.

Mr Thirugnanasampanthan stated that Mr Razna Lamir (known by staff as Raz) had been fully trained and had a training record dated September, 2014, but that as a result of the sale, he had been dismissed. Mr Thirugnanasampanthan gave evidence that the till had an automatic till prompt system, which Mr Lamir must have overridden to make the sale.

The copy passport for Mr Lamir contained in the training record had a different date of birth and name to that given to the police but Mr Thirugnanasampanthan confirmed that the photograph was accurate and that Mr Lamir was the same person as Mohammed in the training records. The passport photograph was of poor quality and the two names on the passport could not be clearly read but appeared to be “Mohammed Haff...” and “Mohammed Sab...” Mr Thirugnanasampanthan also stated that Mr Lamir had worked in the store for two weeks and had been trained and instructed in the sale of alcohol. All other staff on the training record were members of Mr Thirugnanasampanthan’s extended family and Mr Lamir was the only non-family employee.

The conditions of licence proposed by Trading Standards were put to Mr Thirugnanasampanthan. He confirmed that he had CCTV in the store and that he could provide access to this to police/trading standards upon request.

The Sub-Committee is very unhappy with the way in which Mr Lamir was employed in the business and the very poor checks undertaken before he was employed. If he was given appropriate training, this training was not evidenced on 26th September, 2014, and the management of the premises on that day was very poor, and it was not even clear whether some of the alcohol had been stolen rather than purchased.

The Sub-Committee therefore imposes the nine conditions proposed by Trading Standards, onto the premises licence. These will specifically ensure that appropriate training to staff is given, records are kept, proof of identity is sought from purchasers under the age of 25 and that CCTV is maintained and available in the premises at all times.

Mr Thirugnanasampanthan was informed of his right to appeal the decision of the Sub-Committee.

Application for Consent to Engage in Street Trading – Mr and Mrs Hill – Ryemarket, Stourbridge

A report of the Director of the Corporate Resources was submitted on an application made by Mr and Mrs Hill for the grant of consent to engage in street trading to sell freshly made Crepes with various fillings, Corn Dogs, Burgers, Pancakes and Hot and Cold Sandwiches, between 7 am and 5 pm, Fridays, Saturdays and Bank Holidays in Ryemarket, Stourbridge.

Mr R Hill and Mrs L Hill, Applicants, were in attendance at the meeting.

Also in attendance and objecting the application were J Wynn, Town Centre Assistant Events Officer, Directorate of Environment, Economy and Housing, and K Dyas, Centre Manager – Ryemarket, Stourbridge.

Following introductions the Licensing Enforcement Officer presented the report on behalf of the Council.

Mrs Wynn then reported that the area requested by the applicants was designated for entertainment and events and hired on a daily basis to agencies, such as promoting utilities, and that the main concern was the limited space available.

Mrs Dyas reported that the area requested was near the main entrance to the Ryemarket, and should the application be approved, then it was anticipated that there would be an increase in litter which would place an increased burden on the Ryemarket Shopping Centre staff who cleaned and emptied the bins within the area.

It was also noted that there was a retailer with consent to trade in the requested site that sold Jacket Potatoes.

In responding to comments made, Mr Hill believed that there would not be an increase in litter as he would undertake a litter sweep each night and remove the rubbish.

Mr Hill then presented his application, and in doing so informed the Sub-Committee that he believed that there was no trader already on the site, as the Jacket Potato van had not been there for a long period of time. He acknowledged that there would be limited space available for two vans but he applied for consent on the understanding that there were no other traders and that he wanted to offer good food to the people in Stourbridge.

It was noted that the trader who sold jacket potatoes in the area had not been at the site due to illness; however he was expected to return in the near future.

Resolved

That the application made by Mr and Mrs Hill for the grant to consent to engage in street trading in Ryemarket, Stourbridge, be refused.

Reasons for Decision

Mr and Mrs Hill attended today to make their application for the consent to street trade outside the Ryemarket, Stourbridge. They propose to sell fresh crepes and other foods from a van between 7am and 5pm every Friday and Saturday, and bank holidays also.

The town centre manager and events officer gave evidence that the area was used heavily and that a number of commercial organisations rented out space for events and that this brought in significant income for the Council. They also stated that there was a significant number of food outlets already in the area including three within the Ryemarket itself. A van selling potatoes already has consent to trade in the area, albeit that he has not been there recently due to illness. His consent is from Monday to Saturday. However, he was expected to return to trade on his pitch.

They were also concerned about the lack of space in the area due to the other users of the space, and the flow of persons through the area, from the shopping centre. They did not believe that the two vans could operate safely side by side, because the street furniture would not permit a safe flow of people through the area. The street market also uses the area twice a month.

For these reasons the application for a street trading consent is refused.

The meeting ended at 12.15pm.