

## **LICENSING SUB-COMMITTEE 1**

Tuesday 8<sup>th</sup> July, 2008 at 10.15am  
in The Council Chamber, The Council House, Dudley

### **PRESENT:-**

Councillor Ryder (Chairman)  
Councillors Mrs Ameson and Nottingham

### **Officers**

Assistant Director Legal and Democratic Services (Legal Advisor), Mrs J Elliott (Licensing Officer) and Mrs K Farrington (Directorate of Law and Property), together with Councillor D Vickers, Observer and Ms Laura Outhwaite, Work Experience

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#### **1                    APOLOGY FOR ABSENCE**

An apology for absence from the meeting was submitted on behalf of Councillor Tyler.

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#### **2                    APPOINTMENT OF SUBSTITUTE MEMBER**

It was noted that Councillor Mrs Ameson had been appointed as a substitute member for Councillor Tyler for this meeting of the Sub-Committee only.

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#### **3                    DECLARATIONS OF INTEREST**

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

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#### **4                    MINUTES**

##### **RESOLVED**

That the Minutes of the Meeting of the Sub Committee held on 13<sup>th</sup> May, 2008, be approved as a correct record and signed.

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#### **5                    REVIEW OF LICENSING STANDARDS**

A report of the Director of Law and Property was submitted on a review of the Licensing Standards and Performance Indicators.

##### **RESOLVED**

That no change be made to the current Licensing Standards and Performance Indicators, as set out in Appendix 1 to the report submitted.

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6                    CHANGE IN ORDER OF BUSINESS

Pursuant to Council Procedure Rule 13(C) it was

RESOLVED

That the remaining items of business be considered in the following order: -

Agenda item numbers 7, 8, and 6.

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7                    REVIEW OF STREET TRADING CONSENT/PROHIBITED SITES – STOCKWELL AVENUE, QUARRY BANK, BRIERLEY HILL

A report of the Director of Law and Property was submitted on an application made by a Mr Grove for the revision of the consent/prohibited streets in Dudley to include Stockwell Avenue, Quarry Bank as a prohibited street in respect of Street Trading.

Following discussions, it was

RESOLVED

That the application made by Mr Grove for the revision of the consent/prohibited streets in Dudley to include Stockwell Avenue, Quarry Bank as a prohibited street in respect of Street Trading, be approved.

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8                    REVIEW OF PREMISES LICENCE – VAKAS BALTI RESTAURANT AND TAKE AWAY, 64 WINDMILL HILL, COLLEY GATE, HALESOWEN

A report of the Director of Law and Property was submitted on a review of the premises licence, in respect of Vakas Balti Restaurant and Take Away, 64 Windmill Hill, Colley Gate, Halesowen.

Mr Davies, Solicitor, was in attendance at the meeting, together with Mr Rahman, Licensee.

Also in attendance, objecting to the application, were PC S Turley, PC Donnelly and PC Vicarstaff, West Midlands Police Representatives.

Following introductions by the Chairman, the Legal Adviser outlined the procedure to be followed.

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

PC Turley then expanded on representation made in Appendix 2 to the report submitted. He stated that he had no problem, in principle, in how the premises was being managed, however, he did have concerns with Mr Rahman's breach of conditions of licence, whereby he allowed under age consumption of alcohol on his premises and allowed children to be present on his premises without adult supervision. He further stated that Mr Rahman had acted irresponsibly, on two separate occasions, by allowing the premises to be conducted in a manner, which does not promote the crime and disorder, public safety and protection of children from harm objectives. In view of this, PC Turley suggested that the Sub-Committee consider attaching a further condition to Mr Rahman's premises licence, preventing alcohol being taken into or consumed on the premises.

PC Donnelly then read out the police statement of the incident that occurred on the evening of 11<sup>th</sup> April 2008 at Vakas Balti Restaurant and Take Away. He reported that at approximately 19.50pm information had been received from PC Cook, that youths were consuming alcohol at the restaurant. He stated that he had attended the premises personally where he was told by Mr Rahman that a sixteenth birthday party was taking place in the upstairs room of the premises. He then informed Mr Rahman of his intention to go into the room and monitor the situation. At this point, Mr Rahman ran up the stairs in front of him and said something to the group of boys attending the party. PC Donnelly further reported that once he was in the room upstairs, he counted thirty two youths between the ages of fourteen and sixteen, all consuming alcohol. He also counted in total, fifty-two cans of beer, together with bottles of cider and vodka alco pops.

