

LICENSING SUB-COMMITTEE 1

Tuesday 27th March, 2012 at 10.15am
in The Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Ryder (Chairman)
Councillors Mrs Dunn and K Finch

Officers

Mr T Holder (Legal Advisor), Mrs J Elliott (Licensing Officer) and Mrs K Taylor (Directorate of Corporate Resources).

13. APPOINTMENT OF SUBSTITUTE MEMBER

In view of the vacancy on this Sub-Committee, It was noted that Councillor Mrs Dunn had been appointed as a substitute member, for this meeting of the Sub-Committee only.

14 DECLARATIONS OF INTEREST

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

15. MINUTES

RESOLVED

That the minutes of the meeting held on 17th January, 2012, be approved as a correct record and signed.

16. APPLICATION FOR REVIEW OF A PREMISES LICENCE – 7 TILL LATE CONVENIENCE STORE, BUSH ROAD, NETHERTON, DUDLEY

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of 7 Till Late Convenience Store, Bush Road, Netherton, Dudley.

Mrs A K Virdee, Premises Licence Holder, Mr M S Virdee, Designated Premises Supervisor and Ms K Kaur, Interpreter were in attendance.

Also in attendance were Mr C King, Principal Trading Standards Officer, Ms L Ingram, Enforcement Officer, both from the Directorate of the Urban Environment and an observer.

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

Mrs J Elliott, Licensing Officer, Directorate of Corporate Resources, presented the report on behalf of the Council.

It was noted that the West Midlands Police had withdrawn their objections prior to the meeting.

Mr King presented the representations of Trading Standards and in doing so highlighted that the grounds for the review had been based on the undermining of the two licensing objectives, namely, the prevention of crime and disorder and the protection of children from harm.

Mr King informed the Sub-Committee that on 9th December, 2011, a fifteen year old child test purchaser had been sold alcohol from the premises by a Mrs A K Virdee, the Premises Licence Holder, contrary to section 146(1) and section 153 of the Licensing Act 2003.

In responding to a question by a Member, Mr King confirmed that prior to Mr M S Virdee becoming a Designated Premises Supervisor on 10th November, 2010, the age restricted products sold at the premises did not include alcohol.

On 9th July, 2010, an officer from Trading Standards carried out a visit to the premises and spoke to Mr Virdee. The purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, and provided him with an information pack which 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 informed that test purchasing was carried out at premises that sell age restricted products and the possible consequences for underage sales. It was reported that during the course of this visit, Mr Virdee signed a form to confirm that he understood the age restrictions for products including alcohol and to acknowledge receipt of the information pack.

Mr King further stated that on 9th December, 2011, following a request by West Midlands Police, Trading Standards carried out a test purchasing exercise to determine compliance with the law on the sale of alcohol to children. On that occasion, a fifteen year old female test purchase volunteer purchased a 70cl bottle of Red Square Cherry Ice Alcoholic Fruit Drink with 4% alcohol by volume. Following the sale, officers visited the premises and discovered that the individual who sold the alcohol to the test purchaser had been Mrs A K Virdee. When questioned Mrs Virdee denied that she was the licence holder and stated that the licence holder was her son, Mr M S Virdee. Subsequent investigations proved this to be incorrect and confirmed that Mrs Virdee was the Premises Licence Holder.

When questioned about the underage sale that had taken place Mrs Virdee apologised and stated that she usually requested the customer's age or identification, and that she was unable to produce a refusals register and appeared to have no knowledge of one. Mrs Virdee was issued with a Fixed Penalty Notice.

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 additional conditions had been circulated to all parties prior to the meeting.

In responding to a question by the legal advisor, Mr King confirmed that the test purchasing exercise on 9th December, 2011, had taken place following a request by local Police, specifically for that premises.

Mrs Virdee then presented her case via an Interpreter, Ms Kaur, and in doing so stated that Mrs Virdee was on the telephone discussing a family matter when the underage sale took place. She stated that Mrs Virdee was distracted and confused and did not ask for any identification.

In responding to a question by a Member, Ms Kaur interpreted that Mrs Virdee confirmed that a refusals register had not been implemented, but it was her intention to do so as soon as possible.

It was also noted that Mrs Virdee had not received any form of training since becoming the Premises Licence Holder.

In responding to a question by a Member, the Licensing Officer confirmed that the Designated Premises Supervisor was required to receive training as they held a Personal Licence, however the Premises Licence Holder was not legally required to receive any training.

