

LICENSING SUB-COMMITTEE 1

Tuesday 20th October, 2009 at 10.40am
in The Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Ryder (Chairman)
Councillors Mrs Coulter and Mrs Dunn

Officers

Principal Solicitor (Legal Advisor), Mrs J Elliott (Licensing Officer) and
Miss K Wilson (Directorate of Law, Property and Human Resources).

8 APOLOGIES FOR ABSENCE

Apologies for absence from the meeting were submitted on behalf of
Councillors Nottingham and Tyler.

9 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that Councillors Mrs Coulter and Mrs Dunn had been
appointed as substitute members for Councillors Tyler and Nottingham
respectively, for this meeting only.

10 DECLARATIONS OF INTEREST

No member declared an interest in accordance with the Members' Code
of Conduct.

11 MINUTES

RESOLVED

That the Minutes of the Meeting of the Sub Committee held on 6th
October 2009, be approved as a correct record and signed.

12 REVIEW OF PREMISES LICENCE – WOOD ROAD MINI MARKET, 2 WOOD ROAD, SEDGLEY

A report of the Interim Director of Law, Property and Human Resources
was submitted on a review of the premises licence in respect of Wood
Road Mini Market, 2 Wood Road, Sedgley.

Mr I Walton, Solicitor, was in attendance at the meeting, together with Mr Harjit Singh (Premises License Holder).

Also in attendance and objecting to the application were Mr M Chambers, accompanied by Ms Y Enefer from Trading Standards, Sergeant Simpson accompanied by PC D Smith from West Midlands Police, Mrs C Bate and Mr P Greenaway (Both Ellowes Hall Tenant's and Resident's Association), Councillor D Stanley (Cabinet Member for Environment and Culture) and Councillor A Millward (Ward Member for Gornal).

Following introductions, the Chairman outlined the procedure to be followed.

Consideration was given as to whether evidence, which had not been submitted prior to the meeting, should be disclosed during the hearing. Following submissions on this point, it was agreed by all parties that further evidence would be excluded from the hearing.

Mrs J Elliott, Licensing Officer, Directorate of Law, Property and Human Resources, presented the report on behalf of the Council.

It was noted that Mr Palvinder Singh, Premises Licence Holder and Designated Premises Supervisor had transferred the premises licence to his brother, Mr Harjit Singh on 13th October 2009.

Mr Chambers then presented the representations of Trading Standards in respect of the application to review the premises licence made at Appendix 2 to the report submitted. He informed the Sub-Committee that eight test purchases, which took place over a six year period, had resulted in a refusal of sale.

Sergeant Simpson provided details relating to two incidents on 24th April 2009 and 15th May 2009, and raised the concerns of the level of anti social behaviour in the area, which seemed to be more excessive during the weekend.

Councillor D Stanley then emphasised his concerns, which had been sent to the Sub-Committee Members and applicant prior to the meeting in accordance with the Licensing Act 2003. He made particular reference to the nuisance to nearby residents and of the detrimental effect on the health of the consumers from the sale of alcohol. In view of this, Councillor Stanley suggested that there was an opportunity for the Sub-Committee to improve the lifestyle of the residents.

Councillor A Millward provided details of her observations and emphasised her concerns of the period which the nuisance had taken place. She also highlighted the 'Stay Safe' scheme, which had been implemented to safeguard youths with alcohol.

In responding to a question from the Chairman relating to the distance to the next off-licence from Wood Road Mini Market, Councillor Millward confirmed that this would be approximately 5 – 10 minutes.

Mrs C Bate (Secretary of Ellowes Hall and Tenant's and Resident's Association) presented her objections, which had been circulated to the Committee members prior to the meeting and in doing so highlighted the concerns raised by residents.

Mr P Greenaway supported Mrs Bate's representations, and in doing so highlighted the anti social behaviour witnessed at local garages, which he believed was a result of alcohol purchased from the premises.

Mr Walton asked Mr Chambers whether he could provide factual evidence to support claims that alcohol had been sold to underage persons, to which Mr Chambers was unable to do so.

Mr Chambers responded to a query raised by Mr Walton relating to a fixed penalty notice issued to Mr. Sarwan Singh Sandhu on 22nd June 2007 for the sale of alcohol to a 15 year old person, to which he confirmed that the notice had not resulted from a test purchase exercise.

In responding to a question from Mr Walton relating to evidence as to whether anti social behaviour was the result of youths purchasing alcohol from the premises, Sergeant Simpson responded that he was unable to disclose specific information but believed that people did purchase alcohol from the premises.

In responding to a question from Mr Walton, Sergeant Simpson confirmed that following an incident on 24th April 2009; he returned to the premises and spoke with Mr Parvinder Singh (Premises Licence Holder at the time) and Mr H Singh. Sergeant Simpson requested to view the CCTV recording, but was informed that it was not working. He highlighted the implications for selling alcohol to under aged persons and the law.

In responding to a question from a Member, Mr Walton confirmed that Mr Palvinder Singh (brother of Mr Harjit Singh) was the premises licence holder and designated premises supervisor prior to 12th October 2009.

Mr Walton (Solicitor) then presented the case on behalf of Mr Harjit Singh (Premises Licence Holder), and in doing so provided a background of the history of the premises. He also confirmed that it was the intention for Mr H Singh to become the designated premises supervisor.