PC Donnelly then informed the Sub-Committee of the incident that occurred on 19<sup>th</sup> January, 2008. He reported that a fight had taken place outside the restaurant between youths who had been consuming alcohol inside the restaurant at approximately 20.50pm. He further reported that at the time of the incident, he had reminded Mr Rahman of his conditions of licence to which Mr Rahman responded by stating, on two occasions which had been witnessed by PC Cook, that the youths were allowed to consume alcohol in the restaurant as they had ordered a meal.

Mr Rahman then informed the Sub-Committee of the circumstances behind the 19<sup>th</sup> January, 2008 incident. He stated that a girl's party was taking place inside the restaurant when a gang of male youths gatecrashed. He had asked the uninvited youths to leave the premises, which resulted in a fight breaking out outside.

In responding to questions from Mr Davies, PC Donnelly confirmed that he had no concerns or problems with similar establishments in the surrounding area. He also confirmed that he had only received two complaints regarding Vakas Balti Restaurant and Take Away since Mr Rahman had taken over the licence. PC Donnelly further confirmed that he had not witnessed the incident on 19<sup>th</sup> January, 2008, as he had arrived after the incident had taken place.

In responding to a question in relation to the incident which occurred on 19<sup>th</sup> January, 2008, PC Donnelly reported that the conversation which had taken place between himself and Mr Rahman reminding Mr Rahman of his conditions of licence had taken place inside the restaurant and that Mr Rahman fully understood that he had breached his condition of licence and his reaction to the conversation was calm.

In responding to a question, in relation to the incident which occurred on 11<sup>th</sup> April, 2008 PC Donnelly reported that the youths' attire were casual and accepted that a small majority of the alcohol taken into the premises could have been hidden underneath clothing, however, it was unlikely that the amount of alcohol which had been taken into the upstairs room could have gone unnoticed by staff.

In responding to a further question, PC Donnelly stated that, in his opinion, Mr Rahman actions were not those of a person claiming to have no knowledge of the events, which had been taking place in the room upstairs.

In responding to a further question from the Sub-Committee, PC Donnelly reported that none of the youths attending the party were showing any signs of inebriation.

Mr Rahman then stated his case, and in doing so, informed the Sub-Committee that he had been the Licensee of Vakas Balti Restaurant and Take Away for a period of two years. He stated that he had not been fully aware of the conditions imposed on the premises licence and accepted that at the time he took over the licence he should have studied the conditions of licence so that he was clear as to how the premises were legally allowed to be managed in line with the premises licence. However, Mr Rahman confirmed that he had been aware of the condition prohibiting under eighteens consuming alcohol on the premises and the condition prohibiting children to be present in the premises without adult supervision.

Mr Rahman stated that he had booked placements for himself and his staff to attend the Servewise Training with Aquarius on 16<sup>th</sup> September, 2008, so as they were all aware of their legal rights and responsibilities as staff and as Licensee and also to familiarise themselves with the Licensing Act 2005. A copy of the letter confirming attendance had been circulated prior to the meeting.

Mr Rahman then informed the Sub-Committee of the circumstances of the incident that had occurred on 11<sup>th</sup> April 2008. He stated that prior to the date of the incident, he had received a telephone call from a friend of the birthday boy asking if he could book the upstairs room for a sixteenth birthday party for a group of twenty to twenty-five boys. Mr Rahman further stated that he had made a courtesy call to the person who had made the booking on the day before the party was due to commence, to confirm booking and at that point he had emphasised that alcohol was forbidden to be consumed by youths under the age of eighteen on his premises. He reported that on that particular Friday night, the premises had been really busy and stated that he had not witnessed the entire party arriving as most of the youths had turned up in small groups.

Mr Rahman informed the Sub-Committee that he had been unaware that the youths were consuming alcohol in the premises and it had only come to light when PC Donnelly had arrived at the restaurant to monitor the upstairs room.

Mr Rahman then concluded by stating that, apart from the two incidents involving underage drinking of alcohol on his premises, he had never been in trouble with the Police. He informed the Sub-Committee that his restaurant was a well-run establishment with the majority of customers being adults. Mr Davies then stated that a large amount of testimonials had been received in support of the premises being well managed, which had been circulated to the Sub-Committee prior to the meeting.

In responding to questions from PC Turley, Mr Rahman confirmed that he was the current Licensee of the Vakas Balti Restaurant and Take Away. He also confirmed that he had been aware that on the 11<sup>th</sup> April, 2008, the upstairs room had been booked for a sixteenth birthday party. Following further questions from PC Turley, Mr Rahman agreed that, as Licensee, he should have upheld the licensing objectives and accepted full responsibility for both incidents.

