

LICENSING SUB-COMMITTEE 4

Tuesday 13th May, 2014 at 10.00 am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Roberts (Chair)
Councillors Bills and Perks

Officers:-

Mr R Clark (Legal Advisor), Mr B Hughes (Licensing Clerk) and Mrs K Griffiths (Democratic Services Officer) – All Directorate of Corporate Resources.

Also in attendance

Mr S Smith, Licensing Enforcement Officer – Directorate of Corporate Resources (observer)

32 APOLOGY FOR ABSENCE

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

33 APPOINTMENT OF SUBSTITUTE MEMBER

It was reported that Councillor Bills had been appointed as a substitute Member for Councillor Woodall for this meeting of the Sub-Committee only.

34 DECLARATIONS OF INTEREST

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

35 MINUTES

RESOLVED

That the minutes of the meeting of the Sub-Committee held on 8th April, 2014, be approved as a correct record and signed.

APPLICATION FOR REVIEW OF PREMISES LICENCE –
THORNHILL NEWS, 39 THORNHOLL 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 Thornhill News, 39 Thornhill Road, Halesowen.

Mrs K Kaur Pank, Premises Licence Holder and Designated Premises Supervisor, was in attendance at the meeting together with her son.

Also in attendance were, Mr G Wintrip, Age Restricted Products Enforcement Officer, Directorate of the Urban Environment and Ms D McNulty, Office of Public Health.

It was reported that West Midlands Police were not in attendance at the meeting, however, representations had been circulated to the Sub-Committee prior to the meeting.

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

Mr Wintrip then 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 following the sale of alcohol to a person under the age of eighteen.

Mr Wintrip informed the Sub-Committee that on 12th March, 2014, a fifteen year old female child test purchaser was sold alcohol, namely four cans of Strongbow Cider with 5% alcohol, from the premises contrary to section 146(1) of the Licensing Act 2003 and in direct contravention of the licensing objectives.

It was reported that the current premises licence was granted to Mrs K Kaur Pank on 1st July, 2005. It was also reported that Mrs Pank was the Designated Premises Supervisor and held a personal licence issued by Dudley Metropolitan Borough Council.

It was noted that on 13th September, 2012, an officer from Trading Standards had carried out a visit to the premises and had spoken to Mrs Pank. It was reported that the purpose of the visit had been to provide advice to help prevent the underage sale of restricted products. Mrs Pank was given detailed advice, including information in respect of acceptable proof of age and the importance of keeping a refusals register. Mrs Pank was also provided with an advice pack relating to the sale of restricted products, an advice booklet, a challenge 25 poster, a refusals register, a poster regarding proof of age and a sample Proof of Age Standards Scheme card and was asked to ensure that it was brought to the attention of all staff to ensure that they were aware of their obligations under the Licensing Act 2003. During the course of the visit, Mrs Pank signed a form to acknowledge receipt of the information pack.

It was noted that on 28th August, 2013, a tobacco test purchase was conducted at the premises with no sale being made.

On 18th February, 2014, an advisory visit had been carried out at the premises. Mrs Pank was again spoken to by the officer involved and was provided with an updated advice pack. She also signed a form to acknowledge receipt of the information.

Mr Wintrip then reported that on 12th March, 2014, officers from Trading Standards carried out a test purchase at the premises to determine compliance with the law on the sale of alcohol to persons under the age of eighteen. It was reported that a fifteen year old female child test purchase volunteer had purchased four cans of Strongbow Cider with 4% alcohol by volume. The seller made no attempt to ask the age of the volunteer and did not request any identification.

On returning to the premises, the individual who had sold the alcohol to the test purchase volunteer was identified as Mr Manveer Singh, who had stated that he was the son of the Licensee. Mr Singh was cautioned and informed that he had sold alcohol to a fifteen year old child. It was reported that Mr Singh had made no reply.

On inspection of the premises, it was reported that, various age-restricted posters had been seen on display, however, no "Challenge 25" policy was in place.

It was reported that on 19th March, 2014, a fixed Penalty Notice was issued to Mr Singh by PS Hall of West Midlands Police.

In concluding, Mr Wintrip 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 proposed additional conditions had been circulated to all parties prior to the meeting.

Ms McNulty then presented the representations 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 McNulty, the sale of alcohol to underage young people was considered to be very serious and supported the recommendations made by Trading Standards.

In responding to a question by a Member, Mr Wintrip reported that the premises did hold a refusal register, however on inspection, no entries had been made.

