

LICENSING SUB-COMMITTEE 1

Tuesday 17th January, 2012 at 10.15am
in The Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Ryder (Chairman)
Councillors Mrs Dunn and K Finch

Officers

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

7. APOLOGY FOR ABSENCE

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

8. APPOINTMENT OF SUBSTITUTE MEMBER

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

9. DECLARATIONS OF INTEREST

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

10. MINUTES

RESOLVED

That the minutes of the meeting held on 10th August, 2011, be approved as a correct record and signed.

11. REVIEW OF STREET TRADING CONSENT / PROHIBITED SITES

A report of the Director of Corporate Resources was submitted on an application received on behalf of the Principal Bereavement Services Officer for the revision of the consent / prohibited streets in Dudley Borough to include Chase Road, Gornal Wood, Dudley and South Road, Stourbridge as consent streets in respect of Street Trading.

Mr S Connelly, Bereavement Services Manager was in attendance at the meeting.

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, and informed that should the Sub-Committee approve the report submitted, the next stage would be to publish advertisements.

Mr Connelly responded to questions asked by the Sub-Committee, and confirmed that the main reason for the application was to formalise the existing process. He further confirmed that currently one flower seller was operating outside both the Crematoria at Gornal Wood and Stourbridge.

Following a brief discussion it was

RESOLVED

That the application received on behalf of the Principal Bereavement Services Officer, for the revision of the consent / prohibited streets in Dudley Borough to include Chase Road, Gornal Wood, Dudley and South Road, Stourbridge as consent streets in respect of Street Trading, be approved.

12. APPLICATION FOR REVIEW OF A PREMISES LICENCE – OFF LICENCE (BARGAIN BOOZE), 86 HAGLEY ROAD, STOURBRIDGE

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Off Licence (known as Bargain Booze), 86 Hagley Road, Stourbridge.

Mr N Sandhu, Premises Licence Holder and Ms J Sharratt, Representative, were in attendance at the meeting.

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 a member of the press.

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.

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 30th December, 2010 Mr Sandhu was issued with a Fixed Penalty Notice by West Midlands Police following the sale of alcohol to a group of underaged youths. Following the incident a Licensing Officer from Brierley Hill Police Station visited the premises on Wednesday 5th January, 2011 to present a letter to Mr Sandhu informing him that the premises would be monitored for the foreseeable future and any further underage sales of age restricted products may result in a review of the premises licence.

On 23rd September, 2011, an officer from Trading Standards carried out a visit to the premises and spoke to Mr Sandhu and a female member of staff. The purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, including alcohol 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 Sandhu 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 26th October, 2011, following a request by the 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 male test purchase volunteer purchased a 568ml bottle of Gaymers Pear Cider, 4% alcohol by volume. Following the sale, officers visited the premises and discovered that the individual who sold the alcohol to the test purchaser volunteer had been Mr N Sandhu. When questioned Mr Sandhu stated that he had mistakenly sold the alcohol as the shop had been busy and he had become distracted by a telephone call.

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.

He further stated that Mr Sandhu's representative wished to amend a condition to which he had no objections.

Ms Sharratt then presented the case on behalf of Mr Sandhu and in doing so assured the Sub-Committee that Mr Sandhu understood the seriousness of the incidents that had taken place, and provided a background of Mr Sandhu's previous employment and good record.

She stated that Mr Sandhu had purchased a former Co-op store to enter the Bargain Booze franchise and retained three members of staff.

She informed the Sub-Committee that Mr Sandhu provided refresher training to his staff every three months, installed CCTV, maintained a refusal register and displayed Challenge 25 posters.

Ms Sharratt explained that Mr Sandhu had no concerns or complaints made against him prior to the incidents and confirmed that Mr Sandhu admitted the allegations referred to in the report submitted.

Mr Sandhu referred to the incident on 30th December, 2010 and confirmed that the sale was made to a group of people and that he had requested identification from three people. He was informed of the underage sale when a Police Officer arrived at the premises an hour later to issue him with a Fixed Penalty Notice.

