

LICENSING SUB-COMMITTEE 4

Tuesday 18th June, 2013 at 10.20 am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Roberts (Chair)
Councillors Bills and Russell

Officers: -

Mr R Clark (Legal Advisor), Mrs L Rouse (Licensing Clerk) and Mrs K Taylor – All Directorate of Corporate Resources.

1 APOLOGIES FOR ABSENCE

Apologies for absence from the meeting were received on behalf of Councillors Perks and Woodall.

2 APPOINTMENT OF SUBSTITUTE MEMBERS

It was reported that Councillors Bills and Russell had been appointed as substitute Members for Councillors Perks and Woodall respectively for this meeting of the Sub-Committee only.

3 DECLARATIONS OF INTEREST

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

4 MINUTES

RESOLVED

That the minutes of the meeting of the Sub-Committee held on 26th February, 2013, be approved as a correct record and signed.

5 APPLICATION FOR REVIEW OF PREMISES LICENCE – CORNER STORES, 36 BROMSGROVE ROAD, HALESOWEN

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Corner Stores, 36 Bromsgrove Road, Halesowen.

Mr T Rehman, Designated Premises Supervisor was in attendance at the meeting together with his Solicitor, Mr Samra.

Also in attendance were Mr C King, Principal Trading Standards Officer and Mr G Wintrip, Age Restricted Products Enforcement Officer, both from the Directorate of the Urban Environment, Ms D McNulty, office of Public Health; and WPC N Lees and a colleague from West Midlands Police.

Following introductions by the Chair, the Licensing Clerk presented the report on behalf of the Council.

It was noted that additional paperwork had been submitted to the Sub-Committee prior to the meeting on behalf of Mr Rehman. Following a discussion, concerns were raised in regard to the timescale of the submission of the paperwork, however all parties agreed to allow Mr Samra, on behalf of Mr Rehman, to summarise the contents.

Mr Samra then proceeded to outline the contents of the additional paperwork and in doing so stated that Mr Rehman was residing at the premises and operated a family run business.

Mr Samra referred to an anomaly within the statement provided by Mr Wintrip that dated the sale as 10th February 2013 and not 10th April 2013. Mr Wintrip confirmed that this was a typing error and should read 10th April, 2013.

Mr Samra further stated that Mr Rehman was agreeable to the conditions submitted by Trading Standards and the West Midlands Police, and that he understood his obligations under the Licensing Objectives. It was further noted that Mr Rehman had implemented measures such as operating a Challenge 25 policy and the posters displayed; the installation of a CCTV system and a refusals register.

Mr King referred to the refusals register that had been implemented and the CCTV system, in particular whether Mr Rehman could validate the entries on the refusals register via the CCTV. Mr Rehman stated that although CCTV had been installed it was not currently recording; however this could be arranged within a week.

Mr King presented the representations of Trading Standards and in doing so highlighted that the grounds for 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 with respect to the sale of alcohol to children.

Mr King informed the Sub-Committee that on 10th April, 2013, a sixteen year old child test purchaser had been sold alcohol from the premises contrary to section 146(1) of the Licensing Act 2003 and in direct contravention to the licensing objectives.

It was noted that on 1st June, 2011, an alcohol test purchase exercise had been undertaken at the premises which did not result in a sale being made.

On 22nd November, 2012, an officer from Trading Standards carried out a visit to the premises and spoke to Mr Rehman. The purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, information in respect of acceptable proof of age and the importance of keeping a refusals register. Mr Rehman was provided with an information pack that included an advice booklet, a Challenge 25 poster, a refusals register, which had been signed and dated before handing over, a poster about proof of age and a sample Proof of Age Standards Scheme card. He was also requested to ensure that all staff were aware of their obligations under the Licensing Act 2003, Mr Rehman also signed a form to acknowledge receipt of the information pack during the visit.

Mr King further stated that on 10th April, 2013, Trading Standards together with West Midlands Police, carried out a test purchasing exercise to determine compliance with the law on the sale of alcohol to children. On that occasion, a sixteen year old male test purchaser volunteer purchased a 500ml can of Woodpecker Cider with 3.5% alcohol by volume. The seller made no attempt to ask the age of the volunteer, and did not ask for identification.