Reference was made to the paved area located in front of the premises, where youths would congregate and disrupt services to Wood Road Mini Market and other businesses. Mr Walton stated that in accordance with the Licensing Act 2003, he believed that anti social behaviour was not the responsibility of the Premises Licence Holder, and that Mr H Singh was sympathetic to the residents and was committed to working together with them to reduce anti social behaviour.

In responding to a question from Sergeant Simpson regarding CCTV, Mr H Singh confirmed that CCTV was working but required updating, and suggested that following guidance a new system would be installed.

In responding to a query from Mrs Bate requesting a breakdown of the licence holders at the premises over a period of 20 years, Mr H Singh confirmed that Mr Parvinder Singh had always been the Premises Licence Holder.

In responding to a query from the Chairman, Mr Singh confirmed that refusals were recorded into a solid bound book.

In summing up, Mr Chambers asked the Sub-Committee to consider the evidence given, which in his opinion, identified that alcohol had been purchased by under aged persons at the premises. He also stated that there were a number of concerns mainly the protection of children from harm, and the level of anti social behaviour in the area.

Sergeant Simpson agreed with Mr Chambers representations, and highlighted his concern of the results following the police operation on 15th May 2009 as indicated in Appendix 2 to the report submitted.

Councillor Stanley emphasised his concerns raised during the hearing and asked the Sub-Committee to consider the lifestyles of the local residents and felt that this was an opportunity to provide a better quality of life.

Mr Walton, on behalf of Mr H Singh, informed the Sub-Committee that sufficient evidence had not been heard to confirm that alcohol had been sold to under aged children. He also highlighted the eight test purchases which had all resulted in a refusal of sale and asked for the opportunity for Mr H Singh to adhere to the conditions set out in the Review application numbered 6-13 in appendix 2 to the report submitted. He confirmed that conditions 1-5 had already been implemented.

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

ADJOURNMENT OF MEETING

The meeting adjourned at 1.10 p.m. and resumed at 2.00 p.m.

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

RESOLVED

That, arising from the review of the premises licence held in respect of Wood Road Mini Market, the premises licence be suspended for a period of six weeks with immediate effect for the following reasons:-

This is an application to review the premises licence in respect of Wood Road Mini Market, 2 Wood Road, Sedgley. At the time when the review was sought Mr. Parvinder Singh was the premises licence holder and the designated premises supervisor. The Committee has been informed today that Mr. Harjit Singh is now the Premises Licence Holder as from 13/10/09 and that it is his intention to become the Designated Premises Supervisor. Mr. Harjit Singh attended the review today. Mr. Parvinder Singh did not. It has therefore not been possible to put any questions to the Premises Licence Holder or Designated Premises Supervisor for the time period over which the evidence has been gathered for this review.

The Sub-Committee has heard evidence that a fixed penalty notice was issued to Mr. Sarwan Singh Sandhu on 22/06/07 by P.C Hall for sale of alcohol to a 15 year old person. The notice was paid and the Committee, having heard no evidence to the contrary, accepts this as an acceptance of culpability for a sale of alcohol on that date.

The Sub-Committee accepts that trading standards arranged 8 test purchases over a six year period, all of which resulted in a refusal of sale.

Sergeant Simpson has given evidence that he was responsible for a surveillance operation at the shop on 15/05/09, involving plain clothes officers in the streets around the shop. He did not give evidence that officers saw children and young persons purchasing alcohol in the shop, or actually exiting the shop. He did give evidence however that officers in the roads immediately around the shop saw them coming from the area of the shop front, with alcohol in their possession, and that due to the placement of the officers in both Woodfield Road (the only access and egress from the shop) officers could be certain that the only place from which they could have obtained the alcohol was Wood Road Mini Market, on this date. There were eight recorded incidents between 4pm and 7pm. The Sub-Committee finds that although the actual sales were not observed, there is no other possible source for the alcohol found in these persons possession on 15/05/09.

We note the concerns expressed by local ward councillors and local residents.

The Sub-Committee also heard evidence from Sergeant Simpson that on 24/04/09 CCTV in the shop was not working when police wished to view it to investigate a potential underage sale. The Sub-Committee has heard evidence directly from Mr Harjit Singh today that he still cannot access any images from his CCTV system. The Sub-Committee finds that the CCTV not operating correctly for at least 6 months is unacceptable and does not demonstrate due diligence.

The Sub-Committee has balanced the findings of unlawful sales on 22/06/07 and suspected unlawful sales on 15/05/09, with the evidence that 8 test purchases in six years resulted in refusals. On this evidence, the Sub-Committee does not find that the evidence is sufficient to justify revocation of the licence. The Sub-Committee notes that the Premises Licence Holder has recently transferred to Mr Harjit Singh, and that both he and his wife are committed to appropriate training.

Taking into consideration all of the evidence heard today the Sub-Committee decides that it is appropriate to suspend the premises licence for a period of six weeks, commencing immediately. It is expected that in this period appropriate CCTV will be installed.

The Sub-Committee imposes the conditions numbered 6-13 as set out in the notice of review.

The meeting ended at 3:25 p.m.

CHAIRMAN