Ms Sharratt then referred to the proposed additional conditions submitted to the Sub-Committee and confirmed that she agreed that a manual refusals register would be beneficial, as Mr Sandhu currently operates an electronic register.

She made reference to a condition outlining that the premises' CCTV should be reviewed on a weekly basis in order to identify persons under the age of 18 who were attempting to buy alcohol or persons over the age of 18 buying on their behalf. Ms Sharratt suggested that the condition be amended to state that if Mr Sandhu were notified of an incident then Mr Sandhu would review CCTV at that present time. She claimed that to review the CCTV on a weekly basis would be time consuming.

Ms Sharratt confirmed that Mr Sandhu had recently received Designated Premises Supervisor training and that his certificate should arrive by the end of the week. She further stated that it was Mr Sandhu's intention to undertake a Level 2 Award.

In responding to a question, Mr Sandhu confirmed that his staff had been trained by their previous employer, and that he attends meetings with Bargain Booze every six weeks and updates his staff on his return.

In responding to a question, Mr Sandhu confirmed that the current refusals register was inputted electronically through his till register. He explained that every time he scanned an age restricted product the register would ask if the customer looked over 25, if they did then Mr Sandhu would continue with the purchase. However, if Mr Sandhu considered that the customer was not 25, then he would have to press a button, request identification and input the customer's date of birth.

Mr Sandhu confirmed that CCTV had been installed in the premises, and that a big screen was visible to show customers entering the premises.

Concerns were expressed by the Sub-committee in relation to the amount of time Mr Sandhu reviewed his CCTV, and of the incidents that took place considering that Mr Sandhu had vast experience in the trade.

Mr Sandhu assured the Sub-Committee that he had made a genuine mistake and regretted the incidents that had taken place. He made reference to the fifteen year old male who he had sold alcohol to on 26th October, 2011 and stated that he believed that the male looked older than fifteen.

In summing up, Mr King referred to Mr Sandhu's description of the fifteen year old male test purchaser on 26th October, 2011 and stated that he had photographic evidence to prove that the male did not look as Mr Sandhu had stated, and that all test purchasers were under aged.

Following a brief discussion, the Sub-Committee agreed not to look at the photograph.

In summing up, Ms Sharratt on behalf of Mr Sandhu stated that they accepted the strict procedure adopted by Trading Standards and asked the Sub-Committee to allow Mr Sandhu to continue working and to attach the additional conditions to the licence, as set out in the representations from Trading Standards and as discussed at the meeting.

Following comments from all parties, the Legal Advisor stated that the Sub-Committee would determine the application made on the information submitted and comments made at the meeting by all parties.

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 Bargain Booze, 86 Hagley Road, Stourbridge be suspended for a period of one month.

REASON FOR DECISION

This is an application for the review of the premises licence in respect of Bargain Booze, 86 Hagley Road, Stourbridge.

There have been two sales of alcohol to underage persons on 30th December, 2010 and 26th October, 2011 by Mr Nirmal Sandhu. He has admitted both sales and accepted Fixed Penalty Notice's on both occasions.

We accept that Mr Sandhu has undergone Designated Premises Supervisor training this week and that he intends to undergo further training to obtain a Level 2 Award.

The Sub-Committee recognises that Mr Sandhu accepts responsibility for both offences, and in consideration that the offences were almost 12 months apart, it has decided to impose all of the conditions set out in the review application, with one amendment as at condition 5, to which we add that the refusals book be a bound register as a loose leaf folder is unacceptable.

In order to allow Mr Sandhu to undertake the advanced training and train all of his staff appropriately, the Sub-Committee suspends the premises licence for a period of one month.

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 bound 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) No supply of alcohol may be made under the premises licence at a time when the Designated Premises Supervisor does not hold the Level 2 Award for Designated Premises Supervisors. Proof of qualification shall be provided to the Police and/or an officer of the Trading Standards Department upon request.
- (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.

The meeting ended at 11.55am

CHAIRMAN