Following the sale, and having returned to the premises, it was discovered that the individual who sold the alcohol to the test purchaser had been Mr Rehman.

On inspection of the premises, it was noted that there was a "Valid I.D" poster displayed near to the register but there were no other Age Restricted Products posters displayed. Following a request by officers Mr Rehman stated that he did not have a Refusals Register despite being issued with one during the visit on 22nd November, 2012. Mr Rehman was then issued with a Fixed Penalty Notice.

A full list of proposed additional conditions, which had been suggested by Trading Standards, had been circulated to all parties prior to the meeting.

Mr King further stated that a request had been made prior to the meeting by Mr Samar to look at the picture of the test purchase volunteer given that Mr Rehman considered the volunteer to look eighteen due to the child's significant height (6ft 8in). Mr King stated that this request had been refused in accordance with policy however it would be available to the Sub-Committee if they wished to view the photograph. The Sub-Committee agreed to look at the picture in view of this being an issue presented by Mr Rehman.

Following the representations of Trading Standards, Councillor Bills highlighted the importance of operating a Refusals Register, in particular that it should remain by the register at all times in order to enter any refusals immediately.

Ms McNulty then presented the representations on behalf of Ms V Little, Director of Public Health, which had been circulated to all parties in accordance with the Licensing Act 2003. She made particular reference to the number of well-documented impacts on the health of adolescents as a consequence of alcohol consumption.

It was noted that in the opinion of Ms Little, she considered the sale of alcohol to underage young people to be very serious and supported the recommendation to revoke or suspend the premises licence.

WPC Lees then presented the representations of West Midlands Police and in doing so informed the Sub-Committee that the Police had carried out checks on the police systems and that there were no recent intelligence in relation to underage sales at the premises or any problems with the premises such as anti-social behaviour or incidents of crime.

Mr Samar then presented his case on behalf of Mr Rehman and in doing so stated that although Mr Rehman could not remember receiving the advice booklet on 22nd November, 2013 he did accept that he had signed the acknowledgement form.

Mr Samar further stated that Mr Rehman accepts that the sale had taken place, and referred to the previous test purchase exercise which had taken place on 1st June, 2011 which did not result in a sale being made.

It was noted that Mr Rehman had implemented measures to the premises such as keeping a refusals register, and by informing his wife and daughter, who work at the premises, of the Challenge 25 policy.

Reference was made to the proposed additional conditions that had been submitted by Trading Standards, where Mr Rehman confirmed that he was in agreement with the proposals.

In responding to a question by the Legal Advisor, Mr Samar confirmed that Mr Rehman was operating under Challenge 18 during the time of the sale, and considered the test purchase volunteer to be eighteen considering his height and appearance.

In responding to a question by the Chair, Mr Samar confirmed that Mr Rehman would be attending a training course in August.

Reference was made to Mr Rehman's comments in regard to the test purchase volunteer, Mr King stated that although he was tall, he still looked sixteen, and stated that it is not the intention to trick premises by 'employing' volunteers who appeared older than sixteen.

Concerns were raised in regard to the entries on the refusals register, which had commenced in May, 2013, in particular that the register was not in chronological order.

In responding to a question by the Chair, all parties confirmed that they had a fair hearing.

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, following careful consideration of the information contained in the report submitted, and as reported at the meeting, the premises licence issued to Corner Stores, 36 Bromsgrove Road, Halesowen be suspended for a period of one month.

The following conditions will be applied to the premises licence: -

Conditions

- (A written Proof of Age Policy (Challenge 25) is to be put in
1 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.
- (A4 notices to be displayed on the door to the premises and
2 near the point of sale stating that it is an offence to buy
) alcohol for persons under the age of 18.
- (A Register of Refusals of Sale of Alcohol which indicates
3 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.
- (CCTV to be in place at the premises and to be recording at
4 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.
- (The Premises' CCTV shall be reviewed on a weekly basis
5 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.
- (All persons engaged to sell alcohol must complete a
6 training programme, which includes a written test to verify
) the competency of that person prior to them being
authorised to sell alcohol.
- (The premises licence holder shall ensure that monthly
7 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.