In response to a question from the Sub-Committee, Mr Rahman reported that the waiter that was present on the evening of the 11<sup>th</sup> April, 2008 incident, was a new part-time waiter covering for a member of staff who was away on holiday.

In response to a question from the Legal Advisor, clarifying whether Mr Rahman understood the condition of licence whereby alcohol was forbidden to be consumed on his premises by youths under the age of eighteen, Mr Rahman confirmed that he did understand that condition of licence.

In response to a question from the Sub-Committee in relation to monitoring the front door access, Mr Rahman confirmed that he had employed extra staff to monitor access to and egress from the premises.

In responding to questions from the Legal Advisor, Mr Rahman reported that celebration parties were mainly held upstairs but occasionally these would be held in the main part of the restaurant. He stated that if a condition of licence was imposed prohibiting alcohol to be consumed in the upstairs section of the restaurant, it would have a huge impact on his business as the majority of celebrations were adult parties or family parties and he feared that customers would be forced to go elsewhere.

In summing up, Mr Davies stated that the premises was a well-managed establishment offering refreshments at a lower price than other similar establishments in the surrounding area. Mr Rahman acknowledged that he had been very irresponsible by allowing alcohol to be consumed on his premises by persons under the age of eighteen but had assured the Sub-Committee that this would not happen again.

In summing up, PC Turley stated that Mr Rahman had, on two separate occasions, breached his condition of licence, by allowing the premises to be conducted in a manner, which does not promote the crime and disorder, public safety and protection of children from harm objectives.

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

Following a lengthy discussion, the Sub-Committee, having made their decision all the remaining parties were invited to return and the Chairman then outlined the decision.

## RESOLVED

That, following careful consideration of the information contained in the report submitted, and as reported at the meeting, the following additional conditions be imposed onto the premises licence, in respect of Vakas Balti Restaurant and Take Away, 64 Windmill Hill, Colley Gate, Halesowen.

### Conditions of Licence

- a) Prevention of crime and disorder
  - i The premises are an Indian Balti restaurant and takeaway without a Liquor licence. Diners only are invited to bring their own liquor if they so wish.

- li No diner under the age of 18 is to be allowed to consume alcohol on the premises, save for individuals aged 16 or 17 who may:-
  - 1 Consume beer, wine or cider;
  - 2 Consumption is to take place with a table meal;
  - 3 The individual is to be accompanied at all times by an adult aged 18 or over. No more than 4 children aged 16 or 17 may be accompanied by one adult aged 18 or over.
- iii The premises maintain a contact with a local taxi firm so that transport away from the premises can be swiftly arranged to avoid diners remaining at the premises when their meals have finished.
- iv The premises provide a car park to the rear where patrons are invited to park their vehicles both when taking a table meal and purchasing takeaway meals, thereby avoiding parking and congestion difficulties on Windmill Hill. Provision can be made for diners to leave vehicles overnight, at their risk, if drivers are thought to have consumed alcohol so as to be over the drink/ drive limit.
- v Entry will not be allowed to those who appear to have consumed alcohol to an excess and who are assessed by the holder of the Premises License, at his sole discretion, to be at risk of creating disturbance or disorder.

b) Public Safety

- i The premises, in all aspects, shall be kept clean and in a good state of repair.
- ii A Fire Risk Assessment shall be carried out from time to time as deemed necessary under any relevant legislation.

c) Prevention of Public nuisance

See a) iii, iv and v above.

d) The protection of children from harm

Family Parties

- i Children under the age of 12 taking a table meal are to be accompanied by a parent or guardian.

- li Children between the ages of 12- 14 are to finish their meals by 10.00 pm and vacate the premises with their adult or guardian.
- lii These premises, both in the function room upstairs and in the restaurant downstairs, are prohibited from holding under eighteen functions save for the circumstances set out in conditions a) ii.

#### Reasons for Decision

Allowing under eighteen year olds to consume alcohol is extremely serious and totally irresponsible of Mr Rahman. We have considered revoking the premises license as a result. However we are satisfied that the new conditions of the license will prevent a reoccurrence of this incident. In the event of a further breach of license conditions there is a likelihood that the premises license will be revoked. We trust that the police and licensing enforcement will monitor these premises.

The applicant was informed of his right to appeal against the decision of the Sub-Committee.

The meeting ended at 12.20pm

CHAIRMAN