Mrs Pank then stated her case and in doing so informed the Sub-Committee that she had worked at the premises for twenty years and stated that there had been no history of complaints of underage sales during that time. She stated that her husband had recently had a heart attack and that the premises had suffered as a result. She also stated that they worked closely with the local police, who visited the establishment twice weekly.

In responding to questions from Members, Mrs Pank informed the Sub-Committee that she had five sons, who had been helping out at the premises while their father had been recovering. She assured the Sub-Committee that her children had received relevant training in relation to the operation of the store and sincerely apologised for her son allowing the sale.

In responding to a further question, Mrs Pank confirmed that her son had been operating the premises on his own at the time of the incident, however, reported that it was usual practice for two persons to be present at the premises at any time.

In responding to a question asked by a Member, Mrs Pank stated that she managed a small business and that she did not have a facility in place which provided the till operator with a instant message reminding them to ask for identification each time alcohol was scanned.

Concerns were raised that Challenge 25 posters had not been displayed at the premises. In responding, Mr Wintrip reported that it was not compulsory to display such posters, Trading Standards supplied the literature, however, it was at the discretion of the Premises Licence Holder to display them.

In responding to questions asked in relation to the proposed additional conditions, Mrs Pank confirmed that she had not looked at the conditions. The Legal Adviser reported that should the Sub-Committee be minded to include the proposed additional conditions to the current Premises Licence, the conditions would be binding on Mrs Pank and monitored. He stated that the proposed additional conditions would be aimed at combating underage sales of restricted products amongst other issues and suggested that Mrs Pank read them through, as it was important that she understood the information contained in the proposed additional conditions.

Mrs Pank and her son both read through the proposed additional conditions, with the approval of the Sub-Committee.

Following perusal of the proposed conditions, Mrs Pank confirmed that she would be happy to accept all conditions should the Sub-Committee be minded to include them on the Premises Licence.

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 Thornhill News, 39 Thornhill Road, Halesowen:-

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 adhered to. Valid proof of identification will only include passport, photographic driving licence or a Proof of Age Standard 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 of 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 underage, shall be refused service.

REASONS FOR DECISION

This is an application for review of the premises licence in respect of Thornhill News, 39 Thornhill Road, Halesowen brought by Trading Standards as a result of a test purchase exercise on 12th March, 2014. Mr Manveer Singh, the son of the Premises Licence Holder, made a sale to a fifteen year old female test purchaser of four cans of Strongbow Cider, without requesting any identification or proof of age. He was issued with a fixed penalty notice. In advance of this test exercise, a visit was made to Mrs Pank, the Premises Licence Holder and Designated Premises Supervisor on 18th February, 2014. She was given detailed advice on the sale of age restricted products and preventing underage sales. She was specifically asked to bring to the attention of all staff the advice and contents in the advice pack provided to the store.

Mrs Pank attended the review today and gave evidence that her husband had a heart attack three months ago, and the premises had therefore suffered from his absence, and the sons of the family had had to step in. Her husband was recovering gradually. She apologised for her son making the sale. She stated that the store had had no problems of this nature in twenty years and Trading Standards confirmed this. Therefore, Mr Manveer Singh had not expected to be required to ask for proof of age.

In the light of all these facts, the Sub-Committee takes the step of imposing the conditions, as set out above, to the Premises Licence, recommended by Trading Standards, in order to ensure that the licensing objectives are met.

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APPLICATION FOR REVIEW OF PREMISES LICENCE – THE CONVENIENCE STORE/LIQUOR WORLD, BROMLEY LANE, KINGSWINFORD

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of The Convenience Store/Liquor World, Bromley Lane, Kingswinford.

The Licensing Clerk informed the Sub-Committee that on 6th May, 2014, notification had been received from the original representatives (GT Licensing Consultants) of Liquor World requesting that the hearing be deferred due to other work commitments. He reported that on 9th May, 2014, further correspondence from GT Licensing Consultants had been received, formally requesting the withdrawal of the deferment due to the Premises Licence Holder appointing another company to act for him.

The Licensing Clerk reported that following receipt of the original request, notification had been sent to all parties informing them of the deferment. He stated that on 12th May, 2014, he had contacted the new Solicitors acting on behalf of Liquor World informing them that the hearing was unlikely to go ahead due to the absence of West Midlands Police and requested that should representatives from Liquor World attend the hearing, the Sub-Committee consider deferring the application.

Following the non-attendance of representatives of Liquor World, it was

RESOLVED

That consideration of the application made for the review of the premises licence in respect of The Convenience Store/Liquor World, Bromley Lane, Kingswinford, be deferred to a future meeting.

The meeting ended at 10.45 am.

CHAIR