(A file shall be maintained at the premises for each person
8 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.

(Any person who is suspected of purchasing alcohol for any
9 other person, regardless of age, shall be refused service.
)

REASONS FOR DECISION

This is a review of a premises licence, brought by Trading Standards, as a result of a failed test purchase on 10th April, 2013. Mr Rehman admits today that he made the sale to a sixteen year old, and has said that he was sorry for his mistake. Mr Rehman states that since the test purchase, he has taken steps to ensure that his family business has adopted the challenge 25 Policy, maintains a refusals register, and other steps in order to meet the conditions proposed by Trading Standards and the Police.

Mr Rehman presented the new refusals register, started on 11th May 2013, as evidence that he is complying with the proposed conditions. The (newly purchased) CCTV however is not recording and so Trading Standards could not confirm the entries in the new register. However, the dates on the register are not in chronological order, despite Mr Rehman stating that entries were made at the point of the attempted purchase. The Sub-Committee does not accept the possible explanations given for this. The Sub-Committee is therefore not satisfied that it can rely on the new register as an accurate record of attempted purchase refusals, and therefore, it is vital that CCTV is recording for twenty-eight days in these premises, to allow Trading Standards and West Midlands Police to monitor and review sales in the premises. This is particularly to ensure that young people are protected.

The Sub-Committee is also not satisfied with the description of the test purchaser, given in evidence today. Regardless of how tall he was and how old he may have appeared, Mr Rehman described him as wearing baggy clothes and as having straggly hair that partially obscured his face. The photograph presented by Trading Standards dated 10th April, 2013, three hours before the test purchase, clearly shows that his clothes were not baggy and his hair was short. Mr Rehman's evidence was therefore not accurate.

Mr Rehman has agreed to accept the conditions proposed. This is to his credit. The Sub-Committee therefore agrees and impose those conditions. However, the Sub-Committee has decided to suspend the premises licence for a period of one month. This decision is taken because the Sub-Committee is not satisfied that Mr Rehman has been totally truthful in his evidence today. Further, the period of one month is to allow Mr Rehman to ensure that his CCTV is recording, that those recordings are available for twenty-eight days, and that Trading Standards or West Midlands Police are able to access them and are satisfied (in accordance with all of the conditions regarding CCTV) that the system is operating to protect young persons from underage sales. The Sub-Committee also takes these steps, having heard evidence from Public Health about the impact of underage drinking.

6 APPLICATION FOR A LICENSED PREMISES GAMING
MACHINE PERMIT – THE LUTLEY OAK, 327 STOURBRIDGE
ROAD, HALESOWEN

A report of the Director of Corporate Resources was submitted on an application for the grant of a licensed premises gaming machine permit for three machines in respect of the Lutley Oak, 327 Stourbridge Road, Halesowen.

Ms L Bayliss, Account Manager from Gamestec was in attendance at the meeting.

It was noted that the Designated Premises Supervisor was not in attendance and notification had not been received.

Following a further discussion it was

RESOLVED

That, in view of the Designated Premises Supervisor non-attendance, the application received for the grant of a licensed premises gaming machine permit in respect of the Lutley Oak, 327 Stourbridge Road, Halesowen, be deferred to a future meeting of a Sub-Committee.

7 APPLICATION FOR HOUSE TO HOUSE COLLECTIONS
LICENCE – FORCES SUPPORT (RECYCLING SOLUTIONS
(NORTH WEST) LIMITED)

A report of the Director of Corporate Resources was submitted to consider an application for the grant of a House to House Collections Licence in respect of Recycling Solutions North West Limited on behalf of the charity known as Forces Support.

It was noted that the applicant was not in attendance and notification of the non-attendance was received.

RESOLVED

That, the grant of a House to House Collections Licence in respect of Recycling Solutions North West Limited be deferred to a future meeting of a Sub-Committee when the applicant shall attend the meeting.

The meeting ended at 12.15 pm

CHAIR