Mr King informed the Sub-Committee that Trading Standards attended premises on a 2-year basis to give detailed advice and provide information packs similar to those given to Mr Virdee on 9th July, 2010. He also confirmed that the information pack provided advice on all age restricted products as well as alcohol.

Concerns were raised in regard to the confusion as to whether a refusals register had been implemented at the premises.

It was noted that Mrs Virdee had not seen the information pack that had been given to Mr Virdee by Trading Standards.

In responding to a question by a Member, Ms Kaur interpreted that Mrs Virdee worked at the premises 4 – 5 days a week.

In responding to a question, Mr Virdee confirmed that identification posters were displayed above the till register and door of the premises, Citizen Cards were requested, and that he considered that the refusals register did not apply to tobacco related products which were sold at the time when the refusals register had been included in the pack provided by Trading Standards.

Mr King confirmed that the refusals register was relevant to all age restricted products including alcohol and tobacco, and described what information needed to be recorded.

Mr Virdee confirmed that he had received some training when he had become Designated Premises Supervisor, but that information in particular of the refusals register had not been discussed in detail.

Mr Virdee further stated that he did not feel that he needed more training, however it may be necessary for the remainder of staff.

In responding to a question by the Licensing Officer, Mr Virdee confirmed that he had not implemented the refusals register at the premises following the Fixed Penalty Notice issued to Mrs Virdee on 9th December, 2011, and that he had no problems in the nine years that he had been trading.

In responding to a question by a Member in regard to when Mrs Virdee denied that she was the licence holder, Mrs Virdee via Ms Kaur stated that she had been confused as there were a large number of people who had questioned her following the incident on 9th December, 2011.

Mrs Virdee confirmed that she understood the role and responsibilities of the Premises Licence Holder and Designated Premises Supervisor.

In responding to a question by a Member, it was confirmed that there were three members of staff who sold alcohol and a part-time employee who stacked the shelves.

It was noted that alcohol was sold at the premises between 07.00 and 21.00 hrs.

In summing up, Mr Virdee acknowledged that more training was required, and assured the Sub-Committee that the incident would not happen again. He stated that he had banned all mobile phones, and asked all staff members to become more interactive with customers.

Mr Virdee confirmed that he would implement the refusals register at the earliest opportunity, and that he was deeply upset that the incident had taken place.

Concerns were raised in regard to the apparent lack of training of all staff members.

In responding to a question by the Legal Advisor, Mr Virdee confirmed that he would be in agreement to receive training alongside Mrs Virdee, and to train other members of staff in the future.

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 Chairman then outlined the decision.

RESOLVED

That the premises licence in respect of 7 Till Late Convenience Store, Bush Road, Netherton, Dudley be suspended for a period of one month, as the Sub-Committee consider that the lack of any training on these premises was a serious risk of undermining the Licensing Objectives.

The following conditions to be applied to the premises licence are as follows: -

- (1) A Challenge 25 policy will be operated at the premises whereby any individual attempting to purchase alcohol who appears to be under 25 years of age will be asked to provide valid identification to prove they are 18 years or older. All staff must be made aware of this policy.
- (2) Valid proof of identification only to 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.
- (3) Publicity materials notifying customers of the operation of the "challenge 25" scheme shall be displayed at the premises, including a "Challenge 25" sign of at least A4 size at each point of sale.
- (4) 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.
- (5) 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 (PLH) shall check the book once a week ensuring it is completed and up-to-date. The PLH will sign the book each time it is checked. This book shall be made available for inspection by an officer of the Trading Standards Department and/or Police.

- (6) CCTV to be in place at the premises 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 within 24 hours.
 - (7) The premises' CCTV shall be viewed 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 the Trading Standards Department and/or Police.
 - (8) The PLH to undertake appropriate training and to ensure that the Designated Premises Supervisor responsible for sales from the premises be similarly trained.
 - (9) All persons engaged to sell alcohol will have completed a training programme which includes a written test to verify the competency of that person prior to them being authorised to sell alcohol.
 - (10) 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.
 - (11) A file shall be maintained at the premises for each person authorised to sell alcohol. This file shall contain all training records for each person along with copies of monthly reviews as stated in point 10. This file shall be available for inspection by an officer of the Trading Standards Department and/or Police upon request.
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The meeting ended at 11.25am

CHAIRMAN