

## **LICENSING SUB-COMMITTEE 4**

Tuesday 27<sup>th</sup> August, 2013 at 10.15 am  
in Committee Room 2, The Council House, Dudley

### **PRESENT:-**

Councillor Roberts (Chair)  
Councillors Perks and Woodall

### **Officers: -**

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

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### 8                    **DECLARATIONS OF INTEREST**

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

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### 9                    **MINUTES**

#### **RESOLVED**

That the minutes of the meeting of the Sub-Committee held on 18<sup>th</sup> June, 2013, be approved as a correct record and signed.

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### 10                   **APPLICATION FOR REVIEW OF PREMISES LICENCE – NICK'S CONVENIENCE STORE (ALSO KNOWN AS COSTCUTTER), 71 BATH STREET, SEDGLEY**

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Nick's Convenience Store (also known as Costcutter), 71 Bath Street, Sedgley.

Mr N Gill, Premises Licence Holder and Designated Premises Supervisor was in attendance at the meeting together with a supporter, Mrs P Gill.

Also in attendance were Mr C King, Principal Trading Standards Officer, the Directorate of the Urban Environment, Ms D McNulty, Office of Public Health; and PC A Baldwin and a colleague from West Midlands Police.

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

Ms McNulty 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 recommendation to revoke or suspend the premises licence.

PC Baldwin 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 was no recent intelligence in relation to underage sales at the premises or any issues such as anti-social behaviour or incidents in the area.

Mr King 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 with respect to the sale of alcohol to children.

Mr King informed the Sub-Committee that on 14<sup>th</sup> June, 2013, a fifteen 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.

On 21<sup>st</sup> March, 2013, an officer from Trading Standards carried out a visit to the premises and spoke to Mr Gill. 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 Gill was provided with an information pack that 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 requested to ensure that all staff were aware of their obligations under the Licensing Act 2003, Mr Gill also signed an ARP form 0841 to acknowledge receipt of the information pack during the visit.

Mr King further stated that on 14<sup>th</sup> June, 2013, Trading Standards together with West Midlands Police, carried out a test purchasing exercise which was part of an ongoing series of test purchase exercises to test compliance once a premises had been advised. On that occasion, a fifteen year old female test purchaser volunteer purchased four cans of Holsten Pils lager with 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 Gill.

On inspection of the premises, it was noted that there was one age restricted products poster on display stating "No I.D, no sale", and a refusals register under the counter, which had recent entries in it. Following caution, Mr Gill stated that "he had just made a mistake", and 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 conditions had been circulated to all parties prior to the meeting.

Mr Gill then presented his case and in doing so stated that on 14<sup>th</sup> June, 2013, he was under pressure with his business and that he had an argument with his mother on the same day, therefore losing his concentration resulting in a sale being made.

Mr Gill further stated that following the sale, he felt very guilty as he felt that he had failed a number of people including family, customers, and the Council, and that there had been no problems or issues since he started his business.

Following comments made by Mr Gill, in particular that he had passed previous test purchase exercises, Mr King stated that there was no information or acknowledgement to indicate that test purchase exercises had been undertaken at the premises.

In responding to a question by the Legal Advisor, Mr Gill stated that he felt under pressure due to competition with other businesses, particularly since the opening of a Tesco Express store in close proximity of the premises.

In responding to a question by the Legal Advisor, Mr Gill confirmed that he was in agreement with the conditions suggested by Trading Standards, however he disputed conditions relating to Challenge 25, as he currently operated a Challenge 18 policy and he considered that by operating under Challenge 25 it would affect his business.

Following comments made in respect of the Challenge 25 policy, Mr King stated that although the preferred policy was Challenge 25, this was not a condition of licence for any premises.

Mr Gill further stated that he had implemented a number of items listed in the conditions, such as a monthly training programme for employees, a refusals register, a form for employees to sign to state that they were able to sell alcohol, and an alert installed on registers to highlight the need for identification when a tobacco or alcohol product had been scanned.

In responding to a question by the Chair, Mr Gill confirmed that there were four people employed at the premises, who were family members.

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.

At this juncture, Mr Gill informed the Sub-Committee that he was in agreement with all conditions suggested by Trading Standards, including those in relation to Challenge 25.

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 Nick's Convenience Store (also known as Costcutter), 71 Bath Street, Sedgley: -

### Conditions

- (1) A written Proof of Age Policy is to be put in 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.
- (2) 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 prove they are 18 years or older. All staff must be made aware of and trained in this policy.
- (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 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 on demand.
- (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 reviewed 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.

- (8) All persons engaged to sell alcohol must complete a training programme, which includes a written test, to verify their competency, prior to them being authorised to sell alcohol.
- (9) 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.
- (10) 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 9. This file shall be made available for inspection by any officer from a responsible authority upon request.

#### REASONS FOR DECISION

This is an application for a review of the premises licence as a result of a failed test purchase on 14<sup>th</sup> June, 2013. Mr Gill, who is the Premises Licence Holder and Designated Premises Supervisor made the sale to a fifteen year old without asking her any questions. In his evidence Mr Gill stated that he did not even look at the customer. He stated that he was under pressure with his business and had had an argument with his mother that day. Mr Gill expressed great remorse for the sale.

Mr Gill stated that he accepted the ten proposed conditions to be attached to his licence. He had some questions about the Challenge 25 Policy but did then accept this.

The Sub-Committee has decided that imposing the ten proposed conditions to the premises licence is proportionate to, and addresses the concerns raised by this underage sale of alcohol. The Sub-Committee notes and accepts the concerns expressed by Public Health.

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Super Stop, 135 Priory Road, Dudley.

Mr T Raj, Premises Licence Holder was in attendance at the meeting.

Also in attendance were Mr C King, Principal Trading Standards Officer, the Directorate of the Urban Environment, and PC A Baldwin and a colleague from West Midlands Police.

It was noted that a request had been received by Mr Raj's legal representative, Mr Campbell, to adjourn the meeting as he was currently on annual leave. All parties agreed to the request made.

RESOLVED

That, consideration of the application made for the review of the premises licence in respect of Super Stop, 135 Priory Road, dudley be deferred to a future meeting of a Sub-Committee.

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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 had not been 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 and prior to that meeting supply the information contained in Section 2 (f) of the House to House Collections Act, 1939, and that should the applicant fail to attend the Sub-Committee the application be heard in absence.

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The meeting ended at 11.50 am

CHAIR